

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Report

TO: Members of the Judicial Council

FROM: Traffic Advisory Committee
Hon. Deborah A. Ryan, Chair
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DATE: January 31, 2008

SUBJECT: Traffic Infractions: Installment Payment of Bail Forfeitures
and Traffic Violator School Fees (adopt forms TR-300 and
TR-310) (Action Required)

Issue Statement

Assembly Bill 1248 (Stats. 2007, ch. 738) enacted Vehicle Code section 40510.5 and amended Vehicle Code section 42007 to allow court clerks to accept bail forfeitures and traffic violator school fees in installments for traffic infractions. Sections 40510.5 and 42007 require the Judicial Council to prescribe the form of the agreement for processing installment payments.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective April 1, 2008, adopt proposed forms TR-300, *Agreement to Pay and Forfeit Bail in Installments*, and TR-310, *Agreement to Pay Traffic Violator School Fees in Installments*.

The proposed forms are set forth at pages 7–10.

Rationale for Recommendation

Effective January 1, 2008, Vehicle Code sections 40510.5 and 42007 permit court clerks to accept bail forfeiture and traffic violator school fees in installments for traffic infractions if certain criteria are satisfied. Sections 40510.5 and 42007 require the Judicial Council to prescribe the form of the agreement for courts to use for processing the installment payments. The law does not require courts to offer installment payment plans, but courts that do offer such plans for bail or traffic violator school fees in traffic infraction cases without a court appearance must use the forms prescribed by the council.

Payment and forfeiture of bail in installments for traffic infractions

Form TR-300 is proposed for use by court clerks to accept payment and forfeiture of bail in installments for traffic infraction violations that do not require a mandatory court appearance. To qualify for the installment payment procedure, the defendant must not have missed the appearance date and must submit proof of correction for any correctable violations. (Veh. Code, § 40510.5(a).) Under the new law, a court that uses this form is authorized to continue the case until completion of the payments and report to the Department of Motor Vehicles the date that the defendant signs the form as the conviction date. (Veh. Code, § 40510.5(b) and (d).) No trust account is required and payments are distributed when received. (Veh. Code, § 40510.5(f).) Because the installment payment procedure does not require an arraignment or an appearance before a judicial officer in court and there are significant legal consequences for failure to make an installment payment, the proposed form includes an express written advisement of rights and signed waiver of rights by the defendant.

If a defendant fails to make a payment as agreed, the court may report the failure to pay to the Department of Motor Vehicles, charge a failure to appear or pay under Vehicle Code section 40508, and either issue an arrest warrant or send a notice that a civil assessment will be imposed if the defendant does not appear and show good cause for the failure to pay. (Veh. Code, §§ 40509.5 and 40510.5(e).) For a failure to pay, the court also may impound the defendant's driver's license, order that the person not drive for up to 30 days, and assign the case to a collection agency. (Veh. Code, § 40508(d).) Bail installment payments under the new law would be final and not subject to reconsideration as is bail for other criminal cases. (Veh. Code, § 40510.5(c).)

Payment of traffic violator school fees in installments

Form TR-310 is proposed for use by court clerks to accept installment payment of traffic violator school fees for eligible traffic infractions. Installment payment agreements would be limited to a maximum length of 90 days. (Veh. Code, § 42007(a)(2).) Defendants would submit the certificate of completion for attendance of traffic violator school to the court at the time that the final payment is due. (*Ibid.*) If a defendant fails to pay an installment, the court may convert the fee to bail, declare it forfeited, and report the forfeiture as a conviction under Vehicle Code section 1803. (Veh. Code, § 42007(a)(3).) The court also may charge a failure to pay and either issue an arrest warrant or impose a civil assessment after a 10-day notice. (*Ibid.*) In addition, the court may impound the defendant's driver's license and assign the case to a collection agency. (Veh. Code, §§ 40508(d) and 42007(a)(2).)

Alternative Actions Considered

To satisfy the new law, the Traffic Advisory Committee considered alternative forms for the installment agreements. The committee considered creation of separate forms for the defendant's request for installment payments and for the court's response. However, separate request and response forms were rejected based on the likelihood

that such forms would create unnecessary filings and burden clerks with responding to requests from defendants who are charged with violations that are not eligible for the procedure.

The committee also considered a combination form that could be used for traffic infraction cases where defendants are charged with some violations that are not eligible for traffic violator school and some that are eligible. It rejected that alternative. Because the criteria differ for determining when an appearance in court is mandatory and what violations are eligible for traffic violator school, clerks may have difficulty in processing a combination form. With a combination form, defendants also may be confused about which violations are dismissed for completion of traffic violator school and which are subject to bail forfeiture and conviction. Therefore, the committee is proposing a form that would be used only for violations that are eligible for traffic school that do not require a court appearance.

Comments From Interested Parties

Proposed forms TR-300 and TR-310 were circulated for statewide comment from December 18, 2007, to January 16, 2008. Of the nine comments received, six agreed with the proposal if modified, and three did not agree. The comments were submitted by trial court executive officers, administrators, and managers. In particular, the committee received comments from the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee. After considering the working group's recommendations, the committee made numerous changes to the forms and submitted the current proposal to the working group for reconsideration. The working group has expressed its support for the current proposal based on the changes made to address its concerns. The chart of all comments and the committee's responses is attached at pages 11–30.

