



Judicial Council of California

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INVITATION TO COMMENT

SPR24-35

Title

Traffic: Ability-to-Pay Request Form and Court Order

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Revise forms TR-320/CR-320 and TR-321/CR-321

Proposed Effective Date

January 1, 2025

Contact

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Proposed by

Traffic Advisory Committee
Hon. Maria Lucy Armendariz, Chair

Executive Summary and Origin

Several courts have requested changes to form TR-320/CR-320, *Can't Afford to Pay Fine: Traffic and Other Infractions*, and to form TR-321/CR-321, *Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)*. They have specifically requested that these forms provide an option for a litigant to enter a plea on the form itself, so that litigants would not be required to appear in court to enter a guilty or no-contest plea in traffic and other infraction cases. Stakeholders have also requested the types of public benefits listed on the form be expanded. The Traffic Advisory Committee proposes changes that would make the forms conform with the options currently offered through the court's online ability-to-pay tool, MyCitations.

Background

Forms TR-320/CR-320 and TR-321/CR-321

In 2015, the Judicial Council took steps to improve access and fairness in criminal and traffic infraction cases by adopting rule 4.105 of the California Rules of Court, which stated that defendants are not required to post bail before challenging Vehicle Code infractions unless an exception applies. When adopting rule 4.105, the council directed advisory committees to consider changes to rules or forms and to make other recommendations necessary to promote access to justice in all infraction cases, including recommendations related to postconviction proceedings or a defendant's failure to appear or to pay fines or fees. In response to this

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directive, the Traffic Advisory Committee and the Criminal Law Advisory Committee—in consultation with the Advisory Committee on Providing Access and Fairness—developed and recommended new procedural rules for traffic and other criminal infraction cases.¹ In 2016, the council adopted rule 4.106, which standardized court procedures when a defendant failed to appear or pay, and rule 4.335, which standardized court procedures related to ability-to-pay determinations. Those rules became effective January 1, 2017.

In January 2018, the Traffic Advisory Committee, the Criminal Law Advisory Committee, and the Advisory Committee on Providing Access and Fairness recommended two optional, plain-language Judicial Council forms—an application form and a judicial order form—to assist in implementing rule 4.335 on ability-to-pay determinations in traffic and other infraction cases. The forms, TR-320/CR-320 and TR-321/CR-321, were adopted with an effective date of April 1, 2018. The committees intentionally designed the forms using plain language and a more user-friendly format.

The MyCitations tool

In 2016, with funding from the U.S. Department of Justice’s Price of Justice Initiative, the Judicial Council began to study the impact of high fines and fees on low-income court users and to explore options to minimize these impacts. The Judicial Council partnered with seven superior courts to design an online process for submitting and adjudicating ability-to-pay determinations for traffic and other infractions citations. The resulting prototype provided users with the ability to search for their citation and make requests online for reductions for infraction fines and fees based on their ability to pay. The online tool, named MyCitations, was initially implemented as a pilot program in 2018.² MyCitations (<https://mycitations.courts.ca.gov/home>) is now mandated to be used by all California superior courts no later than June 30, 2024.³

MyCitations provides an online option for people who are struggling with court debt and who have eligible infraction violations that do not require a personal appearance in court. The tool allows a court user to look up a citation, answer several financial questions (including whether they receive public benefits), and submit a request to the court for a reduction in the amount owed. A user can also request a payment plan, additional time to pay, or community service. The tool also allows a user to make a guilty plea or no-contest plea.

The Proposal

As outlined above, the Judicial Council adopted optional ability-to-pay forms (TR-320/CR-320 and TR-321/CR-321) in 2018, a year before the first court went live with MyCitations. Unlike

¹ See Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), <https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024>.

² The Budget Act of 2018 (Sen. Bill 847; Stats. 2018, ch. 29) allocated funding to the Judicial Council to implement a pilot program for MyCitations. The pilot program involved eight courts.

