

Statewide Traffic Tickets/Infractions Amnesty Program Guidelines

1. Program Authority

On June 24, 2015, Senate Bill 85 (Stats. 2015, ch 26) added section 42008.8 to the Vehicle Code (Attachment A). The statute authorizes and sets the general guidelines for a one-time mandatory amnesty program in each county that reduces bail and fine amounts for Vehicle Code and non-Vehicle Code infractions meeting the eligibility requirements. The statute also allows, upon court and county agreement, a one-time amnesty program for specified Vehicle Code misdemeanors.

The statute requires that the amnesty program be implemented in accordance with guidelines adopted by the Judicial Council. The *Statewide Traffic Tickets/Infraction Amnesty Program Guidelines* (guidelines) may not address every situation involving a collection program's implementation. Courts and counties should consider the intent of the legislation when developing local policies and procedures for their amnesty programs.

2. Program Purpose

The purpose of the one-time amnesty program is to provide relief to qualified individuals who have found themselves in default of a court-ordered obligation because they have unpaid bail or fines for traffic and non traffic violations. The program also may provide relief to individuals who have had their driving privileges suspended under Vehicle Code section 13365.

Encouraging payment of old debt that has remained unpaid will allow court and county collection programs to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

The amnesty program provides participants with an opportunity to have court, county, or third party collections vendor staff process applications for reductions of bail or fines and release of driver's license suspensions. Participation in the amnesty program does not entitle individuals to appear before a judicial officer or reopen their case.

3. Court and County Participation

Unless agreed to otherwise by the court and the county in writing, the entity responsible for the collection of delinquent court-ordered debt under Penal Code section 1463.010(b) will be responsible for implementation of the amnesty program.

The court and county *shall* implement an amnesty program to include infractions and violations under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7. Juvenile traffic infractions are also included in the program, and have the same eligibility criteria as adult infractions.

The court and county *may* jointly agree to extend the one-time amnesty program to bail and fines imposed for a misdemeanor violation of the Vehicle Code. (See section 8, Optional Program Components.)

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The amnesty program does not apply to parking violations or violations of Vehicle Code sections 23103, 23104, and 23105 (reckless driving) or Vehicle Code sections 23152 and 23153 (driving under the influence).

4. Program Costs

Costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or county that incurred the expense, per Penal Code section 1463.007.

Each collections program (court or county) may also charge an amnesty program fee of \$50 per participant. On cases that are paid in one lump sum, the \$50 amnesty program fee may be added to the reduced balance owed. On amnesty payment plans, the first payment will include the agreed-to monthly installment amount and may include the \$50 program fee. Regardless of the reduction amount, all participants who make a lump sum payment or enter into an installment payment plan may be charged the \$50 amnesty program fee. In addition, participants who are not eligible for the reduction, but are eligible to have their license reinstated, may be charged the \$50 amnesty program fee. For participants with unpaid tickets in multiple counties, the amnesty program fee may be charged by each court or county collections program in which the participant is seeking relief.

The \$50 amnesty program fee is the total fee that may be added to a case to offset any administrative costs. A collections program (including a third-party vendor) may not add additional administrative fees, as authorized by Vehicle Code section 40510.5 or Penal Code section 1205(e), to offset costs of administering an installment payment or accounts receivable plan under the amnesty program.

Any previously imposed administrative fees, such as those authorized under Vehicle Code section 40510.5 or Penal Code section 1205(e) may be reduced and collected under the amnesty program.

The Judicial Council's *Guidelines and Standards for Cost Recovery* can be used as a reference to determine cost allocation and revenue distribution. It is available at <http://www.courts.ca.gov/partners/455.htm>.

5. Amnesty Period

The one-time amnesty program shall operate from October 1, 2015, through March 31, 2017.

6. Eligibility

All adult Vehicle Code and non-Vehicle Code infraction violations and adult Vehicle Code misdemeanor violations with specified exceptions are eligible for the amnesty program. Juvenile Vehicle Code and non-Vehicle Code infraction violations are also eligible. This program is also

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available to individuals eligible to have a driver's license, including undocumented individuals who are eligible for a driver's license under AB 60 who are entitled to participate in the traffic amnesty program if they meet the eligibility requirements. Under Vehicle Code section 42008.8, the terms "bail" and "fine" refer to the total bail amount or fine balance due in connection with a specific Vehicle Code and/or non-Vehicle Code infraction and misdemeanor violation. Local programs should post on their websites a list of the misdemeanor violations that the court and county have jointly agreed to include in the amnesty program, if applicable.