The Traffic Advisory Committee has revised the proposed traffic infraction installment payment forms, TR-300 and TR-310, to incorporate many of the comments and recommendations received, including substitution of plain language text, shortening the installment agreement to a single page, expanding notice of penalties for failure to pay, and removal of a signature line for an interpreter. Discussion of the main comments and the proposed changes or other responses by the committee follows.

Administrative efficiency

A number of comments requested changes to improve administrative efficiency and simplify the proposed forms. The forms have been revised in response to the comments to balance the need for administrative efficiency with appropriate due process for defendants. The forms are redesigned to be completed quickly with minimal information and terms added by a clerk at the counter for review and signing by the defendant at the courthouse. The forms should be prepared by the clerk on the request of the defendant. The text sets out for both the clerk and the defendant the

various requirements to be eligible for an installment payment agreement without making an appearance in court. Bail installment payment plans by mail are not authorized under Vehicle Code section 40521, which provides only for deposit by mail of the full bail.

Advisement of rights

A number of comments questioned the need for an advisement of rights when such advisements are not given for full payment of traffic bail or traffic violator school fees. The committee recommends an advisement of rights because installment plan agreements are not entirely comparable to full payment of traffic bail or traffic violator school fees. There are important distinctions between the procedures that call for different levels of procedural due process.

With installment payment agreements there are significant penalties for failure to pay or appear that are not relevant when defendants elect to pay the full bail or traffic violator school fees. Also, defendants retain certain rights with full payments that are lost with installment agreements. Under current law, when a defendant deposits the full bail amount for traffic infractions, bail is declared forfeited by a bench officer in open court when the defendant fails to appear as promised. (Veh. Code, §§ 40510, 40512(a)(1), 40512.5, and 40521.) Until bail has been declared forfeited in a traffic infraction case, a defendant would retain the right to appear and enter a plea in court instead of forfeiting a bail deposit. Where a defendant's right to enter a plea has not been waived, an advisement of rights would not be necessary.

The procedure and legal implications for bail forfeiture in installments are different. The new law authorizes courts to report convictions and forfeit and distribute deposit installments when they are received. When a defendant chooses not to contest the charges and deposit bail in installments, an advisement and waiver of rights is appropriate to provide defendants with notice of rights that would be available if the defendant were to appear in court and of the penalties and consequences of the election.

Plain language text

As requested by a number of comments, the proposed forms have been revised with plain language text to improve comprehension and simplify the procedure. The proposed form now has a heading stating that the form is "to be filled out by a court clerk."

Recommendation against separate request and response forms

One comment recommended creation of separate forms for the defendant's request and the clerk's response. While separate forms are possible, a single two-sided form is recommended by the committee. A single document that includes advisements of rights and penalties will ensure that there is a record that defendants are properly notified of their rights and obligations and the consequences for failing to satisfy the agreement. Separate fact sheets or instructions for a defendant's request form may be

ignored and would not become part of the case file. There is also a precedent for a single form for request and approval of installment payment for small claims cases in form SC-106, *Request to Pay Judgment in Installments*. In addition, allowing defendants to submit installment plan requests without an initial determination of eligibility by a clerk may result in unnecessary paperwork and staff time for requests by defendants who are not eligible for the procedure.

Foreign language translation by an interpreter

The proposed forms that were circulated for comment included a signature line for an interpreter. Comments raised concerns about whether interpreters would be available outside of court. Because most courts do not have interpreters available at the counter, the interpreter's signature line has been removed from the proposed form. Printed foreign language translations of the forms can be created in the near future. Until the printed translations are available, if foreign language defendants have questions about their rights or the terms of the agreement, it may be necessary to refer such defendants to the court and a bench officer with a court interpreter advise defendants and process an installment payment plan request in court using the usual procedure for installment payments ordered by a bench officer.

Exclusion of personal information on public documents

Comments were received with conflicting recommendations about requiring additional personal information from defendants for the installment payment agreement. Because the forms would be part of the case file and therefore public documents, the proposed forms would require only information that is already in public documents contained in the case file, such as the traffic citation. Inclusion of personal information such as place of employment, and home and work phone numbers could lead to identity theft and privacy issues. No additional information, which could result in identity theft if made part of the public records, such as a social security number, would be required on the form. Courts would still be able to obtain such information from defendants at the counter and enter it into the electronic case management system records.

Fact sheet

To assist court staff in implementing installment payment agreements, the Rules and Forms Subcommittee of the Traffic Advisory Committee will develop a reference sheet to provide guidance for clerks in processing installment plans. The reference sheet would address common situations such as requiring submission of the certificate of completion with the final payment, responding to failure to pay or appear by defendants, and reporting to the Department of Motor Vehicles.

Implementation Requirements and Costs

Implementation of the forms should be possible with reasonable effort and cost. Courts that choose to offer the procedure will have to print forms and may need to print revised courtesy notices, provide training for clerks, and modify programming for case management systems.

Fiscal impact

The overall statewide fiscal impact should be positive. Defendants who might have previously failed to appear because of concern about paying the full amount of a citation or might have requested trial rather than pay the full amount may be willing to make installment payments. Courts that offer installment payment agreements will have authority to impose a civil assessment of up to \$300 if a defendant fails to make a payment and does not provide good cause for the failure to pay.

Attachments

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> <h1 style="font-size: 2em; margin: 0;">DRAFT</h1> <i>Form Not Approved by the Judicial Council</i>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
AGREEMENT TO PAY AND FORFEIT BAIL IN INSTALLMENTS (Vehicle Code, § 40510.5)	

TO BE FILLED OUT BY A COURT CLERK
Read carefully and, if you agree, sign and return the form to the clerk.