³ Assem. Bill 143 (Stats. 2021, ch. 79).

MyCitations, the forms do not offer a plea option even though ability-to-pay determinations are generally only available for cases that are adjudicated.⁴ Nor do the forms contain the same financial information options that will be available on MyCitations. Although these forms are helpful for litigants, multiple stakeholders have requested that the forms provide the same options as the MyCitations tool. Most importantly, stakeholders have requested the ability to offer a plea on the form, instead of requiring litigants to go to court. There have also been requests to ensure the types of public benefits that a litigant may select on the form mirror those listed in MyCitations.

The following revisions are proposed for form TR-320/CR-320:

- Under the “Using this form” section on page 1, remove “Use this form **after** the court has decided that you owe the fine” from the second bullet point, as the form is allowing litigants to make a plea.
- Under the “Important!” section on page 1, add a second bullet point: “This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school.”⁵
- Add additional options under item 2, “What type of income do you have?” to be consistent with planned enhancements to MyCitations. Also change the wording of all benefits to be consistent with MyCitations.
- Remove the option “Cancel or lower late charges that I have for missing a hearing or failing to pay my fine on time” from item 5 on page 3, as the civil assessment (if any) will be part of the total amount to be reduced.⁶
- Replace item 7, “Driver’s license ‘hold’ or suspension,” with new item 7, “Plea selection,” as driver’s license restrictions due to failure to appear or pay have changed since this form was adopted.⁷
- Minor changes to improve formatting and clarity.

The following revisions are proposed for form TR-321/CR-321:

- Add a plea acceptance section on page 1 to account for the revised form TR-320/CR-320 allowing for pleas.
- Switch “Request granted,” section with “Need more information,” section, for clarity.

⁴ Veh. Code, § 42003(b).

⁵ Note that this form should not be used by litigants who wish both to attend traffic school and to have an ability-to-pay determination. Vehicle Code section 42007(a)(2) requires that installment payments for traffic violator school be completed within 90 days, a time period that is generally shorter than ability-to-pay payment plans.

⁶ When the forms were initially adopted, it was unclear whether civil assessments could be included under ability-to-pay requests. However, Government Code section 68645.2 now clarifies that civil assessments are included in the total amount due. A litigant does not need to separately request the civil assessment be considered. Note that this is not the appropriate form if a litigant is requesting that the civil assessment be eliminated based on good cause.

⁷ See Assem. Bill 2746 (Stats. 2022, ch. 800), repealing Vehicle Code sections 40509 and 40509.5.

- Remove the “extra late charges” check box options from the “Request granted” section, as the civil assessment (if any) will be part of the total amount to be reduced.
- Minor changes to improve clarity.

Alternatives Considered

Based on a significant number of stakeholder requests and legislative changes, the committee did not consider taking no action. There were no significant alternatives considered.

Fiscal and Operational Impacts

Courts will need to update forms and the ability-to-pay process.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms TR-320/CR-320 and TR-321/CR-321, at pages 5–9
2. Link A: Veh. Code, § 42003,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=42003.&lawCode=VEH
3. Link B: Veh. Code, § 42007,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=42007.&lawCode=VEH
4. Link C: Gov. Code, § 68645.2,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68645.2.&nodeTreePath=33.6.7&lawCode=GOV

Clerk stamps date here when form is filed.

Using this form

- If you can't afford to pay your fine, fill out this form to ask for a lower fine, a payment plan, more time to pay, and/or community service.
You may use this form even if your fine has been sent to collections. If you have more than one fine, use one form for each fine.
Mail or take this form to the court listed on your ticket. If you want to file the form electronically, ask the court if it allows "e-filing."
If you lost your ticket or have questions, contact your court at www.courts.ca.gov/find-my-court.htm



Fill in court name and street address: Superior Court of California, County of

Types of fines

- Use this form for traffic fines (like speeding) or other infractions (like fishing without a license or drinking in public).
This form is not for parking tickets. Read your parking ticket to find out what you can do.



