

SUPREME COURT
FILED

In the Supreme Court of the State of California

MAR 03 2017

Jorge Navarrete Clerk

In re

JOHN MANUEL GUIOMAR,

On Habeas Corpus

Case No. S238888

Deputy

Sixth Appellate District, Case No. H043114
Monterey County Superior Court, Case Nos. SS131590A, SS131650A
The Hon. Lydia M. Villareal, Judge

RESPONDENT'S REQUEST FOR JUDICIAL NOTICE

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Attorneys for Respondent

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Pursuant to Evidence Code sections 452, subdivision (c), and 459, subdivision (a), and rule 8.252(a) of the California Rules of Court, respondent requests that this court take judicial notice of the following documents, which are taken from the legislative histories of the enactment of and subsequent amendments to Penal Code section 22, and are therefore relevant to determining the intent of the Legislature in enacting those amendments.

1. Senate Bill No. 395 (1983-1984 Reg. Sess.), attached as Exhibit A;
2. Senate Committee on Judiciary, Analysis of Senate Bill No. 395 (1983-1984 Reg. Sess.), attached as Exhibit B;
3. Assembly Committee on Criminal Law & Public Safety, Analysis of Senate Bill No. 395 (1983-1984 Reg. Sess.) May 17, 1983, attached as Exhibit C;
4. Assembly Committee on Criminal Law & Public Safety, Analysis of Senate Bill No. 395 (1983-1984 Reg. Sess.) May 25, 1983, attached as Exhibit D;
5. Assembly Amendment to Senate Bill No. 395 (1983-1984 Reg. Sess.) June 16, 1983, attached as Exhibit E;
6. Senate Bill No. 1393 (1985-1986 Reg. Sess.), attached as Exhibit F;
7. Senate Committee on Judiciary, Analysis of Senate Bill No. 1393 (1985-1986 Reg. Sess.), attached as Exhibit G;
8. Senate Amendment to Senate Bill No. 1393 (1985-1986 Reg. Sess.) May 6, 1985, attached as Exhibit H;
9. Senate Committee on Judiciary, Analysis of Senate Bill No. 1393 (1985-1986 Reg. Sess.) as amended May 6, 1985, attached as Exhibit I;

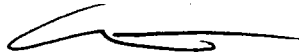
10. Senate Rules Committee, Office of Senate Floor Analyses, Analysis of Senate Bill No. 1393 (1985-1986 Reg. Sess.) as amended May 6, 1985, attached as Exhibit J;
11. Assembly Committee on Public Safety, Analysis of Senate Bill No. 1393 (1985-1986 Reg. Sess.) as amended May 6, 1985, attached as Exhibit K;
12. Senate Bill No. 1393, 3d reading (1985-1986 Reg. Sess.) Aug. 29, 1985, attached as Exhibit L;
13. California Department of Finance, Enrolled Bill Report on Senate Bill No. 1393 (1985-1986 Reg. Sess.) prepared for Governor Deukmejian (Sept. 5, 1985), attached as Exhibit M;
14. Youth & Adult Correctional Agency, Enrolled Bill Report on Senate Bill No. 1393 (1985-1986 Reg. Sess.) prepared for Governor Deukmejian (Sept. 6, 1985), attached as Exhibit N;
15. Senate Rules Committee, Office of Senate Floor Analyses, 3d reading analysis of Senate Bill No. 1571 (1995-1996 Reg. Sess.) as amended Mar. 19, 1996 attached as Exhibit O;
16. Senate Committee on Criminal Procedure, Analysis of Senate Bill No. 1571 (1995-1996 Reg. Sess.) as amended Mar. 19, 1996, attached as Exhibit P;

17. Senate Rules Committee, Office of Senate Floor Analyses,
Analysis of Senate Bill No. 1571 (1995-1996 Reg. Sess.) as amended
July 8, 1996 attached as Exhibit Q.