CITATION NUMBER:
CASE NUMBER:

1. I am the defendant in this case and I have been charged with the following infraction violation of the Vehicle Code that does not require me to go into court:
 a. § _____ b. § _____ c. § _____ d. § _____ e. § _____

- 2. My court appearance date has not expired and I am providing proof of correction for correctable violations.
- 3. I want to pay and forfeit bail for the violation listed above, but I am not able to and I ask the court to allow me to pay in installments. I understand that the court has costs and expenses from accepting a request to pay and forfeit bail in installments and the court does not have to allow me to make installment payments.
- 4. I understand that by signing below I will be convicted today of each violation that has no proof of correction.

5. TERMS OF THE AGREEMENT:
 The total bail (including penalties plus an administrative fee of \$____ to pay in installments) is \$_____.
 I agree to pay the total amount as follows:
 \$_____ (25 percent or more) immediately and installments of at least \$_____ due:
 () each month, starting (date):_____ and by the _____ day of each month until paid in full.
 () Other (explain): _____

I agree that : All payments must be made by the due date and there is no grace period.
 If I do not make a payment on time, I may have to pay the rest of my unpaid bail immediately.
 If I do not make my payments by each due date, I will see the clerk on the next court day after the due date of the missed payment.

I understand that if I do not make the payment by each due date, I may be charged with a misdemeanor under Vehicle Code section 40508, be charged up to \$300 under Penal Code section 1214.1 or have a warrant issued for my arrest, and the court may impound my driver's license and place a hold on the license. The court also may assign my case to a collection agency or the State Franchise Tax Board for collection.

I understand that my case will continue to be open until the date that my last installment is paid. On _____, if I pay as agreed, all amounts due will be paid. At that time, if proof of correction has been filed with the clerk as required, my bail forfeiture will be complete and no further proceedings will be held in this matter.

By signing below I declare that I have read and understand my rights printed on the reverse side, which I now choose to give up, and that I have read, understand, and accept the terms and consequences stated above.

(SIGNATURE OF DEFENDANT)	(DATE)	(TYPE OR PRINT NAME)
		(ADDRESS)
(DRIVER'S LICENSE/ID NUMBER)	(EXP. DATE)	(CITY, STATE, AND ZIP CODE) CLERK OF THE SUPERIOR COURT
ACCEPTED (date): _____	BY: _____ (DEPUTY CLERK)	

ADVISEMENT OF RIGHTS

By choosing to pay and forfeit bail in installments and not go into court, you will be giving up these rights:

- To appear in court for formal arraignment, plea, and sentencing;
- To have a court trial and challenge the charges;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> <h1 style="font-size: 2em; margin: 0;">DRAFT</h1> <i>Form Not Approved by the Judicial Council</i>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
AGREEMENT TO PAY TRAFFIC VIOLATOR SCHOOL FEES IN INSTALLMENTS (Vehicle Code, § 42007)	

TO BE FILLED OUT BY A COURT CLERK

Read carefully and, if you agree, sign and return the form to the clerk.

CITATION NUMBER:
CASE NUMBER:

1. I am the defendant in this case and I have been charged with the following infraction violation that does not require me to go into court and is eligible for dismissal for completion of traffic violator school:

a. § _____ b. § _____ c. § _____ d. § _____ e. § _____

2. My court appearance date has not expired and I am providing proof of correction for any correctable violations.
3. I want to pay the traffic violator school fees for the violation listed above, but I am not able to and I ask the court to allow me to pay in installments. I understand that the court has costs and expenses from accepting a request to pay the fees in installments and the court does not have to allow me to make installment payments.

4. TERMS OF THE AGREEMENT:

The total fee, including an administrative fee of \$_____ to pay in installments, is \$ _____ .
 I agree to pay the total amount within 90 days as follows:

\$ _____ (25 percent or more) immediately and installments of at least \$ _____ due:
 () each month, starting (date): _____ and by the _____ day of each month until paid in full.
 () Other (explain): _____

I agree that : All payments must be made by the due date and there is no grace period.
 If I do not make a payment on time, I may have to pay the rest of my unpaid fees immediately.
 If I do not make my payments by each due date, I will see the clerk on the next court day after the due date of the missed payment.

I understand that if I do not make the payment by each due date, I may be charged with a misdemeanor under Vehicle Code section 40508, be charged up to \$300 under Penal Code section 1214.1 or have a warrant issued for my arrest, and the court may impound my driver's license and report convictions to the Department of Motor Vehicles. The court also may assign my case to a collection agency or the State Franchise Tax Board for collection.

I understand that my case will continue to be open until the date that my last installment is paid. On _____, if I pay as agreed and if my original certificate of completion is filed with the clerk, my eligible violations will be dismissed and no further proceedings will be held.

By signing below I declare that I have read and understand my rights printed on the reverse side, which I now choose to give up, and that I have read, understand, and accept the terms and consequences stated above.

(SIGNATURE OF DEFENDANT)	(DATE)	(TYPE OR PRINT NAME)
		(ADDRESS)
(DRIVER'S LICENSE/ID NUMBER)	(EXP. DATE)	(CITY, STATE, AND ZIP CODE)
		CLERK OF THE SUPERIOR COURT
ACCEPTED (date): _____	BY: _____ (DEPUTY CLERK)	

ADVISEMENT OF RIGHTS

By choosing to pay traffic violator school fees in installments and not go into court, you will be giving up these rights:

- To appear in court for formal arraignment, plea, and sentencing;
- To have a court trial and challenge the charges;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses testifying under oath against you, and
- To remain silent and not testify.