Fill in the case number and ticket number (if you have it):
Case Number:
Ticket Number:

Important!

- Do not use this form to tell the court that you didn't do anything wrong. See the instructions on your ticket and visit www.courts.ca.gov/selfhelp.htm for more information on fighting it.
This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school.

1 Your information

Name: _____

Street or mailing address: _____ Street City State Zip

Telephone: _____ OK to text you at this number?* [] No [] Yes

Email (optional): _____ OK to email you at this email?* [] No [] Yes

* Some courts don't use text messages or email to contact court clients. Message and data rates would apply.



2 What type of income do you have?

- I do not get money from any source. *(Skip to 3)*
- I get public benefits. *(Check all that apply, then skip to 3)*
 - CalFresh (Food Stamps)
 - Medi-Cal
 - General Assistance / County Relief
 - SSI: Supplemental Security Income
 - SSP: State Supplementary Payment
 - IHSS: In-Home Supportive Services
 - CalWORKS: California Work Opportunity and Responsibility to Kids Act
 - TANF: Temporary Assistance for Needy Families
 - CAPI: Cash Assistance Program of Aged, Blind and Disabled Legal Immigrant
 - WIC: California Special Supplemental Nutrition Program for Women, Infants, and Children
 - Unemployment Compensation
 - Other
 - None of the above

- I do **not** get public benefits, but I get money from other sources. *(Answer all that apply)*
 - a. How much money do you earn (take-home pay) or get from other sources (including income received in your family from a spouse or live-in romantic partner)?

\$_____ every: *(Check one)* Year 2 weeks Twice a month
 Week Month Season
 Other: _____

- b. This money supports me and _____ other people.
- c. If I pay the fine, I would: *(Check all that apply, if any)*
 - Not have enough money to pay my rent/mortgage. I pay \$_____ for rent/mortgage every *(Check one)*: Month Week Other: _____
 - Not have enough money to pay for other basic living expenses. *Basic living expenses are things like: food, utilities, childcare, child support, transportation, medication, insurance (medical, car, house, and rental), and student loans.*
 - Not have enough money to pay my debt for other court cases.
 - Have other problems *(please explain)*:

3 Do you have anything that shows your public benefits, income, or expenses?

Things like an EBT card, paystubs, tax returns, rent or mortgage checks, or utility bills.



- a. Yes, I have attached **copies** to this form.

Important! *Keep the original documents for your own records. Any copies you attach can be destroyed after the court makes a decision on your case. Cross out any social security numbers, or other private information, on the copy you give the court.*
- b. No, I do not have any papers to show because:

4 Have you told the court before that you can't pay this fine?

- Yes No, not that I can remember (Skip to 5)

What has changed in your family's life since then? (Check all that apply, if any.)

- Lost job or reduced hours at work.
Started to receive public benefits.
Suffered a serious illness or disability.
Other:

5 What are you asking the court to do? (Check all that you are willing and able to do)

- Lower the amount I owe on the fine.
Payment plan: I want to pay: \$ every month on the day of the month, until this fine is paid off.
More time to pay: Please change my deadline to (month/day/year):
Community service instead of paying the fine. I understand that community service may not be available on weekends or evenings.



- Not all courts offer all of these choices.
Contact the court listed on your ticket to find out about your choices.
Some fines can't be reduced just because you don't have the money to pay them. You may ask for more time to pay, community service, and/or monthly payments even if the court can't reduce the fine.

6 Other information:

List other facts (if any) about why you can't pay the fine or about your choices in 5. (You can add extra pages or attach other documents that help you explain.)

Multiple horizontal lines for writing additional information.



7 Plea selection (In order to submit your request using this form, if your case is unadjudicated, you need to admit responsibility for the ticket by entering a plea of **Guilty** or **No Contest**. If you do not want to admit responsibility or you do not understand your rights, do not use this form. Instead, contact your court to set up a court appearance.)