For amnesty program purposes, any and all remaining balance of a civil assessment amount imposed under Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall not* be collected.

Each program should determine how to adjust the deducted amount in accounts receivable.

7. Mandatory Program Components

The mandatory amnesty program includes all traffic and nontraffic infraction violations, including those to which a misdemeanor under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7 has been added.

Violations are eligible for the mandatory amnesty program only if the following requirements are met:

- a. The violation is 1) an infraction violation filed with the court, or 2) a violation of Vehicle Code section 40508(a) or (b) or a violation of Penal Code section 853.7 that was added to an infraction violation filed with the court.
- b. The initial due date for payment of the bail or fine was on or before January 1, 2013.
 - A failure-to-appear case is eligible for amnesty *if* the case is currently on failure-to-appear status *and* the appearance date was on or before January 1, 2013.
 - A failure-to-pay case is eligible for amnesty *if* the fine due date was on or before January 1, 2013 *and* the last payment made on an installment plan or accounts receivable was on or before September 30, 2015 (the enactment date of the amnesty program legislation).
- c. The defendant does not owe restitution to a victim on **any** case within the county where the violation was issued.
- d. No misdemeanors or felony warrants for the defendant are outstanding within the county where the violation was issued, except for misdemeanor warrants for violations authorized by the court and county for inclusion in the amnesty program.
- e. The person is not currently (as of September 30, 2015) making payments on an amnesty-eligible violation to a comprehensive collection program under Penal Code section 1463.007(c).

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Warrants issued pursuant to Penal Code section 853.7 for amnesty eligible violations should be vacated by the court upon successful application to the amnesty program for those violations.

Any payment made (on the specific case(s) on which amnesty is requested) after September 30, 2015, disqualifies the case from eligibility for a reduction of the outstanding amount. However, an individual's driver's license may be reinstated.

The terms "bail" and "fine" as used in Vehicle Code section 42008.8 refer to the total bail amount or fine balance due, including court-ordered fees, forfeitures, surcharges, penalties, and assessments. For the purpose of this amnesty program, civil assessments are not included in the "bail" or "fine" amount.

For amnesty program purposes, any and all remaining balance of a civil assessment amount imposed pursuant to Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall* not be collected.

8. Driver's License Reinstatement and Issuance

Concurrent with the amnesty program, and *only* between October 1, 2015, and March 31, 2017, the amnesty program may provide relief to individuals who have found themselves in violation of court-ordered obligation stemming from traffic and non traffic infractions and eligible misdemeanors that have resulted in driving privilege restrictions. The \$50 amnesty program fee applies for driver's license reinstatement.

If an individual is in good standing in a comprehensive collections program (e.g., current on an installment payment plan) and he or she has appeared in court, has paid the fine in full or has agreed to the terms of the amnesty payment plan, or has otherwise satisfied the court, the court must notify the DMV, as authorized by Vehicle Code section 40509 (a) and (b).

Any payment made (on the specific case(s) on which amnesty is requested), after September 30, 2015, disqualifies the case from eligibility for a reduction of the outstanding amount. However, an individual's driver's license may be reinstated.

Before notifying the DMV, if a person is eligible for amnesty reduction, the court or county is responsible for confirming that an individual meets eligibility requirements a and b, and individuals will be required to certify or sign under penalty of perjury that they meet eligibility requirements c and d of the Mandatory Program Components section above. (Refer to Attachment B, sample Amnesty Program Participation Form) An amnesty participant seeking only reinstatement of a driver's license is not subject to the amnesty eligibility criteria related to outstanding warrants or victim restitution.

The courts and the DMV will use existing reporting processes to release a hold on or reinstate a suspended driver's license for amnesty-eligible cases.

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The DMV will also charge a \$55 driver's license reinstatement fee as it does for any license reinstatement.