Dated: March 3, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
GERALD A. ENGLER
Chief Assistant Attorney General
JEFFREY M. LAURENCE
Senior Assistant Attorney General
DONNA M. PROVENZANO
Supervising Deputy Attorney General



AMIT KURLEKAR
Deputy Attorney General
Attorneys for Respondent

Exhibit A

Introduced by Senator Beverly

February 15, 1983

An act to add Section 1320.5 to the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as introduced, Beverly. Bail.

Existing law makes it a felony, punishable by a specified fine, or by imprisonment in the state prison or in the county jail, or by both a fine and imprisonment, for a person charged with a felony and released on his or her own recognizance to fail to appear.

This bill would make it a felony, punishable by a specified fine, or by imprisonment in the state prison or in the county jail, or by both a fine and imprisonment, for a person charged with a felony and released on bail to fail to appear.

Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

This bill would impose a state-mandated local program by mandating a new program or higher level of service on local law enforcement and correctional agencies.

This bill would provide that no appropriation is made by this act for the purpose of making reimbursement pursuant to the constitutional mandate or Section 2231 or 2234, but would recognize that local agencies and school districts may pursue their other available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1320.5 is added to the Penal
2 Code, to read:

3 1320.5. Every person who is charged with the
4 commission of a felony, who is released from custody on
5 bail, and who in order to evade the process of the court
6 willfully fails to appear as required, is guilty of a felony,
7 and upon conviction shall be punished by a fine not
8 exceeding five thousand dollars (\$5,000) or by
9 imprisonment in the state prison, or in the county jail for
10 not more than one year, or by both such fine and
11 imprisonment. It shall be presumed that a defendant who
12 willfully fails to appear within 14 days of the date assigned
13 for his or her appearance intended to evade the process
14 of the court.

15 SEC. 2. No appropriation is made and no
16 reimbursement is required by this act pursuant to Section
17 6 of Article XIII B of the California Constitution or
18 Section 2231 or 2234 of the Revenue and Taxation Code
19 because the only costs which may be incurred by a local
20 agency or school district will be incurred because this act
21 creates a new crime or infraction, changes the definition
22 of a crime or infraction, changes the penalty for a crime
23 or infraction, or eliminates a crime or infraction.

O

Exhibit B

SENATE COMMITTEE ON JUDICIARY

RECEIVED

BACKGROUND INFORMATION

FEB 24 1983

SB 395

CAPITOL OFFICE

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill? Please list the requestor's telephone number or, if unavailable, his address.

Los Angeles County District Attorney's Office

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

AB 2717 (1979-80) (Alatorre)

2. Purpose

What problem or deficiency under existing law does the bill seek to remedy? Existing law makes it a felony for a person charged with a felony and released on his or her own recognizance to fail to appear. However, there are currently no similar penalty provisions in the law which would apply to a person released on felony bail. SB 395 would correct this anomaly by making it a felony for a person charged with a felony and released on bail to fail to appear.

If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2187 AS SOON AS POSSIBLE. THE COMMITTEE STAFF CANNOT SET THE BILL FOR A HEARING UNTIL THIS FORM HAS BEEN RETURNED.

SENATE COMMITTEE ON JUDICIARY

1983-84 Regular Session

SB 395 (Beverly)
As introduced
Penal Code
JGD

S
B
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9
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BAIL JUMPING

HISTORY

Source: L.A. District Attorney

Prior Legislation: AB 2717 (1980) - Died on
Assembly inactive file

Support: Attorney General

Opposition: No Known

KEY ISSUE

SHOULD FAILURE TO APPEAR ON FELONY CHARGES AFTER
RELEASE ON BAIL BE A FELONY?

PURPOSE

Existing law makes it an alternative felony/misdemeanor (with a possible \$5,000 fine) to fail to appear on felony charges if released on one's own recognizance (OR), and a misdemeanor to fail to appear on misdemeanor charges if released on OR.

This bill would make it an alternative felony/misdemeanor with a possible \$5,000 fine to fail to appear within 14 days of the date for appearance if released on bail from a felony charge.

The purpose of the bill is to deter bail jumping.