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Richard Cabral Senior Court Program Manager Superior Court of Ventura County	AM	N	<p>[1] Section 1. Display Sections on one line. Section 2. Change “<i>Initial the box for each statement</i>” to “<i>Initial the box</i>”. Section 2. which states, “ <i>My signature on this form is an acknowledgment that I understand and give up each of these rights</i>”, rename “form” to “agreement”.</p> <p>Section 3. Add a line between the dollar symbol and period. Between Items 3-7: Remove initial boxes. Combine items 4 and 5. Renumber item 6 to 5. Renumber item 7 to 8 (to be displayed on page two). Combine items 8 and 11 with text modification and re-number item to 9. Proposed text: I HEREBY PROMISE THAT IF I DO NOT MAKE MY PAYMENT ON OR BEFORE EACH DUE DATE, I WILL APPEAR BEFORE THE CLERK BY THE DUE DATE. I UNDERSTAND THAT IF I DO NOT APPEAR AS PROMISED I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1., INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I ALSO UNDERSTAND I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND A HOLD MAY BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION.</p> <p>Delete “My signature on this form is an</p>	<p>1. The committee considered the suggested language for both forms and recommends instead adoption of revised plain language text for the proposed forms to improve comprehension and facilitate completion of the forms by clerks with review and signing by defendants.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement”, and initial box.</p> <p>[2] Re-number item 9 to 7 with modified text. Proposed text: <i>7. “In consideration of this agreement to accept bail in installments, and understanding that the court incurs costs and expenses by doing so, I understand that I will be assessed a \$[35] administrative fee pursuant to PC 1205(d) in addition to the bail”.</i></p> <p>Re-number item 10 to 6 and delete the line "weekly as follows".</p> <p>Delete, “My signature below is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement”, and initial box.</p> <p>Re-number item 12 to 10 and modify text. Proposed text: <i>10. “If I pay as agreed, the forfeiture of bail deposits will be completed and no further proceedings will be held in this matter”.</i></p> <p>Modify, “By signing this form I acknowledge that I have reviewed and understand this form.” Proposed text: <i>“By signing this form I acknowledge that I have reviewed, understand, and accept the terms of this agreement”.</i></p>	<p>2. The installment agreement forms should not reference Penal Code section 1205(d) as authority to collect an administrative fee for installment payments in traffic infraction cases. The administrative fee for installment payments of bail or traffic violator school fees in traffic infraction cases is now authorized by Vehicle Code sections 40510.5 or 42007.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>[3] Move to left side: (SIGNATURE OF DEFENDANT) Move to right side: (TYPE OR PRINT NAME) Delete social security and driver's license rows Delete accepted and receipt line</p> <p>[4] TR 310 Section 1. Display Sections on one line.</p> <p>Rename "form" to "agreement" in the statement, "My signature on this form is an acknowledgment that I understand and give up each of these rights".</p> <p>Change "initial the box for each statement" to <i>"initial the box"</i>.</p> <p>Remove initial boxes next to items 3 -7.</p> <p>Delete item 8 and associated text (to be combined with item 11). See proposed form.</p> <p>Modify text from: "I agree to pay a \$[35] administrative fee in addition to the traffic violator school fees". TO: <i>"I understand that I will be assessed a \$[35] administrative fee pursuant to PC 1205(d) in addition to the traffic violator fees."</i> And---Remove initial box.</p> <p>Section 10 Remove initial box.</p>	<p>3. Agree. The changes are included in the proposed revised forms.</p> <p>4. See response numbers 1–3 above.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Remove the line "weekly as follows". It can be addressed in the "other" line.</p> <p>Section 11. Modify text to: <i>" I HEREBY PROMISE THAT IF I DO NOT MAKE MY PAYMENT ON OR BEFORE EACH DUE DATE, I WILL APPEAR BEFORE THE CLERK BY THE DUE DATE. I UNDERSTAND THAT IF I DO NOT APPEAR AS PROMISED I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1., INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I ALSO UNDERSTAND I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND A HOLD MAY BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION".</i></p> <p>Remove text, "My signature below is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement", and initial box.</p> <p>Section 12 Modify text to: <i>"If I pay as agreed and a certificate of completion has been submitted to the court by the due date, the fee payment will be completed and no further proceedings will be held in this matter"</i>, and remove initial box.</p>	

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Modify, “By signing this form I acknowledge that I have reviewed and understand this form. To, “<i>By signing this form I acknowledge that I have reviewed, understand, and accept the terms of this agreement</i>”.</p> <p>Move to left side: (TYPE OR PRINT NAME)</p> <p>Move to right side: (SIGNATURE OF DEFENDANT)</p> <p>Remove Social Security and Driver's license rows. Remove address and City rows. Remove accepted and receipt rows.</p>	
2.	Kim Greve Court District Manager Superior Court of San Bernardino County	N	Y	<p>The adoption of the proposed forms would impact negatively the court as follows:</p> <ol style="list-style-type: none"> 1. Not enough lines for violations. We often have more then four violations, up to 140 charges for dog violations. 2. Storage of the forms and safeguarding of the forms. Confidential Information, e.g. drivers license requirement and last four digits of social security number. 3. Manually tracking the payment arrangement forms. 	<ol style="list-style-type: none"> 1. A space for an additional violation has been added. The forms are intended for use only with traffic infractions. The procedure and form would not apply to dog violations. Defendants who have more than five traffic infractions should be referred to the courtroom for an appearance before a bench officer. 2. The revised proposed forms would require only information that is already in public documents contained in the case file such as the traffic citation. No additional information, which could result in identity theft if made part of the public records, such as a social security number, would be required as part of the agreement. 3. Under the new law, courts have discretion regarding whether to allow clerks to process installment payment agreements for traffic cases