9. Optional Program Components

In addition to and at the same time as the mandatory amnesty program, the court and the county may agree to extend the amnesty program pertaining to fines and bail imposed for specified misdemeanor violations of the Vehicle Code. Parking violations; violations of Vehicle Code sections 23103, 23104, and 23105 (reckless driving); and Vehicle Code sections 23152 and 23153 (driving under the influence) are excluded from the program. (See eligibility requirements in section 7.)

Local programs should post on their websites a list of the misdemeanor violations that the court and county have jointly agreed to include in the amnesty program, if applicable.

10. Amnesty Payment Plan

In setting up monthly payment plans, the court or county should use the individual's monthly income to calculate a monthly payment amount that the individual can afford to pay, consistent with Government Code sections 68633 and 68634. Programs are encouraged to use existing procedures to determine an individual's ability to pay.

Depending on qualifications, an individual may choose to make installment payments under the amnesty payment plan option. A court, county, or third party collections vendor may not charge a fee from the participant for setting up or processing an installment payment under an amnesty payment plan. The addition of an administrative fee, as authorized by Vehicle Code section 40510.5 or Penal Code section 1205(e), is suspended for participants setting up amnesty payment plans.

Individuals applying for an 80 percent reduction must certify under penalty of perjury receipt of specified public benefits or monthly income that is 125 percent or less than the current federal poverty guidelines available at <http://aspe.hhs.gov/poverty/15poverty.cfm#guidelines>. The collecting entity may not require or request proof of income level or receipt of benefit(s) to determine eligibility.

The court or county shall collect all relevant information to allow for the collection of any amount in which a participant is delinquent or otherwise defaults on his or her amnesty payment plan. (See Attachment B, sample Amnesty Program Participation Form.)

Financial information provided by amnesty participants shall be kept confidential and used for the purposes of amnesty eligibility and participation only.

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11. Default on Amnesty Payment Plan

To participants who default on one or more installment payments, the collections program shall mail a notice advising them that they have failed to make a payment and that they have 30 days to either make a payment or request a change in the payment amount.

If a participant fails to respond to the notice within 30 days, the collections program may refer the case to the Franchise Tax Board Court-Ordered Debt program (FTB-COD) for collection of the remaining balance owed using existing protocols. FTB-COD's standard administrative costs may apply to any amounts collected.

During the amnesty period, the court and county may use other collection efforts authorized by Penal Code section 1463.007, except initiating driver's license suspension or hold actions.

12. Payment Processing

Vehicle Code section 42008.8 requires that each court or county accept in full satisfaction of eligible bail or fine:

- 50 percent of the outstanding fine or bail amount; or
- 20 percent of the outstanding fine or bail amount *if* the participant certifies under penalty of perjury that he or she receives any of the public benefits listed in Government Code section 68632(a), or is within the conditions described in Government Code section 68632(b).

For amnesty program purposes, any and all remaining balance of a civil assessment amount imposed under Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall not* be collected.

Courts should ensure that court record(s) reflect the authority under Vehicle Code section 42008.8 to deduct and not collect any and all remaining balance of a civil assessment amount imposed. Each program should determine how to adjust the deducted amount.

The courts and counties are responsible for determining that the individual meets the eligibility criteria outlined in section 7, Mandatory Program Components. Participation in the amnesty program is granted after confirming that an individual meets eligibility requirements a) and b) and the following conditions:

- That they do not owe restitution to a victim on any case within the county where they are seeking amnesty;
- That they do not have outstanding misdemeanor or felony warrants within the county where they are seeking amnesty; and

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- That they are not currently making payments to the court or county on the case for which they are seeking amnesty.

For individuals who attest to meeting these criteria, the court or county must accept in full satisfaction 50 percent of the eligible fine or bail amount (after deducting any unpaid civil assessment), plus the amnesty program fee.

For individuals who sign under penalty of perjury that they are receiving specified public benefits or that their monthly income is 125 percent or less of the current federal poverty guidelines (<http://aspe.hhs.gov/poverty/15poverty.cfm#guidelines>), the court or county must accept in full satisfaction 20 percent of the eligible fine or bail amount (after deducting any unpaid civil assessment), plus the amnesty program fee.