(More)

COMMENT

1. Further deterrence

This bill would criminalize failure to appear after release from a felony charge was accomplished by posting bail.

IS NOT THE LOSS OF THE BAIL SUFFICIENT TO DETER BAIL JUMPING IN MOST CASES?

IS THIS BILL NECESSARY?

2. Charging errors

Release on bail often occurs according to a bail schedule before the defendant is formally arraigned. The initial charge may thereafter be reduced from a felony to a misdemeanor at or before arraignment.

IF AN ARRESTING OFFICER MISTAKENLY CHARGES SOMEONE WITH A FELONY, SHOULD JUMPING BAIL ON SUCH A CHARGE BE A FELONY?

3. Intentional failure to appear

This bill would punish only willful evasions of the process of the court.

It would be "presumed" that a defendant who failed to appear within 14 days of his or her appearance intended to evade court process. The same presumption is provided in existing law for "OR jumping".

Exhibit C

ASSEMBLY COMMITTEE ON CRIMINAL LAW AND PUBLIC SAFETY
BYRON SHER, Chairman

State Capitol - Room 2136
(916) 445-3268

MAY 17 1983

BILL ANALYSIS WORKSHEET

BILL NO.: Senate Bill 395 / AUTHOR: Senator Beverly

1. Source and background of the bill:

- (a) What, if any, person, organization or governmental entity requested introduction?
Los Angeles County District Attorney's Office (Doug McKee)
- (b) Has a similar bill been before either this session or a previous session of the Legislature? If so, please identify the session, bill number and disposition of the bill.
AB 2717 (Alatorre - 1979-80)
- (c) Has there been an interim committee report on the bill?
If so, please identify the report.
No.
- (d) Please attach copies of any background material in explanation of the bill, or state where such material is available for reference by committee staff.
- (e) Please attach copies of letters of support or opposition from any group, organization or governmental agency which has contacted you either in support of or opposition to the bill.

2. Amendments prior to hearing:

- (a) Do you plan any substantive amendments to this bill prior to hearing? Yes _____ No X
- (b) If the answer to (a) is yes, please explain briefly the substance of the amendments to be prepared.

3. Need for the bill:

- (a) Please describe the specific problem or deficiency in current law that this bill seeks to remedy. Existing law makes it a misdemeanor for a person charged with a misdemeanor and released on his or her own recognizance, or on bond, to fail to appear. Likewise, an individual charged with a felony and released on his or her own recognizance currently is guilty of a felony for willful failure to appear.
- (b) Please present specific facts or examples that demonstrate the need for this bill. Senate Bill 395 would correct the anomaly in existing law, which fails to impose a criminal penalty for failure to appear on a felony bail release.
- (c) If no facts or examples are presented, please explain why the bill is nonetheless needed.
- (d) If the proposed remedy in the bill goes beyond the need demonstrated by your facts or examples, please explain why.

4. Costs imposed by this bill:

Please estimate the cost or savings to any state or local law enforcement or correctional agency, including the judicial system, imposed by this bill, and explain the format used to estimate the cost or savings. Legislative Analyst reports undetermined General Fund costs to the Department of Corrections and undetermined local law enforcement and incarceration costs. Republican Caucus estimates state and local costs as minor.

RETURN THIS FORM TO: Ann Boone, Committee Secretary
Criminal Law and Public Safety Committee
Room 2136, State Capitol

Exhibit D

ASSEMBLY COMMITTEE ON CRIMINAL LAW
AND PUBLIC SAFETY

BYRON D. SHER, CHAIRMAN

STATE CAPITOL, ROOM 2136
(916) 445-3268

BILL NO: SB 395

FISCAL: YES

URGENCY: NO

HEARING
DATE: 5/25/83

BILL NO: SB 395 (As introduced 2/15/83)

AUTHOR: BEVERLY

PRIOR ACTION:

Senate Judiciary	4/6/83	(8-0)	
Senate Finance	4/26/83	(11-0)	(To Consent Calendar)
Senate Floor	5/2/83	(36-0)	

SUBJECT: SHOULD IT BE A SEPARATE OFFENSE FOR A PERSON CHARGED WITH A FELONY, BUT RELEASED ON BAIL, TO WILLFULLY FAIL TO APPEAR?

