

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2625 Bryan – As Amended April 11, 2024

PROPOSED CONSENT

SUBJECT: COURTS: NOTIFICATION SYSTEM

KEY ISSUE: SHOULD EACH COUNTY BE REQUIRED TO DEVELOP A PROGRAM TO REMIND DEFENDANTS OF SCHEDULED COURT APPEARANCES?

SYNOPSIS

A failure to appear at a criminal court hearing can have serious and cascading negative consequences. 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. Under existing rules of court, courts are required to send reminders to defendants with traffic court cases about their upcoming appearances and may send the reminder notice electronically, including by e-mail or text message. (Cal Rules of Court, Rule 4.107 (a).) Notification systems, including the system now in place for traffic court appearances, are highly effective at improving appearance rates at court proceedings. 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.

This bill requires each county to develop its own court reminder systems to notify defendants of court dates via text message. While the bill would automatically enroll defendants and accused persons who provide a telephone number in a court appearance notification program, defendants would have an option to opt out of the program. The bill provides that a defendant's refusal to provide a phone number for purposes of being notified of upcoming court dates cannot be held against them for any purpose. Under the bill, courts would be required to notify defendants about their arraignment and all subsequent court appearances at least one week prior, three days prior, and one day prior to the hearing.

This bill, recently approved by the Assembly Committee on Public Safety by a vote of 8-0, is sponsored by La Defensa and supported by a large number of criminal justice reform and civil rights advocates. It has no opposition on file.

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 (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) Requires the arresting law enforcement agency to 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) 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.*)
- 2) 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. (Penal Code Section 1214.1 (a). All further statutory references are to this code, unless otherwise indicated.)
- 3) 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. (Section 853.7.)
- 4) 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. (Section 1320 (a).)
- 5) 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.*)
- 6) 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: As currently in print this bill is keyed fiscal.

COMMENTS: This bill, sponsored by La Defensa, requires counties to develop court reminder programs to notify defendants of scheduled court appearances via text message. 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.

The importance for criminal defendants showing up for their court dates. A failure to appear at a criminal court hearing can have serious and cascading negative consequences. According to the bill's sponsor, "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 Californians 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."

Failures to appear in court also have numerous potential criminal consequences:

- 1) 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. (Section 1214.1 (a).)
- 2) 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. (Section 853.7.)
- 3) 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. (Section 1320 (a).)

Effectiveness of Court Reminder Systems: Notification systems, including the system now in place for traffic court appearances, are highly effective at improving appearance rates at court proceedings.

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].)

Not only can court reminder systems reduce unnecessary penalties upon persons who miss their court dates, but such systems can also 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].)

Past legislation seeking to accomplish these goals: SB 255 (Umberg) and SB 850 (Umberg), both of the 2023 – 24 Session, would have required the *Judicial Council* to create a uniform mechanism for all courts to use for the notification of defendants of their scheduled court appearances. Both bills died in the Senate Committee on Appropriations. While this approach – with specific statewide standards applied to all courts—seems appealing, it appears to have been infeasible because of the Judicial Council’s fiscal concerns.

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While the bill would automatically enroll defendants and accused persons who provide a telephone number in a court appearance notification program, defendants would have an option to opt out of the program. The bill provides that a defendant’s refusal to provide a phone number for purposes of being notified of upcoming court dates cannot be held against them for any purpose. Under the bill, courts would be required to notify defendants about their arraignment and all subsequent court appearances at least one week prior, three days prior, and one day prior to the hearing.

The bill requires 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, as recently amended, the bill provides that law enforcement agencies must dispose of a cellular telephone number obtained from a defendant if there is no other legally mandated requirement to retain it.

Given the well documented data demonstrating the effectiveness of court reminder systems, it is likely that the bill would 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). Thus, the bill is likely to create a more efficient court hearing process and reduce the adverse impacts (and county costs) of pretrial detention for individuals who miss their court appearances.

ARGUMENTS IN SUPPORT: Sponsor La Defensa writes about the importance of defendants appearing for their court dates and the effectiveness of notification systems:

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 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.

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La Defensa strongly supports AB 2625(Bryan) 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.

REGISTERED SUPPORT / OPPOSITION:

Support

La Defensa (sponsor)
 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
 Californians United for A Responsible Budget
 Communities United for Restorative Youth Justice (CURYJ)
 Critical Resistance, Los Angeles
 Ella Baker Center for Human Rights
 Felony Murder Elimination Project
 Initiate Justice
 Initiate Justice Action
 Justice2jobs Coalition
 Lawyers' Committee for Civil Rights of The San Francisco Bay Area
 Legal Services for Prisoner With Children
 Rubicon Programs
 Sister Warriors Freedom Coalition
 Transformative Programming Works (TPW)
 Vera Institute of Justice
 Young Women's Freedom Center

Opposition

None on file

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