
THIRD READING

Bill No: AB 2122
Author: Kalra (D) and Lowenthal (D), et al.
Amended: 4/16/26 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/16/26

AYES: Arreguín, Cortese, Pérez, Wiener

NOES: Seyarto

NO VOTE RECORDED: Caballero

ASSEMBLY FLOOR: 55-18, 5/22/26 - See last page for vote

SUBJECT: Infractions: warrants and penalties

SOURCE: All of Us or None; Corporation for Supportive Housing; Communities United for Restorative Youth Justice; Legal Services for Prisoners with Children; The Maven Collaborative; San Francisco Public Defender's Office; Western Center on Law and Poverty

DIGEST: This bill prohibits the issuance of bench warrants for failure to appear, or failure to pay bail, for an infraction offense of the Vehicle Code; requires that any bench warrant issued for failure to appear for an infraction offense not of the Vehicle Code, or a local ordinance established under the Vehicle Code, be limited to arrest and booking at the scene followed by immediate release; establishes that failure to appear in court, or failure to pay, for any infraction offense is not a misdemeanor.

ANALYSIS:

Existing law:

- 1) Establishes that it is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available. (Penal (Pen.) Code, § 17.2, subd. (a).)

- 2) States that specified offenses are wobblettes, chargeable as misdemeanors or infractions. States that such offenses are infractions in the following cases:
 - a) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time they are arraigned, after being informed of their rights, elects to have the case proceed as a misdemeanor.
 - b) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint. (Pen. Code, § 17, subd. (d).)
- 3) Provides that all provisions of law relating to misdemeanors shall apply to infractions, as specified. (Pen. Code, § 19.7.)
- 4) States that except where a lesser maximum fine is expressly provided, an infraction is punishable by a fine not exceeding \$250. (Pen. Code, § 19.8, subd. (a)(2).)
- 5) States that except for specified violations based upon failure to appear, a conviction for an offense made an infraction is not grounds for the suspension, revocation, or denial of a license or for the revocation of probation or parole of the person convicted. (Pen. Code, § 19.8, subd. (c).)
- 6) Establishes that except as otherwise provided by law, in any case in which a person is arrested for an offense declared to be an infraction, the person may be released according to procedures for a misdemeanor. (Pen. Code, § 853.5, subd. (a).)
- 7) Provides that any person who willfully violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court is guilty of a misdemeanor. (Pen. Code, § 853.7.)
- 8) Requires that when a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail, the magistrate must issue and have delivered for execution a warrant for their arrest within 20 days after their failure to appear as promised or within 20 days after their failure to appear after a lawfully granted continuance. (Pen. Code, § 853.8.)
- 9) States that a bench warrant of arrest may be issued when a defendant fails to appear in court. (Pen. Code, § 978.5, subd. (a).)

- 10) States that a trial of an infraction shall be by the court, but when a defendant has been charged with an infraction and with a public offense for which there is a right to jury trial and a jury trial is not waived, the court may order that the offenses be tried together by jury or that they be tried separately. (Pen. Code, § 1042.5.)
- 11) States that any person who fails to appear 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, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle (Veh.) Code. (Veh. Code, § 40903, subd. (a).)

This bill:

- 1) Prohibits the issuance of bench warrants for failure to appear or failure to pay bail for a Vehicle Code infraction.
- 2) Requires that any bench warrant issued for failure to appear for an infraction not of the Vehicle Code, or a local ordinance established under the Vehicle Code, be limited to arrest and booking at the scene followed by immediate release.
- 3) Provides that failure to appear in court, or failure to pay, under any infraction offense is not a misdemeanor.
- 4) Makes findings and declarations.

Background

An infraction is a criminal offense that is not punishable with incarceration. Because the punishment for an infraction does not implicate the same loss of liberty, the same constitutional rights that apply to other criminal offenses do not apply to infractions. All provisions of law applicable to misdemeanors, however, also largely apply to infractions. Generally, a person arrested for an infraction must be released upon signing a written notice to appear. After a person has been released on a promise to appear, a bench warrant for arrest can be issued if the person fails to appear in court or fails to deposit bail. A willful violation of a promise to appear is a misdemeanor, even if the original offense was an infraction.