Please note the following payment considerations:

- a. Courts and counties may determine whether all forms of payment currently accepted by the collections program are acceptable for the amnesty program.
- b. Payment under the amnesty program may be made in one lump sum or in installment payments (see Amnesty Payment Plan section above).
- c. The total amount of revenue collected under the amnesty program will be deposited in the county treasury and/or the account established under Government Code section 77009.
- d. The program must maintain a separate accounting of all revenues collected and operating costs expended under the amnesty program.
- e. No criminal action shall be brought against a person for delinquent bail amount or fine balance paid under the amnesty program.
- f. Each program will need to determine how to adjust the deducted civil assessment amount from its accounts receivable.
- g. A collections program (including a third-party vendor) may not add additional administrative fees, as authorized by Vehicle Code section 40510.5 or Penal Code section 1205(e), to offset costs of administering an installment payment or accounts receivable plan under the amnesty program.
- h. Any previously imposed administrative fees, under Vehicle Code section 40510.5 or Penal Code section 1205(e), may be reduced and collected under the amnesty program.
- i. The court and county should not allow an eligible individual to sign up for traffic school in lieu of making the reduced payment amount because the distribution under amnesty is inconsistent with the statutory distribution required under traffic violator school.

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13. Accounting

Courts and counties should refer to section 13, Reporting Requirements, for mandatory data reporting elements and consider them when developing accounting procedures for the amnesty program.

For courts, a reporting element will be added to the Phoenix Financial System to track amnesty program-related revenues and expenditures. Contact your Phoenix account lead with any questions.

14. Distribution

Revenue collected under the amnesty program shall be deposited in the county treasury or the account established under Government Code section 77009. After acceptance of the amnesty revenue, notwithstanding Penal Code section 1203.1(d), the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed under Penal Code section 1462.5.

The California State Controller's Office (SCO) shall be responsible for the special distributions outlined in Vehicle Code section 42008.8. Amnesty operating costs, including commission fees, should be prorated among all funds collected under the comprehensive collection program, under Penal Code 1463.007. The SCO's trial court revenue distribution manual (Appendix C) and *Assembly Bill 3000 Court Surcharge Distribution Guidelines* are available at www.courts.ca.gov/revenue-distribution.htm.

The Judicial Council's *Guidelines and Standards for Cost Recovery* can be used as a reference to determine cost allocation and revenue distribution. It is available at the Judicial Council's Revenue and Collections information webpage at <http://www.courts.ca.gov/partners/455.htm>.

15. Reporting Requirements

Each court or county collection program will jointly submit the Amnesty Program Collections Report (see Attachment C) on or before the dates indicated below. The report *shall* include monthly data on the number of cases resolved, the amount of money collected, and the operating costs attributable to the amnesty program. Additional program detail should be reported to the extent possible.

Periodic reports are to be submitted electronically to the Judicial Council's Revenue and Collections Unit at collections@jud.ca.gov on or before the following dates:

- January 31, 2016 (for the period October- December 2015)
- May 31, 2016 (for the period January - April 2016)
- September 30, 2016 (for the period May - August 2016)
- January 31, 2017 (for the period September - December 2016)

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- May 31, 2017 (for the period January - March 2017; this is also the final report)

The Judicial Council is required to submit a report to the Legislature summarizing the information provided by each court or county on or before August 31, 2017.

16. Amnesty Program Action Plan

The Judicial Council is responsible for the following:

- Creating an outreach plan, which includes maintaining and updating an Internet website with relevant amnesty information and links to all court and county websites;
- Developing and distributing the amnesty program guidelines to court and county collecting entities no later than October 1, 2015;
- Compiling amnesty program information for inclusion in the required report to the Legislature; and
- Reimbursing the DMV for costs incurred, up to \$250,000, for (1) creation and production of an insert to be included with each motor vehicle registration renewal notice; (2) staff costs; and (3) posting on the department's website of information regarding the amnesty program.

The DMV is responsible for the following:

- Providing a summary of the amnesty program established under this section that is compliant with Government Code section 7292. That summary will be included on a separate insert with each motor vehicle registration renewal notice.
- Posting on the DMV website information regarding the amnesty program.

