
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 255 **Hearing Date:** March 21, 2023
Author: Umberg
Version: March 6, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Courts: notification system*

HISTORY

Source: The Bail Project

Prior Legislation: None

Support: Bend the Arc: Jewish Action, Southern California; ideas42; Prosecutors Alliance California; Smart Justice California; Transforming Justice Orange County

Opposition: California Attorneys for Criminal Justice

PURPOSE

The purpose of this bill is to require the Judicial Council to develop and make available to each county court a court reminder program that allows the county court to send a text message to notify defendants of scheduled court appearances.

Existing law generally vests the judicial power of the state in the Supreme Court, courts of appeal, and superior courts, and establishes the Judicial Council to, among other things, adopt rules of court and perform functions prescribed by statute. (California Constitution Article VI, Sec. 1 et seq.)

This bill provides that the Judicial Council shall develop and make available to each county court a court reminder program that allows the county court to send a text message to notify defendants of scheduled court appearances.

This bill provides that the purposes of the program shall include the following:

- Reducing costs associated with defendants who fail to appear for a scheduled court appearance.
- Improving the efficiency of courts in this state.
- Reminding defendants to appear at each scheduled court appearances.
- Reducing the number of defendants who are confined in a county jail due solely to the defendant's failure to appear for a scheduled court appearance.

This bill provides that the program shall do the following:

- Be available to each county at no cost.
- Comply with applicable state and federal laws requiring the consent of an individual before sending a reminder by text message.
- Provide text message reminder at least one week prior, three days, prior and on the day of the hearing, for each court appearance of a defendant who has access to a device with the technological capability of receiving text messages and provides the court administrator with an operational telephone number for the device.
- Include the technological capability to provide additional information to defendants concerning scheduled court appearances, including the location of the court appearance, available transportation options, and procedures for defendants who are unable to attend court appearances.
- Provide one or more publicly available internet websites through which defendants may request text reminders.
- Make reminders available in the state's threshold languages.
- Require county courts to provide a text message reminder to a person accused of a criminal offense about their arraignment.

This bill provides that each law enforcement agency shall collect the cell phone number of a person accused of a criminal offense upon citation or booking and transmit it to the county court in their jurisdiction.

This bill provides that all county courts shall participate in the court reminder program.

This bill provides that all the records generated under this program shall not be used for any other purpose.

This bill requires the Judicial Council shall create a uniform mechanism to have the courts report the following information:

- The number of defendants with scheduled court appearances who have access to a device with the technological capability of receiving text message and provide the court administrator with an operational telephone number for the device.
- Number of text message reminders sent.
- Number of defendants with scheduled court appearances who lack access to devices with technological capability of receiving text messages.
- Number of defendants who fail to appear at scheduled court appearances after being sent one or more text reminders.

This bill requires the Judicial Council to annually report data to the Legislature, disaggregated by county.

This bill provides that the Judicial Council shall convene an implementation oversight committee to oversee the design and implementation of the statewide court reminder system.

This bill provides that the implementation oversight committee shall be made up of 5 to 10 members chosen by Judicial Council and shall include experts on developing evidence-based court reminder programs and shall be responsible for all of the following:

- Advising on the design of the court reminder system.
- Researching best practices for developing a court reminder system.
- Providing consultation on implementation and priorities for technical assistance.
- Identifying barriers to implementation and suggesting solutions to address those barriers.

This bill provides that for the purposes of this section, the term “threshold languages” means a language identified as the primary language, as indicated on the Medi-Cal Eligibility Data System, of 3,000 beneficiaries or 5 percent of the beneficiary population, whichever is lower, in an identified geographic area.

COMMENTS

1. Need for This Bill

According to the author:

SB 255 requires the Judicial Council to develop and make a reminder program available to each county court to notify defendants of scheduled court appearances via text message and require county courts to participate. Failure to appear in court can result in the immediate revocation of pretrial release, bail, and trigger warrants for arrest. The lack of reminders for court hearings lead to an increase in missed court appearances, most of which are unintentional. Missed hearings subsequently lead to unnecessary costs for the state due to an increased workload for judges, law enforcement, and prosecutors and other costs associated with rescheduling court hearings. Currently, court notification programs vary wildly across the state. Studies have shown that text reminders can create a significant increase in appearance rates. Therefore, SB 255 will reduce missed court hearings and increase court efficiency by creating a statewide court system that will notify defendants of their scheduled court appearances.

2. Creation of a statewide court notification system.

This bill requires Judicial Council to develop and make available to each county court a court reminder program that allows the court to send a text message to notify defendants of scheduled court appearances including arraignment. The purpose of the program is to reduce costs associated with failure to appear, improve the efficiency of the courts, reduce defendants who fail to appear, and to reduce those who are confined in county jail due to a failure to appear.