SP08-02

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>4. Increase in interpreter usage at the counter, in addition to usage in the courtrooms.</p> <p>5. Increase in postage fees for the court if we were to mail the party the forms for signature, if the party is unable to come to the court or download from the internet. In addition, if the party incorrectly fills out the form, additional court resources and costs would be used to return the form for correction.</p> <p>6. If the party provides the traffic school certificate, but is unable to complete the payment arrangements, the court could not accept the certificate. The citation would not be dismissed, and would be reported to the DMV as either a</p>	<p>without a defendant appearing in court. The revised proposed forms should be completed in a single short transaction with the number of payments controlled by the local court. If a court elects to use the procedure, the form adopted by the council will be mandatory for the procedure.</p> <p>4. The revised forms do not have a section for an interpreter to sign. If a written translation of the form is not available or the court does not have an interpreter available at the counter, the clerk may refer defendants to the court for arraignment where the request can be processed as they are when a defendant appears in court before a judicial officer.</p> <p>5. Bail installment payment plans by mail are not authorized under Vehicle Code section 40521, which provides for deposit by mail only of the full bail. The forms are intended for use by a clerk only when a defendant makes a request at the court. The forms are not suitable for requests by mail, which would require a number of mailings back and forth and could be misused and create unnecessary work if initiated and filled out by defendants.</p> <p>6. The traffic school certificate should not be accepted by a court until the final payment is submitted. The revised form indicates that payment in full and filing of the certificate at the final payment is a condition for dismissal of the</p>

SP08-02

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				bail forfeiture or a failure to pay. The court would be negatively impacted by rejecting the certificate, an increase in telephone calls or court appearances by the defendants once the party realizes that the citation was not dismissed.	offenses.
3.	Lorraine Dias Herbon Administrative Services Officer II Superior Court of Sacramento County	AM	Y	We suggest that the use of the words " <i>court day</i> " or " <i>business day</i> " in place of " <i>court date</i> ." For many, the term " <i>court date</i> ," means a scheduled hearing.	The revised forms substitute "court day" for "court date."
4.	Brenda L. McCormick Court Managing Attorney Superior Court of Ventura County	AM	Y	<p>I am submitting the comments of Court Commissioner Mark Borrell who presides over one of the court's Traffic calendars.</p> <p>[1] The forms may be too complicated for many of our customers to conceptualize. Modifying some of the language would help a little.</p> <p>For example, "I will stand convicted of the violations" could be changed to "I will be convicted of the violations." (See TR-300, ¶ 4.)</p> <p>As for: "I attest that the date of my promise to appear or any lawful continuance of that date has not expired" - some people do not even know what a "promise to appear" is and many do not know what "attest" means.</p> <p>[2] As alternative couldn't this form simply be eliminated? Isn't the clerk going to check to see if the customers' initial (or continued) appearance date</p>	<p>1. The committee considered the suggested language and recommends instead adoption of revised plain language text for the proposed forms to improve comprehension and facilitate completion of the forms by clerks with review and signing by defendants.</p> <p>2. The forms are intended to be used by courts as agreements for installment payment of traffic infraction bail or traffic violator school fees as</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>has passed, and reject the form if it has?</p> <p>As for the capitalized warning paragraph, I would suggest "IF MY PAYMENT IS NOT RECEIVED BY THE COURT BY" in lieu of "IF I DO NOT MADE THE PAYMENT BY". Another way of saying the same thing would be: "I UNDERSTAND THAT IF MY PAYMENT IS NOT RECEIVED BY THE COURT BY ___ P.M. ON THE DUE DATE, THE CONSEQUENCES COULD INCLUDE: BEING CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508, HAVING A CIVIL ASSESSMENT OF UP TO \$300 ADDED TO MY CASE UNDER PENAL CODE SECTION 1214.1, HAVING A HOLD PLACED ON MY CALIFORNIA DRIVING PRIVILEGE, AND HAVING MY MATTER ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION."</p> <p>[3] As for Paragraph 2, concerning the waiver of rights, in lieu of "to contest the charges" I would suggest "to have a trial and contest the charges." Otherwise, the waiver of trial is only implicit.</p> <p>[4] Concerning Paragraph 7, instead of "payments must be made on the due date," it should read "by the due date." In the traffic school form (TR310), the customer should also be told that failure to make the required payments will cause the violation to be</p>	<p>required by Vehicle Code sections 40510.5 and 42007. The forms should be prepared by the clerk on the request of the defendant and the text sets out for both the clerk and the defendant what the various requirements are to be eligible for an installment payment agreement without making an appearance in court.</p> <p>3. Agree. The proposed forms have been revised to modify the advisement of rights regarding a right to trial and to provide notice that failure to pay traffic violator school fees may result in conviction.</p> <p>4. Agree. The change is included in the proposed revised form..</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>reported to the DMV as a conviction. (See VC 42007(a)(3).) Consider this language: "I understand that all payments must be received by the court by the due date (there is no grace period), otherwise the entire unpaid bail amount will be due at that time and the violations will be immediately reported to the Department of Motor Vehicles as convictions."</p>	
5.	<p>Andrea Nelson Director of Operations Superior Court of Butte County</p>	N	N	<p>[1] Accessibility: The forms contain redundant language and have too many boxes and acknowledgements to initial. This is significant as the form, in its current version, is too overwhelming for most defendants.</p> <p>[2] Efficiency: The forms should be combined to fit a single, one sided form. This would increase clarity and efficiency, and allow courts to create a form on carbon paper to allow for an endorsed filed copy for the defendant. Clerks would then only have to process a single form for both installment payment inquiries.</p> <p>[3] Effectiveness: The numerous boxes and acknowledgments requiring the defendant's initials increase the chance of error and the likelihood that the form will not be completed accurately by the defendant, thereby</p>	<ol style="list-style-type: none"> 1. The committee recommends adoption of revised plain language text for the proposed forms to improve comprehension and facilitate completion of the forms by clerks for review and signing by defendants. 2. The forms have been revised to shorten the agreement to one side of a single page by putting the advisement of rights on the reverse side of the forms. Combining both forms may cause confusion for clerks because of the different requirements for mandatory appearance before a judicial officer for certain violations to be approved for attendance of traffic violator school. Also, defendants may be confused about which violations are dismissed for completion of traffic violator school and which are subject to bail forfeiture and conviction. 3. The revised formatting and plain language text should simplify and facilitate completion of the form and minimize administrative burden.