DIGEST:

Under existing law (Penal Code Section 1320(b)), it is a felony punishable by a fine not to exceed \$5000, or by imprisonment in state prison, or in the county jail for not more than one year, for a person charged with a felony and released on his or her own recognizance (OR), to willfully fail to appear. This bill would make these same sanctions applicable to a defendant charged with a felony but released on bail who willfully failed to appear.

STAFF COMMENTS:

1. Need For Bill. The sponsor of this bill, the Los Angeles County District Attorney's office, points out that there is a gap in existing law. It is a separate offense (a misdemeanor) for a person charged with a misdemeanor and released pursuant to Penal Code Section 1269d (10% bail provision) on bail or OR, to fail to appear. Similarly, it is a separate offense for a person charged with a felony and released OR to fail to appear. It is not a separate offense, however, for a person charged with a felony and released on bail, to fail to appear. This bill seeks to remedy this oversight in the law by making it a separate offense (a felony) to fail to appear when released on bail on a felony charge. Further, this bill is intended to deter felony bail jumping. Is felony bail jumping a significant problem? The proponents have presented no data or statistics to show the percentage of felons released on bail who fail to appear. Is this bill necessary?

2. Does Failure To Appear Justify A Felony Charge? Does mere failure to appear, as promised when released on bail, justify imposition of felony sanctions? This bill would subject a defendant who failed to appear on a felony charge, even if the defendant was the victim of misidentification or was acquitted on the underlying charge, to a fine of up to \$5000, to a prison term of 16 months, 2 or 3 years, or to up to one year in county jail, or to both such fine and imprisonment. Are such severe sanctions appropriate simply for failure to appear? Note, however, that these same sanctions currently apply to a defendant charged with a felony and released OR, who fails to appear. Similarly, a defendant charged with a misdemeanor and released pursuant to Penal Code Section 1269d (10% bail provision) on bail or released OR, is guilty of a misdemeanor merely for failure to appear.

3. Does Bill Authorize A Double Sanction? A person charged with a felony who is released on bail and who willfully fails to appear, automatically forfeits bail. Felony bail may be a significant amount: for example, \$5000 if the charged offense is robbery; \$15,000 if the charged offense is first degree burglary; \$2000 if the charged offense is grand theft; and \$5000 if the charged offense is sale of less than one ounce of heroin or cocaine (Bail data taken from Sacramento County Felony Bail Schedule.). If a felony bail jumper is subject to an additional \$5000 fine, as this bill proposes, does this constitute a double penalty for persons charged with a felony and released on bail? A person charged with a felony and released OR would be subject only to a \$5000 fine. The apparent inequity in financial consequences to these two similarly situated categories of defendants could be avoided if the bill were amended to provide that a defendant who has forfeited bail shall have all or a portion of such forfeiture credited against any fine imposed by the court. The author might wish to consider the following amendment:

On page 2, strike the period in line 11 and insert:

provided, however, that the court may credit all or a portion of any bail forfeited for failure to appear and demonstrated to the satisfaction of the court as having been paid to the surety by the defendant, as a setoff against any fine imposed by the court.

4. Unconstitutional Presumption? Opponents and proponents alike point out that the presumption (in the bill) that a defendant who willfully fails to appear within 14 days intended to evade the process of the court, may be unconstitutional under People v. Roder (1983) 33 Cal. 3d 491 which held that mandatory presumptions violate due process of law by relieving the prosecution of the burden of proving beyond a reasonable doubt an essential element of the crime. In accord with a suggestion by the Attorney General, the author might wish to consider the following amendment:

On page 2, delete lines 11 through 14 and insert:

imprisonment. Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court.

