

Date of Hearing: April 9, 2024

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Kevin McCarty, Chair

AB 2625 (Bryan) – As Amended March 21, 2024

AS PROPOSED TO BE AMENDED IN COMMITTEE

SUMMARY: Requires counties to develop court reminder programs to notify defendants of scheduled court appearances. Specifically, this bill:

- 1) Requires each county to develop a court reminder program that allows a superior court, county defense agency or contractor, pretrial services provider, or a community-based organization to send a text message to notify defendants of scheduled court appearances.
- 2) States that the purposes of the program are to:
 - a) Reduce the costs associated with defendants who fail to appear for a court appearance;
 - b) Improve the efficiency of California courts;
 - c) Remind defendants to appear at each scheduled court appearance;
 - d) Reduce the number of defendants who are confined in county jail solely due to their failure to appear for a court appearance.
- 3) Requires the court reminder program to:
 - a) Be available to all enrolled persons at no cost;
 - b) Send text message reminders to enrolled persons about their arraignment and all subsequent court appearances at least one week prior, three days prior, and one day prior to the hearing, if they have access to a device with the technological capability of receiving text messages and provide an operational telephone number for the device. Additional reminders may also be provided via email or other methods;
 - c) Automatically enroll all arrested persons who provide a telephone number;
 - d) Send a text message with the initial reminder regarding the arraignment that informs the person of the program and provides them an option to opt out;
 - e) 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;

- f) Provide a publicly available internet website through which defendants may request text reminders, update their telephone number or other contact information, and update language preferences.
 - g) Make text reminders available in California's threshold languages, which is defined as "a language identified as the primary language, as indicated in 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."
- 4) Provides that the arresting law enforcement agency shall request an accused person's cellphone number for the purpose of receiving court notifications upon citation or booking, and transmit that number to the relevant agency managing the court reminder program in their jurisdiction and then dispose of the cellular telephone number if there is no other legally mandated requirement to retain it.
 - 5) Provides that a person's refusal to provide a phone number to the law enforcement agency shall not be held against a defendant for any purpose.
 - 6) Provides that contact information collected solely through this program shall not be used by law enforcement agencies or the courts for any purpose other than for court date reminders.
 - 7) Provides that records generated by this program, including any contact information for the defendant, may not be used for any purpose other than for court date reminders.

EXISTING LAW:

- 1) Provides that in any infraction, misdemeanor, or felony cases, a court may (in addition to any other penalty) impose a civil assessment (fine) of up to \$100 against a defendant who fails, after notice and without good cause, to appear in court for a proceeding authorized by law. (Pen. Code, § 1214.1, subd. (a).)
- 2) Provides the above fine shall not apply until at least 20 calendar days after the court mails a warning notice to the defendant, using first class mail, to the address shown on the notice to appear or the defendant's last known address. (Pen. Code, § 1214.1, subd. (b).)
- 3) Provides that if the defendant appears within the specified time and shows good cause for the failure to appear, the court shall vacate the fine. (Pen. Code, § 1214.1, subd. (b).) Payment of the fine is not required to schedule a court hearing on the underlying pending charge. (*Ibid.*)
- 4) Provides that if a fine is imposed for failure to appear, then no warrant of arrest shall be issued for the failure to appear at the proceeding for which the assessment is imposed. (Pen. Code, § 1214.1, subd. (c).) An outstanding warrant of arrest for a failure to appear shall be recalled prior to the subsequent imposition of a fine.
- 5) Provides that the following procedures apply for infraction offenses, for which a defendant has received a written notice to appear and has failed to appear:
 - a) The notice of a civil assessment must inform the defendant of their right to petition that the assessment be vacated for good cause and include information about the process for

vacating or reducing the assessment.

