

---

## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

---

**Bill No:** SB 1233                      **Hearing Date:** April 10, 2018  
**Author:** McGuire  
**Version:** February 15, 2018  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Sentencing: Community Service: Education Programs*

### HISTORY

**Source:** The Women's Foundation of California, Women's Policy Institute

**Prior Legislation:** SB 185 (Hertzberg) held in Assembly Appropriations 2017  
SB 881 (Hertzberg) Chapter 779, Stats. 2016  
SB 405 (Hertzberg) Chapter 385, Stats. 2015

**Support:** AFT 2121; American Civil Liberties Union; A New Way of Life Reentry Project; A New Path; California Public Defenders Association; Causa Justa :: Just Cause; Community Housing Partnership; Courage Campaign; Delivering Innovation in Supportive Housing; Disability Rights of California (if amended); East Bay Community Law Center; Ella Baker Center for Human Rights; Equal Rights Advocates; Friends Committee on Legislation of California; Glide Foundation; Greenlining Institute; Homeboy Industries; Legal Aid at Work; Legal Services for Prisoners with Children; Lutheran Social Services of Northern CA; National Immigration Law Center; Reentry Solutions Group; Riverside Temple Beth El; Root and Rebound; San Francisco Financial Justice Project; San Francisco Public Defender; Services, Immigrant Rights and Education Network; Tenderloin Neighborhood Development Corporation; Tides Advocacy; UCLA Labor Center; Western Center on Law and Poverty

**Opposition:** None known

### PURPOSE

*This bill provides that a person convicted of an infraction or of a misdemeanor failure to appear may perform community service in lieu of all or part of the fine by participating in specified educational programs.*

*Existing law* authorizes a court to notify the state Department of Motor Vehicles (DMV) when an individual fails to pay a traffic fine (FTP), fails to appear in court (FTA), or fails to comply with a court order (FTC). Existing law requires the court to notify the DMV if the individual later pays the fine. (Vehicle Code § 40509.5)

*Existing law* requires DMV to suspend the driver's license of an individual when DMV receives a notice from the court of an FTP or FTA for that individual, until the individual's driving record is cleared. (Vehicle Code §§ 13365 *et seq.*)

*Existing law* provides that, in addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to \$300 against a defendant who fails, after notice and without good cause, to appear in court for proceeding authorized by law or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail. This assessment shall be deposited in the Trial Court Trust fund. (Penal Code § 1214.1 (a))

*Existing law* provides that the \$300 assessment shall not become effective until at least 20 calendar days after the court mails a warning to the defendant by first-class mail to the address on the notice to appear to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear or the failure to pay a fine or installment of bail, the court shall vacate the assessment. (Penal Code § 1241.1 (b))

*Existing law* provides that payment of bail, fines, penalties, fees, or a civil assessment shall not be required to schedule a court hearing on a pending underlying charge. (Penal Code § 1241.1(b)(2))

*Existing law* provides that the \$300 civil assessment shall be subject to the due process requirements governing defense and collection civil money judgments generally. (Penal Code § 1241.1(d))

*Existing law* provides that any county or court that operates a comprehensive collection program may deduct the costs of operating that program, excluding capital expenditures, from any revenues collected under that program. (Penal Code § 2463.007)

*Existing law* provides that a comprehension collection program is a separate and distinct revenue collection activity that meets the following criteria: the program identifies and collects amounts arising from delinquent court-ordered debt, whether or not a warrant has been issued against the alleged violator. (Penal Code 1463.007(c))

*Existing law* provides that a person willfully violating his or her written promise to appear in court or before a person authorized to receive a deposit of bail is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested. (Vehicle Code § 40508)

*Existing law* provides that a person willfully failing to pay bail in installments as agreed to or a lawfully imposed fine for a violation of a provision of this code or a local ordinance adopted pursuant to this code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the bail or fine is due is guilty of a misdemeanor regardless of the full payment of the bail or fine after that time. (Vehicle Code § 40508 (b))

*Existing law* provides that if a person violates the promise to appear or pay a fine the court may give notice of the FTA or FTP to DMV and if the fine is subsequently paid the court shall inform DMV of that fact. (Vehicle Code §§ 40509 and 4509.5)

*Existing law* provides that any person who FTA as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer. (Vehicle Code § 40903 (a))

*Existing law* provides that notwithstanding any other law, a person convicted of an infraction may, upon a showing that payment of the total fine would pose a hardship on the defendant or his or her family, be sentenced to perform community service in lieu of the total fine that would otherwise be imposed. The defendant shall perform community service at the hourly rate applicable to community service work performed by criminal defendants. (Penal Code § 1209.5)

*Existing law* provides that “total fine” means the base fine and all the assessments, penalties and additional moneys to be paid by the defendant. (Penal Code § 1209.5)

*Existing law* provides for that the purposes of this section the hourly rate applicable to community service work by criminal defendants shall be determined by dividing the total fine by the number of hours of community service ordered by the court to be performed in lieu of the total fine. (Penal Code § 1209.5)

*This bill* provides instead that a person subject to a criminal fine or civil assessment may, upon a showing that payment of all or part of the total fine or assessment would pose a hardship on the defendant or his or her family, be sentenced to perform community service in lieu of all or part of the total fine or civil assessment that would otherwise be imposed. This would apply to a person who suffered: a conviction or an infraction; a misdemeanor failure to appear or failure to pay bail under the Vehicle Code; or, a civil assessment for failure to appear in court or pay a fine.