SOURCE: Los Angeles County District Attorney's Office

SUPPORT: Attorney General
California Peace Officers Association (CPOA)
California Union of Safety Employees (CAUSE)
Peace Officers Research Association of California (PORAC)
Peace Officers Association of Los Angeles County

OPPOSITION: Office of the State Public Defender

CONSULTANT: EDGAR A. KERRY

SB 395

aeb

3876-0075

Exhibit E

AMENDED IN ASSEMBLY JUNE 16, 1983

SENATE BILL

No. 395

Introduced by Senator Beverly

February 15, 1983

An act to add Section 1320.5 to the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as amended, Beverly. Bail.

Existing law makes it a felony, punishable by a specified fine, or by imprisonment in the state prison or in the county jail, or by both a fine and imprisonment, for a person charged with a felony and released on his or her own recognizance to fail to appear.

This bill would make it a ~~felony, punishable by a specified fine, or by imprisonment in the state prison or in the county jail, or by both a fine and imprisonment,~~ *misdemeanor* for a person charged with a felony and released on bail to fail to appear.

Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

This bill would impose a state-mandated local program by mandating a new program or higher level of service on local law enforcement and correctional agencies.

This bill would provide that no appropriation is made by this act for the purpose of making reimbursement pursuant to the constitutional mandate or Section 2231 or 2234, but would recognize that local agencies and school districts may pursue

their other available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1320.5 is added to the Penal
2 Code, to read:

3 1320.5. Every person who is charged with the
4 commission of a felony, who is released from custody on
5 bail, and who in order to evade the process of the court
6 willfully fails to appear as required, is guilty of a ~~felony;~~
7 ~~and upon conviction shall be punished by a fine not~~
8 ~~exceeding five thousand dollars (\$5,000) or by~~
9 ~~imprisonment in the state prison, or in the county jail for~~
10 ~~not more than one year, or by both such fine and~~
11 ~~imprisonment. It shall be presumed that a defendant who~~
12 ~~willfully fails to appear within 14 days of the date assigned~~
13 ~~for his or her appearance intended to evade the process~~
14 ~~of the court. misdemeanor. Willful failure to appear~~
15 ~~within 14 days of the date assigned for appearance may~~
16 ~~be found to have been for the purpose of evading the~~
17 ~~process of the court.~~

18 SEC. 2. No appropriation is made and no
19 reimbursement is required by this act pursuant to Section
20 6 of Article XIII B of the California Constitution or
21 Section 2231 or 2234 of the Revenue and Taxation Code
22 because the only costs which may be incurred by a local
23 agency or school district will be incurred because this act
24 creates a new crime or infraction, changes the definition
25 of a crime or infraction, changes the penalty for a crime
26 or infraction, or eliminates a crime or infraction.

Exhibit F

Introduced by Senator Deddeh

March 8, 1985

An act to amend Section 1320.5 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SB 1393, as introduced, Deddeh. Bail.

Existing law makes it a misdemeanor for a person charged with a felony and released on bail to fail to appear.

This bill would make the above offense a felony. A person convicted of this offense would be punishable by imprisonment in the state prison for a term equal to the term of imprisonment which the court may impose upon the person for a conviction of the felony for which the person was initially charged. However, the term of imprisonment shall not exceed 10 years.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1320.5 of the Penal Code is
2 amended to read:
3 1320.5. Every person who is charged with the
4 commission of a felony, who is released from custody on
5 bail, and who in order to evade the process of the court
6 willfully fails to appear as required, is guilty of a
7 ~~misdemeanor~~ felony. Upon a conviction under this
8 section, the person shall be imprisoned in the state prison
9 for a term equal to the term of imprisonment which the
10 court may impose upon the person for a conviction of the
11 felony for which the person was initially charged.
12 However, the term of imprisonment imposed pursuant to

1 *this section shall not exceed 10 years. Willful failure to*
2 *appear within 14 days of the date assigned for appearance*
3 *may be found to have been for the purpose of evading the*
4 *process of the court.*

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Exhibit G

SENATE COMMITTEE ON JUDICIARY

BACKGROUND INFORMATION

SB 1393

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill? Please list the requestor's telephone number or, if unavailable, his address.