- b) When a notice of civil assessment is given, a defendant may, within the time specified in the notice, move by written petition to vacate or reduce the assessment.
 - c) When a court imposes a civil assessment for failure to appear or pay, the defendant may petition that the court vacate or reduce the assessment without paying any bail, fines, penalties, fees, or assessments.
 - d) A petition to vacate an assessment does not stay the operation of any order requiring the payment of bail, fines, penalties, fees, or assessment unless specifically ordered by the court.
 - e) The court must vacate the assessment upon a showing of good cause for failure to appear.
 - f) If the defendant does not establish good cause, the court may still exercise its discretion to reconsider whether a civil assessment should be imposed and the amount of the assessment.
 - g) In exercising its discretion, the court may consider such factors as a defendant's due diligence in appearing or paying after notice of the assessment has been given and the defendant's financial circumstances. (Cal Rules of Court, Rule 4.106 (c).)
- 6) Provides that the civil assessment imposed shall be subject to the due process requirements governing defense and collection of civil money judgments generally. (Pen. Code, § 1214.1, subd. (d).)
- 7) Provides that any person who willfully violates their written promise to appear in court or a lawfully granted continuance of their promise to appear in court is guilty of a misdemeanor, regardless of the disposition of the charge upon which they were originally arrested (Pen. Code, § 853.7.)
- 8) Provides that a person who is charged with, or convicted of a misdemeanor who is released from custody on their own recognizance and, to avoid the process of court, willfully fails to appear in court as required, is guilty of a misdemeanor. (Pen. Code, § 1320, subd. (a).)
- 9) Provides that it is presumed that a defendant intended to avoid the process of court if they willfully fail to appear within 14 days of their court date. (*Ibid.*)
- 10) Provides that a person who is charged with, or convicted of a felony who is released from custody on their own recognizance and, to avoid the process of court, willfully fails to appear in court as required, is guilty of a felony, and upon conviction shall be punished by a \$5,000 fine, specified imprisonment, or a year of county jail. (Pen. Code, § 1320, subd. (b).)
- 11) Provides that a person who is charged with or convicted of a felony, who is released from custody on bail, and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon a conviction, the person shall be punished by up to a \$10,000 fine, specified imprisonment, or up to a year in county jail. (Pen. Code, § 1320.5.)

Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court. (*Ibid.*)

- 12) Provides that a person who willfully violates their written promise to appear in court or a lawfully granted continuance of their promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which the person was originally arrested. (Veh. Code, § 40508, subd. (a).)
- 13) Provides that a person who willfully fails to comply with a condition of a court order for a violation of this code, other than for failure to appear or failure to pay a fine, is guilty of a misdemeanor, regardless of their subsequent compliance with the order. (Veh. Code, § 40508, subde. (c).)
- 14) Establishes mandatory reminder notices for specified traffic court appearances. Specifically:
 - a) Each court must send a reminder notice to the address shown on the Notice to Appear, unless the defendant otherwise notifies the court of a different address.
 - b) The court may send the reminder notice electronically, including by e-mail or text message, to the defendant. By providing an electronic address or number to the court or law enforcement officer at the time of signing the promise to appear, a defendant consents to receiving the reminder notice electronically.
 - c) The failure to receive a reminder notice does not relieve the defendant of the obligation to appear by the date stated in the Notice to Appear.
 - d) The reminder notice must contain specified information such as an appearance date and location, whether the court appearance is mandatory or optional, potential consequences for failure to appear, including a driver license hold or suspension, or a civil assessment of up to \$300. (Cal Rules of Court, Rule 4.107 (a).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Court notification systems are a powerful and cost-effective tool to help those in the pretrial system return to court. Unfortunately, far too many Californians unintentionally miss their court dates. Over the past four years, anywhere from 17-39% of cases had a bench warrant issued due solely to a missed court appearance. Having a missed court appearances can have serious consequences for people and the entire community.

AB 2625 will address these issues by creating a more efficient court hearing process and reduce the adverse impacts of pretrial detention for individuals who miss their court hearing. This bill ensures that timely reminders are sent to those scheduled for court dates, thereby reducing the likelihood of missed hearings.”

