
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: SB 71 **Hearing Date:** March 9, 2021
Author: McGuire
Version: December 9, 2020
Urgency: No **Fiscal:** No
Consultant: MK

Subject: *Infractions: community service: education programs*

HISTORY

Source: Author

Prior Legislation: SB 957- (McGuire) – Not heard (COVID) 2020
SB 164 (McGuire) – Chapter 138, Stats. 2019
SB 1233 (McGuire) – Held Senate Appropriations 2018
AB 2532 (Jones-Sawyer), Ch. 280, Stats. 2018
SB 185 (Hertzberg), 2017, failed passage in Assembly Appropriations
SB 405 (Hertzberg), Ch. 385, Stats. 2015

Support: Alameda County Public Defender's Office; American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties; California Attorneys for Criminal Justice; California Catholic Conference; California Civil Liberties Advocacy; California Public Defenders Association (CPDA); Courage California; Delivering Innovation in Supportive Housing (DISH); Ella Baker Center for Human Rights; Legal Aid At Work; The Greenlining Institute; The Women's Foundation of California; UCLA Labor Center

Opposition: None known

PURPOSE

The purpose of this bill is to allow a court to permit a person to participate in an educational program as part of their community service to pay off the fine imposed for an infraction.

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. (Pen. Code, § 1214.1 (a))

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. (Pen. Code, § 1241.1(b)(2))

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. (Pen. Code, § 2463.007)

Existing law states that except in cases where a different punishment is prescribed, every offense declared to be an infraction is punishable by a fine not exceeding \$250. (Pen. Code, § 19.8 (c).)

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 states that the court can permit a person convicted of an infraction to perform community service in lieu of a fine, upon showing that payment of the total fine would pose a hardship on the defendant or the defendant's family. (Pen. Code, § 1209.5 (a).)

Existing law states that for the purpose of this section "total fine" refers to the total bail, including the base fine and all assessments, penalties, and additional moneys to be paid by the defendant. (Pen. Code, § 1209.5 (b).)

Existing law states that the applicable community service's hourly rate is double the minimum wage set for the applicable calendar year, based on the schedule for an employer who employs 25 or fewer employees as defined in the Labor. (Pen. Code, § 1209.5 (c)(1).)

Existing Law states that a court may by local rule increase the amount that is credited for each hour of community service performed to exceed the hourly rate (Pen. Code, § 1209.5 (c)(1).)

Existing law provides that if the court determines that a person who has been convicted of an infraction has shown that payment of the total fine would pose a personal hardship and that person has elected to perform community service in lieu of paying the total fine, the person may elect to do the community service in the county where the offense occurred, in the person's county of residence or any other county in which the person has substantial ties.

This bill provides that if the court determines that a person who has been convicted of an infraction has shown that payment of the total fine would pose a hardship pursuant to subdivision and the person has elected to perform community service in lieu of paying the total fine pursuant to subdivision, the court may, in its discretion, permit a person to participate in an educational program to satisfy community service hours.

COMMENTS

1. Need for This Bill

According to the author:

California's traffic fines and fees are some of the highest in America when you multiply the large number of add-on fees. This means that a traffic ticket that is meant to be \$100—the base fine that the legislature originally imposed for the offense—automatically becomes \$490, a price that many low income families are unable to pay.

Currently law allows judges to provide alternative payment options to 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.).

The community service alternative, which is intended to aide struggling families, can become inaccessible and overwhelming when the assigned hours are steep for completion. For low-income households, completing the community service hour requirement can become a hindrance to maintain employment, attend school and/or care for family.

SB 71 will address the issue of inaccessibility to the community service option by authorizing judges to offer educational programs as an alternative to serving community service. Offering educational programs as an option for community service will benefit tens of thousands of Californians and encourage individuals to seek opportunities that can have long lasting benefits to working families, such as training that will help residents achieve greater skills, which will help them secure a new or improved job or career. Having these skills will further expand the earning potential, which will benefit their families and our communities. SB 71 will additionally help disadvantaged communities fulfill financial obligations to the court by expanding community service options that will offer access to valuable education opportunities.

2. Infractions Generally

Infractions are the lowest level criminal offense, as well as the most common. In 2018, there were 4,518,482 criminal filings and of those criminal filings there were 3,562,687 infraction cases.¹ Infractions do not subject a defendant to incarceration, being placed on probation, a jury, or free defense counsel. They are usually cited using a “ticket”. Infraction tickets are most commonly seen in traffic violations, i.e. speeding ticket, parking ticket, etc. Individual infractions cannot exceed \$250; however, when other processing fees are included costs can add up. For example, a \$250 can add up to \$1,030 if all penalty assessments are included. If a defendant proves that the cost would pose economic “hardship”, then they can participate in a community service activity in lieu of their fines. The court will decide “hardship” based on:

- 1) The defendant’s present financial situation.
- 2) The defendant’s future financial position. In no event shall the court consider a period of more than six months from the date of the hearing.
- 3) Likelihood that the defendant shall be able to obtain employment within the six month period.
- 4) Any other factor or factors which may bear upon the defendant’s financial capability to reimburse the county for the costs.

3. Education as Part of Community Service

This bill would allow a court to permit a person to enroll in an educational program to satisfy community service hours to pay a fine. According to the Ella Baker Center:

Currently, law allows judges to provide alternative payment options for 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.

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 requirement can

¹ <https://www.courts.ca.gov/documents/2018-Court-Statistics-Report.pdf>

become a hindrance for individuals to successfully maintain employment, attend school and/or care for family.

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

In order to help disadvantaged communities fulfill financial obligations to the court by expanding community service options that will offer access to valuable education opportunities, the Ella Baker Center for Human Rights is in strong support of SB 71.

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