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>creating potential clerical burdens (i.e., missed initials could cause the form to be incomplete).</p> <p>Section 1: Delete “I am the defendant in the above-entitled action in which I am charged with the following” non parking infraction violation(s) of the Vehicle Code or infraction violation(s) of an ordinance adopted under the Vehicle Code that does (do not require a mandatory court appearance or proof of correction”. Add “I am the defendant in the above-entitled action in which I am charged with the following violations.” Reason The initial language is cumbersome.</p> <p>[4] Section 2: Delete the waiver of rights. Defendants are not required to waive rights when they complete bail forfeitures in other traffic cases since the clerk is not accepting a plea in these cases. The intent of the form is to allow the defendant to have more time through the establishment of payment installments.</p> <p>Section 3 through 7: Delete the “initial” boxes after Section 3 through Section 7.</p> <p>After Section 12: Delete “By signing this form I acknowledge that I have reviewed and understand this form. Add “My signature on this form is an acknowledgment that I understand and accept the consequences described above of not complying with this agreement.” Reason This language captures the required acknowledgment and</p>	<p>4. Advisement and waiver of rights is recommended because installment plan agreements are not entirely comparable to full payment of traffic bail or traffic violator school fees as there are significant distinctions between the procedures. Because of these distinctions, different levels of procedural due process are called for from what is provided for with full payment of traffic bail or traffic violator school fees.</p> <p>With installment payment agreements there are significant penalties for failure to pay or appear that are not relevant to full payment of bail or traffic violator school fees by defendants. Also, defendants lose certain rights with installment agreements that are retained with full payments. Under current law for traffic infractions, when a defendant deposits the full bail amount, bail is</p>

SP08-02

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				<p>consequences. This statement does not need to follow each statement.</p> <p>The information on both forms contains many of the same statements except for Sections 3, 4 and 9. The forms could be successfully merged if check boxes were added that indicated a certificate of traffic violator school and/or proof of correction.</p> <p>[5] Delete the “<i>receipt of payment is acknowledged</i>” portion of the form. Reason: The defendant will receive a receipt for payment. The court’s case management system would facilitate this function of the transaction.</p>	<p>declared forfeited by a bench officer in open court when the defendant fails to appear as promised. (Veh. Code, §§ 40510, 40512(a)(1), 40512.5, and 40521.) Until bail has been declared forfeited in a traffic infraction case, a defendant would retain the right to appear and enter a plea in court instead of forfeiting a bail deposit. Where a defendant’s right to enter a plea has not been waived, an advisement of rights would not be necessary.</p> <p>The procedure and legal implications for bail forfeiture in installments are different from those for deposit and forfeiture of full bail. The new law authorizes courts to forfeit and distribute deposit installments when they are received. When a defendant chooses not to contest the charges and to deposit bail in installments, an advisement and waiver of rights is appropriate to provide defendants with notice of rights that are available and of the penalties and consequences of the election.</p> <p>5. Agree.</p>
6.	Tina Rasnow Senior Attorney Superior Court of Ventura County,	AM	Y	[1] TR-xxx, Item 6: of the form is not understandable for most self-represented litigants. They will not understand the words "attest," "lawful continuance," or "expired." It	1. The committee recommends adoption of revised plain language text for the proposed forms to improve comprehension and facilitate completion of the forms by clerks for review and signing by