The bill sets forth the requirements of the program including providing texts one week, prior, three days prior, and on the day of the hearing. The program should also be able to provide additional information concerning scheduled court appearances including the location, available transportation, and the procedure for those who cannot attend. There should be a website for a person to be available to request text reminders. The bill also requires each law enforcement agency to collect the cell phone number of an accused upon booking and transmit it to the court.

According to Advancing Pretrial Policy and Research:

Court date notification systems (also known as court date reminder systems) are shown to be an effective tool in increasing court appearance rates. The use of notifications to remind people of appointments, address common misperceptions about attending court, and encourage problem solving around barriers to timely appearance (e.g., schedule conflicts, transportation, childcare)—including offering assistance where needed—can make a critical difference in court appearance rates. In addition to reminding people of an upcoming court date, notifications can be used to advise people of a missed court date so they can resolve the issue as quickly as possible.

Do people currently get reminders from their attorney, probation, or bail agents?

How often do people failure to appear because the person forgot about the court date as opposed to they had transportation issues, childcare issues, etc. or just chose not to come?

The bill requires a cell phone to be taken at booking but also requires a website be created to sign up for reminders, so is it contemplated the reminders are automatic or a person has to opt in? Often the person may give a phone number that is not theirs, it is a friend or family member's, what if in that case they don't want the notification?

If the notification fails on the court's end or somehow the person does not get the notice, they lost their phone, could not pay for the monthly minutes, share a phone with someone, and the person signed up for notices, and they fail to appear, do they have some reason to argue they were relying on the notice?

3. Reporting

This bill requires the Judicial Council to set up a uniform reporting mechanism for specified information. It requires Judicial Council to annually submit a report to the Legislature starting in July 2025. The report shall contain the data collected and it should be disaggregated by county.

4. Oversight Committee

The bill also requires the Judicial Council to set up an implementation oversight committee to oversee the design and implementation of the reminder system. It shall consist of five to ten experts and include local or national experts on developing evidence-based court reminder programs.

If the oversight committee is to oversee the implementation, is this intended to be a short term oversight committee? Should the bill state when it should be convened and for how long or how often it should meet?

5. Argument in Support

The Bail Project, the sponsor of this bill states in support:

When a person is arrested and charged with a crime, they have an obligation to return to court. For those released pretrial, their ability to remain out of jail and with their families throughout the duration of their case can depend entirely on their ability to regularly and consistently attend court dates. Even one failure to appear in court can result in the immediate revocation of pretrial release, bail, and can even trigger warrants for arrest. Subsequent pretrial detention contributes to loss of housing and child custody; increased risk of unemployment; higher rates of guilty pleas; and longer sentences. Unfortunately, California's lack of a statewide court notification system means that far too many individuals unintentionally miss their court dates; over the past 4 years anywhere from 17-39% of felony cases had a bench warrant issues due to a missed court appearance¹.

There are many reasons why someone may not attend a required court hearing – most of which are unintentional and not an attempt to willfully avoid prosecution. These include, but are not limited to: illness, injury, or hospitalization; inability to take time off work or school; lack of transportation (personal or public); confusion about the date, time, or location of a court hearing; inability to find or afford childcare; and mental or behavioral health challenges. Due to structural racism and concentrated poverty, low-income and minority communities are disproportionately impacted by barriers to court date attendance.

Court systems can and often do contribute to missed court dates by failing to send notifications about court dates or sending them so late that they don't arrive until after the scheduled court date. A problem easily addressed through state policy change. Since 1998, numerous jurisdictions have addressed this issue by establishing court notification systems. At least eight states (AK, CO, HI, MA, NY, OR, TX and WA) have either implemented statewide court notification systems or enacted legislation to mandate their development.

Court notification systems are a simple, powerful and cost effective tool to support return to court and facilitate a more cost effective pretrial process. Court date notifications effectively increase court appearance rates regardless of the method and interval of reminder. They also reduce administrative costs as a result of decreased rates of rearrest, bench warrant issuance, and reducing the number of hearings that need to be rescheduled. Court notifications also reduce the workload of judges, sheriffs, and prosecutors. For example:

- Multnomah County, Oregon, had a cost savings of over \$200,000 just six months after instituting a court notification system.
- Hennepin County District Court, Minnesota, estimates cost savings of over \$3 million per year as a result of their text message court notification system and reduced failure to appear rates by 35% for individuals who received a reminder.
- New York City's email/text message reminder system reduced failures to appear by 21% and saved \$650,000 over a three year period.

The Bail Project strongly supports SB 255 (Umberg) because providing court reminders to those charged with a criminal offense will reduce court costs, increase rates of court appearance, and make for a more equitable and fairer pretrial system

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