- 2) **Effectiveness of Court Reminder Systems:** “When used at the pretrial stage, notification systems may help to improve the court appearance rates of defendants, thereby reducing the

community and court costs associated with missed hearings. When defendants fail to appear in court, arrest warrants must be issued and served, defendants may serve more jail time, docket sizes increase, workloads increase for justice system professionals, and an additional burden may be placed on victims and witnesses. Interventions that decrease failure-to-appear (FTA) rates may therefore provide a multi-layered budget-saving measure for courts. They may also help to improve perceptions of justice system fairness by avoiding the need to impose potentially harmful penalties (such as jail time) on defendants, who otherwise may have unintentionally missed their scheduled court date. The National Institute of Corrections cites court date notification as an effective pretrial supervision practice in “A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial System and Agency.” (Pretrial Justice Center for Courts, *Use of Court Date Reminder Notices to Improve Court Appearance Rates* (Sept. 2017), p. 1. Available at: <https://static.prisonpolicy.org/scans/PJCCBrief10Sept2017CourtDateNotificationSystems.pdf> [as of April 4, 2024].)

As noted above, not only can court reminder systems reduce unnecessary penalties upon persons who miss their court date, but data on court reminder systems suggests that such systems can result in significant cost savings. For example, Hennepin County (Minnesota) District Court’s text message court notification system was estimated to reduce failure to appear rates by 35 percent when reminders were received and save the county over \$3 million per year. (Minnesota Judicial Branch, *Using Reminders to Reduce Failure to Appear in Court* (Sept. 2019) at p. 15. Available at: https://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/Research/Hennepin-County-Court-eReminders-Project-September-2019.pdf [as of April 4, 2024].) Additionally, Multnomah County’s (Oregon) court notification system reduced failure to appear rates by 37 percent and saved over \$200,000 in just six months. (Multnomah County, *Court Appearance Notification System: Process and Outcome Evaluation* (March 2006) at p. 1. Available at: http://multco-web7-psh-files-usw2.s3.amazonaws.com/s3fs-public/budget/documents/12_cans.pdf [as of April 4, 2024].) Non-text court reminder systems, such as automated phone reminders, have also been shown to reduce court costs. An analysis of a Los Angeles Superior Court’s use of automated dialer phone technology to provide defendants of scheduled traffic dates found that “[r]eductions in initial failure-to-appear rates resulting in an annual cost savings of over \$30,000.” (California Courts, *Court Appearance Reminder System – Los Angeles Superior Court*. Available at: <https://www.courts.ca.gov/27771.htm> [as of April 4, 2024].)

- 3) **Effect of this Bill:** AB 2625 would require counties to develop court reminder programs to notify defendants of scheduled court appearances. Under existing law, counties are permitted to send digital reminders of court dates to accused persons, however, there is no statewide requirement to provide such reminders. Under this bill, administering entities would be required to notify enrolled persons about their arraignment and all subsequent court appearances at least one week prior, three days prior, and one day prior to the hearing. While AB 2625 would automatically enroll defendants and accused persons who provide a telephone number, such persons would have an option to opt out and refusal to provide a phone number would not be held against that person for any purpose. Additionally, AB 2625 contains privacy protections for enrolled persons by requiring that contact information collected solely through this program, or records generated by this program, cannot be used by law enforcement agencies or courts for any purpose other than for court date reminders. Additionally, this bill, as proposed to be amended, provides that law enforcement agencies

must dispose of the cellular telephone number if there is no other legally mandated requirement to retain it. Given the well documented data demonstrating the effectiveness of court reminder systems, AB 2625 can reasonably be expected to reduce failure to appear rates, lower associated court costs, and reduce the detrimental consequences associated with unnecessary pretrial detention (e.g., increased risk of unemployment, loss of housing, loss of child custody, higher rates of guilty pleas, and longer sentences).