Los Angeles Dist. Atty

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

None

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

Unknown

2. Purpose

What problem or deficiency under existing law does the bill seek to remedy?

Current law makes FTA on a felony a misdemeanor. A defendant may knowingly fail to appear while on bail, knowing that additional time would be unlikely if convicted on the underlying felony, and he/she gets the additional benefit of letting evidence get cold, witnesses may disappear or be coerced, etc., so there is less chance of conviction on the felony. This bill would make the FTA also a felony, making failure to appear less risk-effective. If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

L.A. Dist. Atty is preparing a background package. I'll get it to you when completed.

Contact Les Kleinberg, SOR 5-1727.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2187 AS SOON AS POSSIBLE. THE COMMITTEE STAFF CANNOT SET THE BILL FOR A HEARING UNTIL THIS FORM HAS BEEN RETURNED.

SENATE COMMITTEE ON JUDICIARY
Bill Lockyer, Chairman
1985-86 Regular Session

SB 1393 (Deddeh)	S
As introduced	B
Penal Code	
PAW	1
	3
<u>BAIL:</u>	9
<u>FAILURE TO APPEAR</u>	3

HISTORY

Source: Los Angeles District Attorney

Prior Legislation: None

Support: CPOA; California Police Chiefs'
Association; California State
Sheriffs' Association; CDAA

Opposition: ACLU

KEY ISSUE

SHOULD IT BE A FELONY TO FAIL TO APPEAR AS
PFQUIRED WHEN CHARGED WITH A FELONY AND RELEASED
ON BAIL?

PURPOSE

Existing law makes it a misdemeanor for a person
charged with a felony and released on bail to fail
to appear.

This bill would make the above offense a felony.
Upon conviction under this section, the person
would be imprisoned in the state prison for a term
equal to the term imposed by the court for the

(More)

underlying offense or 10 years, whichever is shorter.

The purpose of this bill is to deter persons from failing to appear for court dates when released on bail.

COMMENT

1. Need for legislation

According to the Los Angeles District Attorney, the sponsor of this bill, failure to appear (FTA) when released on bail is occurring with alarming frequency in Los Angeles County. Because a conviction in an FTA case results in only misdemeanor penalties, the sponsor claims that defendants accused of felonies with harsh penalties will fail to appear in order to postpone hearings and waste time, hoping that witnesses will disappear or forget what happened. Consequently, a defendant receives six months in jail and/or a \$1000 fine rather than a state prison term and larger fines.

This bill would impose felony penalties with a term of imprisonment imposed equal to that of the underlying offense. The sponsor hopes that this bill will deter defendants from failing to appear when released on bail.

2. Felony offense to parallel other FTA offenses

Under existing law, FTA on a felony offense when released on bail is a misdemeanor, although a persons who FTA on an offense when released on their own recognizance (OR) is guilty of either a felony or a misdemeanor

(More)

with penalties of a fine of up to \$10,000 and imprisonment in county jail for one year, or in a state prison for 16 months, one year, or two years.

This bill would make it a felony for FTA when released on bail. However, the sentences imposed under this bill could be much higher than those in place under the provision relating to FTA in CR cases.

SHOULD NOT THE PENALTIES FOR FTA BE THE SAME WHETHER A PERSON IS RELEASED ON BAIL OR OUT ON HER OWN RECOGNIZANCE?

3. Different penalties--same offense

This bill would impose different penalties on different people for the same offense, i.e. FTA. If one person was arrested on a felony offense, failed to appear, and later received a two year sentence on the original offense, that person would receive a total of four years in jail. However, if another person was arrested for a felony, failed to appear, and later received an eight year sentence, this person would receive a 16 year sentence. Thus one person would receive an eight year sentence for the FTA--the same offense for which the first person received two years.

SHOULD NOT THE SAME CRIME BE PUNISHED WITH THE SAME PENALTIES?

4. Opponents' arguments

The opponents of this bill claim that because FTA is not more than contempt of court, the imposition of felony penalties is too severe.

Exhibit H