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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	SHLA Center			<p>needs to be stated in plain language such as "I understand that the court is not required to accept bail in installments. I am sure that the date I am required to appear at court has not already passed, and I understand that my required date to appear at court will be the date that the final bail deposit installment is paid."</p> <p>[2] Also, in section 8, it would help to spell out what Penal Code Section 1214.1 provides in plain language. Folks signing the form will not have the ability to pull the penal code and read it before signing the form.</p>	<p>defendants.</p> <p>2. The revised proposal provides details regarding section 1214.1.</p>
7.	Mike Roddy Executive Officer Superior Court of San Diego County	AM	Y	<p>General</p> <p>[1] Will both of these forms apply to adults and juveniles? If so, will special language need to be included for juvenile defendants? If not, when will juvenile forms be developed?</p> <p>[2] Can verbiage be added notifying the defendants of the consequences/costs for paying with a bad check?</p> <p>[3] Boxes for the Defendant’s Initials – Can these boxes be right justified on each line after each statement with the word “<i>Initials</i>” printed at the top of each column? This would permit staff to quickly determine if all appropriate boxes were initialed. This change would also be consistent with the San Diego Superior Court Change of Plea forms currently in use (CRM-12 and CRM-126) as well as the Judicial Council Felony Plea Form (CR-101).</p>	<p>1. The agreement forms are not intended for use in juvenile proceedings. Without the signature of a parent or guardian on the document, it is doubtful that the agreements would be enforceable.</p> <p>2. Identifying standard court practices for bad checks would require circulating a proposal on the procedure for comment.</p> <p>3. The boxes for initials have been removed as unnecessary with the new proposed format.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>[4] TR-300</p> <ul style="list-style-type: none"> Items #1 and #12 - In #1, the defendant has to state that he or she is charged with a non-parking violation that does not require a mandatory appearance or proof of correction, however, in #12 it asks the defendant to agree to pay by a date; “at which time, if valid proof of correction has been submitted when so required,” the process with be complete (Inconsistent?). Item #8 – Propose to make the following changes: I UNDERSTAND THAT IF I DO NOT MAKE THE PAYMENT BY ____ P.M. ON EACH DUE DATE, I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND THAT I WILL MAY BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1, INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I ALSO UNDERSTAND THAT A HOLD WILL MAY BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION. [Should it also be noted that the court could impound the defendant’s driver’s license and order the defendant to not drive for up to 30 days – VC40508(d)?] 	<p>4. The committee recommends adoption of revised plain language text for the proposed forms to improve comprehension and facilitate completion of the forms by clerks for review and signing by defendants. The text regarding correctable violations has been revised for consistency.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<ul style="list-style-type: none"> • Item #9 – Propose to delete second “by” after “court incurs costs and expenses...”. <p><u>TR-310</u></p> <ul style="list-style-type: none"> • Propose to change header of form to read “<i>Agreement For</i> Installment Payment of Traffic Violator School Fees”. • Item #4 – Propose to make the following change: I wish to pay the traffic violator school fees and understand that by doing so and submitting the <i>original traffic school</i> certificate of completion to the court by the due date, the violation(s) will be reported to the Department of Motor Vehicles as dismissed. • Item #8 – Propose to make the following change: I UNDERSTAND THAT IF I DO NOT MAKE THE PAYMENT BY ____ P.M. ON EACH DUE DATE, I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND THAT I WILL MAY BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1, INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I UNDERSTAND THAT A CONVICTION WILL BE REPORTED TO THE DEPARTMENT OF MOTOR VEHICLES ON MY DRIVING RECORD AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION. [Should it also be noted 	

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>that the court could impound the defendant’s driver’s license and order the defendant to not drive for up to 30 days – VC40508(d)?]</p> <ul style="list-style-type: none"> • Items #8 and #11 – Each of these notices describes what will take place if payment is not made, but there is no mention of the consequence if the original traffic school certificate of completion is not submitted. Can this be added? • Item #12 – Propose to make the following change: If I pay as agreed, all amounts due will be paid by _____; at which time, if an <i>original traffic school</i> certificate of completion has been submitted to the court, the fee payment will be completed and no further proceedings will be held in this matter. 	
8.	Alan Slater Chief Executive Officer Superior Court of Orange County	AM	Y	<p>The following amended comments are being submitted to you for review and consideration. These comments supersede all comments sent by Orange County Superior Court on 1/15/07. The comments are applicable to both the Installment Payment of Bail Forfeitures and Traffic Violator School Fees forms.</p> <p>1. Section 2, items (a) through (g), are not considered necessary as giving this advisement is not a requirement when a defendant pays the bail forfeiture amount in a lump sum.</p>	<p>1. Advisement and waiver of rights is recommended because installment plan agreements are not entirely comparable to full payment of traffic bail or traffic violator school fees because there are significant distinctions between the procedures. Because of these distinctions, different levels of procedural due process are called for from what is provided for with full payment of traffic bail or traffic violator school fees.</p> <p>With installment payment agreements there are significant penalties for failure to pay or appear that are not relevant to full payment of bail or traffic violator school fees by defendants. Also, defendants lose certain rights with installment</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>2. Initial boxes located throughout both forms should be eliminated. The signature at the end of the form should be sufficient to acknowledge their understanding of the installment agreement terms.</p>	<p>agreements that are retained with full payments. Under current law for traffic infractions, when a defendant deposits the full bail amount, bail is declared forfeited by a bench officer in open court when the defendant fails to appear as promised. (Veh. Code, §§ 40510, 40512(a)(1), 40512.5, and 40521.) Until bail has been declared forfeited in a traffic infraction case, a defendant would retain the right to appear and enter a plea in court instead of forfeiting a bail deposit. Where a defendant’s right to enter a plea has not been waived, an advisement of rights would not be necessary.</p> <p>The procedure and legal implications for bail forfeiture in installments are different from those for deposit and forfeiture of full bail. The new law authorizes courts to forfeit and distribute deposit installments when they are received. When a defendant chooses not to contest the charges and deposit bail in installments, an advisement and waiver of rights is appropriate to provide defendants with notice of rights that are available and of the penalties and consequences of the election.</p> <p>2. Agree.</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>3. Sections 8 and 11 appear to be redundant. It is recommended that they be consolidated. It is also recommended that the time to pay/appear by be eliminated as this is inconsistent with traditional advisements. Advising to pay on 'due date' is sufficient.</p> <p>4. It is recommended that the field to record the last 4 digits of the social security number be removed as it serves no purpose.</p> <p>5. It is noted that the interpreter signature line lacks consistency with other Judicial Council forms. Reference form DV-100 where interpreter signature line is not available.</p> <p>Additionally, we would like to receive clarification as to whether the interpreter signing the form is required to be a certified court interpreter.</p> <p>6. It is recommended that the payment recording fields located on the bottom left of the 2nd page of each form be removed. Recording of the initial payment on the form does not serve any purpose as subsequent payments will not be recorded on the form.</p>	<p>3. The text has been changed in revised forms.</p> <p>4. Agree.</p> <p>5. The revised forms do not have a section for an interpreter to sign. If a written translation of the form is not available or the court does not have an interpreter available at the counter, the clerk may refer defendants to the court for arraignment where the request can be processed as they are when a defendant appears in court before a judicial officer.</p> <p>6. Agree. The receipt items have been removed as unnecessary.</p>
9.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee (TCPJAC/CEAC)	N	Y	[1] These forms generated quite a few comments with the overall consensus of the working group being that the forms (TR-300 and TR-310), as proposed, will add a layer of complexity that is not currently required for bail forfeitures or traffic violator school fees.	1. The forms are re-designed in response to the comments to be completed quickly with minimal information and terms added by a clerk at the counter for review and signing by the defendant at the courthouse. The proposal has been revised to balance the need for administrative efficiency