The courts and counties should collaborate with each other on the development of local policies and procedures for the implementation of this amnesty program. To implement the amnesty program successfully, each court and county should develop a joint process for:

- Accepting and posting payments made under the amnesty program;
- Providing an amnesty payment plan option that is consistent with requirements under Government Code section 68632(a) and (b);
- Notifying the DMV, as required by law;
- Maintaining separate accounting of all amnesty revenues, including cost recovery collected and operating costs expended under the amnesty program;
- Upon contact by an individual, confirming eligibility on individual cases based on criteria established in Vehicle Code section 42008.8;
- Tracking and reporting the monthly number of cases resolved and revenue collected at the 50 and 80 percent reduction rate, and whether these payments were paid in one lump sum or in installments;
- Tracking and reporting monthly operating costs and recovered costs; and

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- Posting and maintaining amnesty program information on individual court & county websites and local public facilities.

The court and county should also consider developing a joint procedure for:

- Distributing informational materials to justice partners and third-party collection vendors; and
- Designating staff at each court or county satellite location to process all amnesty payments received by mail or in person.

The State Controller's Office is responsible for the following:

- Handling any special distribution(s) outlined in Vehicle Code section 42008.8; and
- Transferring the first \$250,000 received from amnesty program-related collections revenues to the Judicial Council to reimburse the Department of Motor Vehicles for amnesty-related costs (not to exceed \$250,000).

17. Third-Party Collections

Private Vendor

As outlined in the Statement of Work of the Statewide Master Agreement for Collections Services, vendors are required to provide collection services for “any other legally enforceable debt owed to a Participating Entity [e.g., court or county] or that a Participating Entity has a right to collect”, which includes debt identified by each program as eligible under the amnesty program. A private vendor that currently provides collection services for delinquent court-ordered debt, as permitted by the master agreement, may collect amnesty-eligible debt.

The commission fee listed by each vendor on its pricing proposal for the collection of other legally enforceable debt is an allowable operating cost and applies to this amnesty program. However, a private vendor may not charge a fee from the participant for setting up or processing an installment payment under an amnesty payment plan or any administrative fee to participate in the program.

Court and county collection programs that do not currently contract with a private vendor for collections services under the master agreement may enter into a contract with a vendor for the collection of amnesty-eligible cases using the participation agreement. Vendor information and a pricing list can be found at www.courts.ca.gov/partners/collections.htm.

As stated in the master agreement, in addition to the reporting requirements of Penal Code section 1463.010, each private vendor must comply with reporting requirements of any other applicable state law and as specified by the Judicial Council, including the reporting requirement referenced in Vehicle Code section 42008.8(I).

Each participating private vendor is responsible for:

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- Accepting and posting payments made through the amnesty program;
- Maintaining separate accounting of all amnesty revenues;
- Tracking and reporting the monthly number of cases resolved and revenue collected at the 50 and 80 percent reduction rate, and whether these payments were paid in one lump sum or in installments.

Franchise Tax Board Court-Ordered Debt Program

The court or county may refer amnesty cases that default on their payment plans to the FTB-COD for collection of the remaining delinquent balance, using existing protocols. The FTB-COD may charge an administrative cost, up to 15 percent as prescribed in the Revenue and Taxation Code section 19282, for collecting on any amnesty cases referred by a court or county program.

Revenue and Taxation Code section 19280 requires the aggregate balance owed of at least \$100 for the amounts due referred to FTB for collection and authorizes FTB to “establish criteria for referral that shall include setting forth a minimum dollar amount subject to referral and collection.” The FTB established \$25 as the minimum referral amount; therefore, the case balance must be at least \$25, and the total amount owed by the debtor must total at least \$100.

Intrabranh Program

A court or county that currently contracts with another court (an intrabranh program) for collection services may amend existing agreements to include the collection of amnesty eligible debt.

Overpayments

To reduce the possibility of overpayments involving a third party vendor, it is recommended that local collections programs develop appropriate protocols for the following:

- Notifying the third-party vendor when an amnesty-eligible case referred to it has been enrolled in the amnesty program.
- Withdrawing from the third-party vendor any amnesty-eligible cases that have been enrolled into the amnesty program.