The author may wish to clarify that an enrolled persons contact information or records can also be used to provide information regarding the location of the court appearance, transportation options, and procedures for persons who cannot attend court appearances. Proposed Penal Code Section 1425 (b)(5), as created by this bill, states that a county court reminder program must “[i]nclude 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.” However, proposed Section 1425(e) provides that contact information collected solely through the program or records generated by the program, cannot be used for any purpose other than court date “reminders”. It may be prudent to clarify the scope of what constitutes a “reminder” to provide this would not prohibit an enrolled person from being provided additional information beyond just the reminder itself (e.g. court locations, transportation options, and other relevant procedures), that AB 2625 authorizes elsewhere.

- 4) **Argument in Support:** According to the Initiate Justice “When a person is arrested, they have an obligation to return to court. Their ability to remain out of jail and with their families throughout the duration of their case can depend entirely on their ability to attend court dates regularly and consistently. The reason for swift responses to failures to appear is directly tied to concerns that someone may attempt to flee from prosecution rather than participating in the legal process. But 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.

“Even one failure to appear in court can result in the immediate revocation of pretrial release, bail, and even trigger warrants for arrest, exacerbating the impacts of incarceration on their lives. Subsequent pretrial detention contributes to loss of housing and child custody; increased risk of unemployment; higher rates of guilty pleas; and longer sentences. Unfortunately, far too many Californian[s] unintentionally miss their court dates; over the past four years anywhere from 17-39% of felony cases had a bench warrant issued due to a missed court appearance. 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. California currently has a patchwork of court reminder systems, but there are no standards Initiate Justice to ensure that all Californians released pretrial have equal access to a court notification system. Limited access to and awareness of existing court reminder notification systems further impedes efforts to improve court attendance rates.

“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 re[-]arrest, 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.

“AB 2625 will allow various agencies in each county to operate a court reminder system while requiring certain standards be met including language access and a minimum number of reminders for each hearing including the initial appearance. Under AB 2625 court reminder systems will be made available to all persons arrested at no cost but will not require their enrollment and will offer opportunities to later opt-out. Finally, AB 2625 will establish evidentiary protections for all information collected through any court reminder system.”

5) **Argument in Opposition:** No longer applicable.

6) **Prior Legislation:**

- a) SB 255 (Umberg), of the 2023-2024 Legislation Session, would have required the Judicial Council of California to develop and make available to each county court a reminder program that allows the county court to send a text message to notify defendants of scheduled court appearances. SB 255 died in the Senate Appropriations Committee.
- b) SB 850 (Umberg), of the 2023-2024 Legislation Session, would have required the Judicial Council of California to develop and make available to each county trial court a reminder program that allows county courts to send a text message to notify defendants of scheduled court appearances. SB 255 died in the Senate Appropriations Committee
- c) AB 412 (Ting), of the 2017-2018 Legislative Session, would have required courts to vacate a monetary fine imposed for failure to appear in court or pay a fine, if the defendant establishes that he or she had good cause to not appear or not pay a fine, or is unable to pay the assessment. AB 412 died in the Assembly Appropriations Committee.
- d) SB 405 (Hertzberg), Chapter 385, Statutes of 2015, requires courts to allow individuals to schedule court proceedings, even if bail or civil assessment has been imposed.

REGISTERED SUPPORT / OPPOSITION:

Support

Behavioral Ideas Lab, INC. Dba Ideas42
Bend the Arc: Jewish Action, Southern California
California Coalition for Women Prisoners
California for Safety and Justice
California Public Defenders Association
Communities United for Restorative Youth Justice (CURYJ)
Critical Resistance, Los Angeles
Felony Murder Elimination Project

Initiate Justice

Initiate Justice Action

Justice2jobs Coalition

LA Defensa

Lawyers' Committee for Civil Rights of The San Francisco Bay Area

Legal Services for Prisoner With Children

Sister Warriors Freedom Coalition

Transformative Programming Works (TPW)

Vera Institute of Justice

Young Women's Freedom Center

Opposition: No longer applicable.

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