*This bill* provides that the court shall permit a defendant to perform community service by participating in educational programs with local, state, federal, nonprofit, and private entities including high school, community colleges, universities, vocational institutions, and public libraries.

*This bill* provides that the court shall have discretion in determining whether a defendant has successfully completed his or her educational program.

*This bill* provides that when determining whether a defendant has successfully completed the educational program, the court may consider the following:

- Whether the defendant has a verification of enrollment form and a verification of completion of all hours form signed by his or her instructor if the defendant is enrolled in a specified educational program.
- Whether the defendant has a grade C or higher if he or she is enrolled in a specified educational program.

*This bill* defines educational program as including but not limited to the following:

- Writing classes.
- Literacy courses.
- Computer classes.
- English as a second language courses.
- General Education development courses.

- Adult education, including, but not limited to, parenting, financial literacy, and mental and physical health workshops, classes and programs.
- Preapprenticeship programs.
- College and university courses.

*This bill* provides that higher education programs at for-profit institutions and education programs that are part of a state or federally mandated work activity requirement are not eligible education programs for purposes of this bill.

## COMMENTS

### 1. Need for This Bill

According to the author:

California's traffic fines and fees are some of the highest in the country considering the large number of add-on-fees. This means that a ticket that is meant to be \$100—the base fine that the legislature originally imposed for the offense—automatically becomes \$490, a price that may middle-to low-income families are unable to pay.<sup>1</sup>

Currently law allows judges to provide alternative payment options of individuals who would face financial hardship in paying the mandated traffic fees. Options may include paying in installments or completing community service hours in lieu of the total fine.

The community service alternative offers middle-to-low income families the opportunity to satisfy their financial obligation to the court by working a number of unpaid hours for a qualifying nonprofit organization or a government agency as provided by the court. Community service duties may consist of performing manual labor (cleaning, raking, trash clean-up, etc.).

This alternative, which is intended to aid struggling families, can become inaccessible and overwhelming when the hours to complete are steep. For low-income households, completing the community service hour requirements can become a hindrance for individuals to successfully maintain employment, attend school and/or care for the family.

In 2017, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area recommended that flexibility be the guiding principle for community service options. Weekend or evening community service should be available and credit should be allowed for hours committed to job training, education, or for participating in other approved public interest or personal improvement activities.

Offering educational programs as an option for community service could not only increase access to this alternative, but also encourage individuals to seek

---

<sup>1</sup> <https://lccr.com/wp-content/uploads/LCCR-Report-Paying-More-for-Being-Poor-May-May-2017-5.4.17.pdf>

opportunities that can improve their quality of life. Educational opportunities to the public can have long lasting benefits to working families, such as fostering lifelong learning and providing affordable and accessible pathways into all of higher education's opportunities.

## **2. Background**

In the 2015-2016 budget act the Legislature adopted the Governor's proposal for amnesty program to provide a remedy for people who got their licenses suspended for an FTA or FTP. Beginning in October 2015 the courts began accepting applications and approximately 200,000 California's have taken advantage of the program and had their driving privilege restored. That amnesty program ended April 4, 2017.

## **3. Educational Programs for Community Service**

Under existing law a court has the authority to allow a court has the authority to allow a person who would face a hardship when paying a fine for an infraction to be sentenced to perform community service.

This bill would expand that authority to allow a court which finds that paying all or part of the fine or civil assessment on an infraction or misdemeanor failure to appear would cause a hardship to allow the person to perform community services in lieu of the fine. In addition, the bill expands the definition of community service to include participating in educational programs with local, state, federal, nonprofit, and private entities including high schools, community colleges, universities, vocational institutions and public libraries. The court will have the discretion in determining whether a defendant has successfully completed his or her educational program and the bill suggests that the court may consider either a signature from the instructor that the hours were completed for specified courses and where applicable a grade of a C or higher.

The sponsor of the bill, the Women's Foundation of California, Women's Policy Institute believes that "[i]ncluding educational programs as an option for community service will not only lead to personal improvement, but also serves the public's interest."

## **4. Argument in Support**

Root and Rebound states:

...For some individuals, choosing this more affordable option could mean completing 150+ hours of community service in the assigned time frame. This option may be the most affordable but, for many individuals facing financial hardships, ultimately impossible because it requires participation during time that must be spent caregiving, working, or looking for work. Further, the individual dedicates time they could have invested improve their and their family's quality of life, which ultimately benefits society around them at a deeper level, performing labor that does nothing to end the cycle of poverty.

**5. Disability Rights of California requested amendment.**

Disability Rights of California states:

We request that SB 1233 be amended to provide that all community service and educational sites offered pursuant to Penal Code 1209.5 shall be accessible to persons with disabilities to allow their participation on an equal basis to nondisabled persons and, to the extent necessary, reasonable accommodations be made to allow their participation. Existing state and federal law already require accessibility and accommodations but they often go unheeded. It is necessary to specifically restate the existing requirements in this statute and include the requirement in court orders to ensure equal access.

**-- END --**