Additionally, a willful failure to pay a bail installment or a lawfully imposed fine for a Vehicle Code infraction, or an infraction of a local ordinance adopted pursuant to the Vehicle Code, is a misdemeanor. Any person who fails to appear for an infraction of the Vehicle Code, or any local ordinance adopted pursuant to the Vehicle Code, may be deemed to have elected to have a trial by written declaration, as charged by the citing officer—functionally allowing the person to be convicted in absentia.

Functionally, bench warrants result in people who cannot pay for their infraction tickets being incarcerated for offenses, while people who can pay are not. Thus, infraction bench warrants turn non-jailable offenses into the basis for a person's incarceration. Bench warrants have recently been used as a pretext for immigration enforcement, meaning that people may face ICE arrest and subsequent removal proceedings for a non-jailable offense.

The Judicial Council's 2021 Court Statistics Report notes that in FY 2019-20, out of all criminal case filings comprised of felonies, misdemeanors, and infractions, the overwhelming majority were infractions. During this same time period, there were 174,553 felony case filings, 636,112 misdemeanor filings, and 3,243,819 infraction cases. The majority of infractions were traffic infractions. There were over 1,000,000 bail forfeitures for traffic infractions and over 19,000 bail forfeitures for non-traffic infractions. Infractions require a huge investment of time and resources, not just for the criminal justice system, but also for system-impacted individuals and families.

Traffic stops are a common means of receiving an infraction. Police officers undertake millions of minor traffic stops annually, with many used as a pretext to investigate drivers for criminal activity, which disproportionately impacts motorists of color. Police officers initiated contact with nearly 29 million U.S. residents aged 16 and older in 2018. Traffic stops account for four-fifths of police-initiated contact. The Stanford Open Policing Project has found that Black drivers are disproportionately stopped relative to Latine and White drivers.

Criminal justice involvement often begins with system contact stemming, at least initially, from an infraction. Under current law, infractions can produce unpayable fees for some that can then balloon into crippling, life-altering debt. The Consumer Financial Protection Bureau (CFPB) found predatory monetary practices exist in every phase of the criminal legal process. Moreover, system contact can quickly turn into a misdemeanor if the charged individual is unable to comply with established legal processes. While some individuals may be negligent or unwilling to abide by these processes, many justice-involved individuals may be unable to

attend court for legitimate reasons. Many do not receive notice, cannot afford to pay the ticket, are not able to get off work or get childcare, are experiencing mental or physical health issues, or are fearful of appearing in court for a variety of reasons, such as potential immigration enforcement.

Existing law provides courts with other tools to address nonpayment of infraction tickets, like civil collections. In 2017, the Commission on the Future of California's Court System recommended implementing a “civil model of adjudication for minor vehicle infractions.” Research has shown that alternatives such as improved notices, reminders, and commonsense collection practices are more effective than warrants at generating timely court appearances and payments. For example, in New York City, researchers found that changes to the court summons form reduced failures to appear by 13 percent, and that text message reminders reduced failures to appear by 26 percent. Additionally, as of 2024, 12 counties are reportedly not issuing bench warrants in infraction cases, and San Francisco has eliminated the use of infraction bench warrants.

This bill prohibits the issuance of bench warrants for failure to appear, or failure to pay bail, under an infraction offense of the Vehicle Code. Furthermore, for any bench warrant issued for failure to appear for an infraction offense not of the Vehicle Code, the bench warrant must be limited to arrest and booking at the scene followed by immediate release. This bill also provides that failure to appear in court, or failure to pay, under any infraction offense is not a misdemeanor.

There are some concerns that prohibiting the issuance of bench warrants in infraction cases will incentivize prosecutors to charge wobblettes as misdemeanors. However, in those cases, a person would be appointed a public defender to adjudicate whether the case would be charged as an infraction or misdemeanor. Furthermore, this concern may be overstated because prosecutors are already likely to charge wobblette offenses as misdemeanors when they have probable cause to do so.