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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	<p>Joint Rules Working Group Patrick Danna</p>				<p>with appropriate due process for defendants.</p> <p>Installment plan agreements are not entirely comparable to full payment of traffic bail or traffic violator school fees because there are significant distinctions between the procedures. Because of these distinctions, different levels of procedural due process are called for from what is provided for with full payment of traffic bail or traffic violator school fees.</p> <p>With installment payment agreements there are significant penalties for failure to pay or appear that are not relevant to full payment of bail or traffic violator school fees by defendants. Also, defendants lose certain rights with installment agreements that are retained with full payments. (Veh. Code, §§ 40510, 40512(a)(1), 40512.5, and 40521.) Until bail has been declared forfeited in a traffic infraction case, a defendant would retain the right to appear and enter a plea in court instead of forfeiting a bail deposit. Where a defendant’s right to enter a plea has not been waived, an advisement of rights would not be necessary.</p> <p>The procedure and legal implications for bail forfeiture in installments are different from those for deposit and forfeiture of full bail. The new law authorizes courts to forfeit and distribute deposit installments when they are received. When a defendant chooses not to contest the</p>

SP08-02

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				<p>[2] The language literacy level is too high for many self represented litigants and the amount of time that it will take for them, as well as court staff, to complete the proposed forms will result in significant delays and inefficiencies.</p> <p>[3] The working group believes that the spirit of AB 1248 can still be preserved if two simpler forms can be developed; one form that allows defendants to request a bail forfeiture or traffic violator school fee payment installment plan, and a complementary form for clerks to use that outlines a payment schedule, installment amounts and continued appearance date.</p>	<p>charges and deposit bail in installments, an advisement and waiver of rights is appropriate to provide defendants with notice of rights that are available and of the penalties and consequences of the election.</p> <p>2. The proposed forms were created for preparation by a clerk and signing by defendants. To achieve that purpose, the proposed forms have been revised with plain language text for clerks and defendants to improve comprehension and simplify the procedure. For those defendants who require translation or have extensive questions about their rights or potential penalties the clerk can refer the defendant to the courtroom where a bench officer and interpreter are available to respond and set up a payment plan as previously provided outside of this procedure.</p> <p>3. Creation of two separate forms for a defendant’s request and the clerk’s response is possible, but a single one-sided form is recommended instead. Including advisements of rights and penalties on a single agreement form will ensure that there is a record that defendants are properly notified of their rights and obligations and the consequences for failing to satisfy the agreement. Separate fact sheets or instructions may be ignored and would not become part of the case file. In addition, allowing defendants to submit installment plan requests by mail or file requests without an initial determination of eligibility by a clerk may result</p>

SP08-02

Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

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				<p>[4] The form completed by the defendant should include personal information about the litigant (e.g. place of employment, home and work phone number, etc.). This information will be extremely useful when the courts try to collect on unpaid amounts.</p> <p>[5] Information on the consequences for not complying with the provisions of the applicable vehicle code section could successfully be conveyed to the defendant on separate fact sheets distributed by the court. The TCPJAC/CEAC Rules Working Group suggests working with experts who develop other plain language forms to make the verbiage on any forms developed, simpler to use.</p> <p>[6] Translated versions of the request form and the fact sheet could be developed for use by non-English language speakers.</p> <p>We would be happy to provide additional information or to further discuss the comments made by the working group at your convenience.</p>	<p>in unnecessary paperwork and staff time for requests by defendants that are not eligible.</p> <p>4. The proposed forms would be part of the case file and therefore a public document. Inclusion of personal information such as place of employment, and home and work phone numbers could lead to identity theft and privacy issues.</p> <p>5. The advisement of right has been moved to the reverse of the form to allow simple formatting of the agreement on the front side of one page. The form has been reviewed and revised to incorporate plain language text as much as possible.</p> <p>6. Foreign language translations may be created, but if an interpreter is not available at the counter to answer questions or English-speaking defendants have questions about their rights, it may be necessary to refer such defendants to the court and a have bench officer with a court interpreter advise defendants and process an installment payment plan request in court as before.</p>