By entering a plea you will be giving up the following rights:

- To be represented by an attorney employed by you;
- To have a speedy and public trial in front of a judge;
- To testify, to present evidence, and to use court orders without cost to compel the attendance of witnesses and the production of evidence on your behalf;
- To have the witnesses against you testify under oath in court, and to question such witnesses; and
- To remain silent and not testify and not incriminate yourself.

Make a choice between pleading Guilty or No Contest. A no contest plea is a way of saying, 'I don't believe I did all that the officer charges, but I admit violating the law.'

Note: Once you admit responsibility, you will have a conviction for this traffic offense that will be reported to the Department of Motor Vehicles (DMV).

Your plea (Check one):

- No Contest Plea.** I am the defendant in the case. I have read, understand, and waive the rights above, there are facts to support my plea, I am entering my plea freely and voluntarily, and I agree to plead "no contest." I understand that, for purposes of this case, a plea of no contest will be considered the same as a plea of guilty and that if I plead no contest the court will find me guilty.
- Guilty Plea.** I am the defendant in the case. I have read, understand, and waive the rights above, there are facts to support my plea. I am entering my plea freely and voluntarily, and agree to plead guilty.

8 Read and sign below



I promise that the information above is correct. I declare under penalty of perjury, under the laws of the State of California, that all information on or attached to this form is true.

Date: _____

Type or print your name



Sign your name

**Can't Afford to Pay Fine:
Traffic and Other Infractions
(Court Order)**

Clerk stamps date here when form is filed.

Court order: You said that you don't have enough money to pay what you owe. See below for the court's decision:

1 Plea selection


- The court accepts your plea of guilty or no contest for each offense charged.
- The court rejects your plea of guilty or no contest for each offense charged.
- Your case was previously adjudicated (there was previously a bail forfeiture or a finding of guilty or no-contest).


Superior Court of California, County of


Case Number:


Ticket number:

2 Request granted: The court decided that you don't have enough money to pay what you owe.


 The amount you owe is lowered to \$ _____.
 Pay the new amount of \$ _____
 by (date): _____.


 You will pay what you owe in monthly payments.
 Pay \$ _____ on the _____ day of every month for _____ months.
 Your **first** payment will be on (date): _____.
 Your **last** payment will be on (date): _____.


 You can have more time to pay what you owe. Pay \$ _____ on (date): _____.


 You will do community service instead of paying what you owe.
 You must do _____ hours of community service by (date): _____.
 Contact our court to learn how to set up community service.

This is a Court Order.



Case Number: _____

3 **Need more information:** The court has more questions.

Please contact your court to set up a time to see the judicial officer.

Clerk's phone number: _____

Clerk's address: _____

Please come to court at (time): _____ on (date): _____ Go to Department: _____

Bring these things with you:

(1) _____

(2) _____

(3) _____



**Don't miss
the court date!**

4 **Request denied:** The court decided that you have to pay the full cost of what you owe.

The court decided that:

You have enough money to pay what you owe.

You made a request before, but you did not show that your situation has changed since your last request.

Pay the full cost of what you owe (\$ _____) by (date): _____.

See the court's website for payment information.

Date: _____

Judge (or Judicial Officer)

5 **Clerk's certificate of service**

I am a clerk of the Superior Court of _____ County. I certify that I am not a party to this action.

I served a copy of this order to: _____ in the following manner:

Name of person served

Service by mail: I placed a filed copy of this order in a sealed envelope addressed to the following address:

Street or mailing address: _____
Street City State Zip

The envelope was mailed by U.S. mail, with full postage, from:

Place: _____, California, on (date): _____

Electronic service: I electronically sent a copy of this order:

from _____ to _____ on _____
Electronic Service Address Electronic Service Address Date

Date: _____

Clerk, by: _____

This is a Court Order.