Additionally, the opposition has raised concerns that prohibiting bench warrants for infractions will result in individuals disregarding infraction offenses because they will not face any consequences. However, individuals charged with infractions are still civilly liable for the offenses, which can result in wage garnishment, bank levies, and other collection methods.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

The Senate Appropriations Committee writes:

Moderate, potentially increasing workload and negative revenue impacts on the courts. Prohibiting the issuance of bench warrants for failure to appear may produce more trials in absentia in Vehicle Code infraction cases, with associated fines sent to collections.

Additional court clerk and collections staff workload related to failure-to-appear cases, and loss of revenue from fees and assessments that would have been imposed on adjudicated cases. Although courts are not funded on the basis of workload, increased cost pressure on the Trial Court Trust Fund may create a demand for increased General Fund support. The FY 2026-27 Budget appropriates \$70 million General Fund to backfill declining revenue to the Trial Court Trust Fund (Trial Court Trust Fund, General Fund).

Moderate, potentially increasing savings to local law enforcement and county jails from reduced execution of infraction bench warrants and reduced jail bookings for failure to appear and failure to pay infractions and incarceration costs.

SUPPORT: (Verified 8/12/26)

All of US or None (HQ) (co-source)

Communities United for Restorative Youth Justice (co-source)

Corporation for Supportive Housing (co-source)

Legal Services for Prisoners With Children (co-source)

San Francisco Public Defender's Office (co-source)

The Maven Collaborative (co-source)

Western Center on Law & Poverty, INC. (co-source)

A New Way of Life Reentry Project

ACLU California Action

All of US or None Orange County

Alliance for Boys and Men of Color

California Attorneys for Criminal Justice

California Coalition for Housing and Survivor Justice

California Coalition for Women Prisoners

California Community Foundation

California Immigrant Policy Center

California Public Defenders Association

California Rural Legal Assistance
Californians for Safety and Justice
Californians United for a Responsible Budget
Care First California
Cd11 Coalition for Human Rights
Center on Juvenile and Criminal Justice
Coalition on Homelessness, San Francisco
Community Legal Services in East Palo Alto
Congregations Organized for Prophetic Engagement
Courage California
Debt Free Justice California
Destination: Home
Dignity and Power Now
Disability Rights California
Drug Policy Alliance
Ella Baker Center for Human Rights
Equal Rights for Every Neighbor
Families Inspiring Reentry & Reunification 4 Everyone
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Glide
Housing California
Housing Is a Human Right - Orange County
Indivisible CA Statestrong
Initiate Justice
Inland Region Reentry Collaborative
John Burton Advocates for Youth
Justice2jobs Coalition
LA Defensa
LA Raza Community Resource Center
Law Foundation of Silicon Valley
Legal Aid of Marin
Legal Services of Northern California
Local 148 Los Angeles County Public Defender's Union
Milpa Collective
National Alliance to End Homelessness
National Consumer Law Center, INC.
Peace and Justice Law Center
Public Advocates

Riverside All of US or None
 Rubicon Programs
 Sacred Heart Community Service
 San Jose State University Record Clearance Project
 Santa Cruz Fulltimers
 Sf Coalition on Homelessness
 Smart Justice California, a Project of Beyond Impact
 Starting Over INC.
 Time for Change Foundation
 Universidad Popular
 University of the Pacific McGeorge School of Law Homeless Advocacy Clinic
 Urban Peace Movement
 Venice Justice Committee
 Vera Institute of Justice
 Vital Arts

OPPOSITION: (Verified 8/12/26)

California State Sheriffs' Association

ASSEMBLY FLOOR: 55-18, 5/22/26

AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Ávila Farías, Bennett, Berman,
 Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Flora,
 Fong, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson,
 Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco,
 Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle
 Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache,
 Soria, Stefani, Valencia, Ward, Wilson, Zbur, Rivas

NOES: Alanis, Bains, Castillo, Davies, DeMaio, Dixon, Ellis, Gallagher, Jeff
 Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez,
 Tangipa, Wallis

NO VOTE RECORDED: Arambula, Bauer-Kahan, Chen, Gabriel, Celeste
 Rodriguez, Ta, Wicks

Prepared by: Marshal Lawler / PUB. S. /
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**** END ****