



# JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE  
Chief Justice of California  
Chair of the Judicial Council

MARTIN HOSHINO  
Administrative Director

CORY T. JASPERSON  
Director, Governmental Affairs

March 21, 2017

Hon. Reginald B. Jones-Sawyer, Sr., Chair  
Assembly Public Safety Committee  
State Capitol, Room 2117  
Sacramento, California 95814

Subject: AB 789 (Rubio), as introduced – Support/Sponsor  
Hearing: Assembly Public Safety Committee – March 28, 2017

Dear Assembly Member Jones-Sawyer:

The Judicial Council is pleased to support and sponsor AB 789, which provides courts with discretion to approve own recognizance (OR) release for individuals arrested for certain offenses who have three prior failures to appear (FTA), without holding a hearing in open court, under a court-operated or court-approved pretrial program.

Currently, Penal Code section 1319.5 requires a hearing in open court before an offender arrested for certain offenses who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. In counties where a sizeable portion of those arrested already have multiple FTAs due to jail overcrowding and other factors, the restriction in section 1319.5 constrains judicial discretion and limits courts' efficient use of court-operated or court-approved pretrial release programs to process releases for eligible defendants during noncourt hours.

Courts are increasingly implementing evidence-based pretrial release programs<sup>1</sup> designed to ensure (1) the court's release decisions are informed by a risk assessment, with recommendations based on county-specific guidelines that establish which defendants are eligible for release; and (2) individuals granted OR release receive appropriate levels of supervision by court-operated or court-approved programs rather than being released without any form of supervision. Penal Code section 1318 sets forth statutory

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<sup>1</sup> *Pretrial Progress: A Survey of Pretrial Practices and Services in California*. Californians for Safety and Justice, [http://libcloud.s3.amazonaws.com/211/95/d/636/PretrialSurveyBrief\\_8.26.15v2.pdf](http://libcloud.s3.amazonaws.com/211/95/d/636/PretrialSurveyBrief_8.26.15v2.pdf)

Hon. Reginald B. Jones-Sawyer, Sr.

March 21, 2017

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requirements for defendants who receive court-approved OR release and courts have broad authority to impose additional conditions including, when appropriate, drug testing and electronic monitoring.<sup>2</sup>

Some courts include an OR release component that operates during noncourt hours. On-call magistrates approve OR releases that allow arrestees to return to their jobs and families, while imposing statutory conditions and appropriate levels of supervision. However, these innovative programs have been hindered by the inflexible requirements of section 1319.5, which require a hearing in open court before some arrestees can be granted OR release. During noncourt hours, including weekends and holidays, jail officials may have no option but to release offenders without supervision or court date reminders. Many of those offenders will fail to appear for subsequent court dates, and the dysfunctional cycle of arrest and unsupervised jail release repeats.

The council believes that allowing judges the option to grant OR release to arrestees with three or more FTAs without a hearing in open court if they are released under a court-operated or court-approved pretrial release program will encourage more efficient processing of cases, more appropriate levels of supervision, and a reduction in jail overcrowding.

For these reasons, the Judicial Council is sponsoring and supporting AB 789.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

*Mailed on March 21, 2017*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/SR/yc-s

cc: Members, Assembly Public Safety Committee  
Hon. Blanca E. Rubio, Member of the Assembly  
Ms. Cheryl Anderson, Counsel, Assembly Public Safety Committee  
Mr. Gary Olson, Consultant, Assembly Republican Office of Policy and Budget  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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<sup>2</sup> [In re York \(1995\) 40 Cal.Rptr.2d 308, 9 Cal.4th 1133, 892 P.2d 804](#)



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CORY T. JASPERSON  
*Director, Governmental Affairs*

June 2, 2017

Hon. Nancy Skinner, Chair  
Senate Public Safety Committee  
State Capitol, Room 2059  
Sacramento, California 95814

Subject: Assembly Bill 789 (Rubio), as introduced – Support/Sponsor  
Hearing: Senate Public Safety Committee – June 13, 2017

Dear Senator Skinner:

The Judicial Council is pleased to support and sponsor AB 789, which provides courts with discretion to approve own recognizance (OR) release for individuals arrested for certain offenses who have three prior failures to appear (FTA), without holding a hearing in open court, under a court-operated or court-approved pretrial program.

Currently, Penal Code section 1319.5 requires a hearing in open court before an offender arrested for certain offenses who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. In counties where a sizeable portion of those arrested already have multiple FTAs due to jail overcrowding and other factors, the restriction in section 1319.5 constrains judicial discretion and limits courts' efficient use of court-operated or court-approved pretrial release programs to process releases for eligible defendants during noncourt hours.

Hon. Nancy Skinner

June 2, 2017

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Courts are increasingly implementing evidence-based pretrial release programs<sup>1</sup> designed to ensure (1) the court's release decisions are informed by a risk assessment, with recommendations based on county-specific guidelines that establish which defendants are eligible for release; and (2) individuals granted OR release receive appropriate levels of supervision by court-operated or court-approved programs rather than being released without any form of supervision. Penal Code section 1318 sets forth statutory requirements for defendants who receive court-approved OR release and courts have broad authority to impose additional conditions including, when appropriate, drug testing and electronic monitoring.<sup>2</sup>

Some courts include an OR release component that operates during noncourt hours. On-call magistrates approve OR releases that allow arrestees to return to their jobs and families, while imposing statutory conditions and appropriate levels of supervision. However, these innovative programs have been hindered by the inflexible requirements of section 1319.5, which require a hearing in open court before some arrestees can be granted OR release. During noncourt hours, including weekends and holidays, jail officials may have no option but to release offenders without supervision or court date reminders. Many of those offenders will fail to appear for subsequent court dates, and the dysfunctional cycle of arrest and unsupervised jail release repeats.

The council believes that allowing judges the option to grant OR release to arrestees with three or more FTAs without a hearing in open court if they are released under a court-operated or court-approved pretrial release program will encourage more efficient processing of cases, more appropriate levels of supervision, and a reduction in jail overcrowding.

For these reasons, the Judicial Council is sponsoring and supporting AB 789.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

*Mailed June 2, 2017*

Cory T. Jasperson  
Director, Governmental Affairs

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<sup>1</sup> *Pretrial Progress: A Survey of Pretrial Practices and Services in California*. Californians for Safety and Justice, [http://libcloud.s3.amazonaws.com/211/95/d/636/PretrialSurveyBrief\\_8.26.15v2.pdf](http://libcloud.s3.amazonaws.com/211/95/d/636/PretrialSurveyBrief_8.26.15v2.pdf)

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Hon. Nancy Skinner

June 2, 2017

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CTJ/SR/yc-s

cc: Members, Senate Public Safety Committee  
Hon. Blanca E. Rubio, Member of the Assembly  
Ms. Stella Choe, Counsel, Senate Public Safety Committee  
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy and Budget  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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CORY T. JASPERSON  
*Director, Governmental Affairs*

September 1, 2017

Hon. Blanca E. Rubio  
Member of the Assembly  
State Capitol, Room 5175  
Sacramento, CA 95814

Subject: Assembly Bill 789 (Rubio), as amended July 17, 2017 – Support/Sponsor

Dear Assembly Member Rubio:

The Judicial Council is pleased to support and sponsor AB 789, which provides courts with discretion to approve own recognizance (OR) release for individuals arrested for certain offenses who have three prior failures to appear (FTA), without holding a hearing in open court, under a court-operated or court-approved pretrial program.

Currently, Penal Code section 1319.5 requires a hearing in open court before an offender arrested for certain offenses who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. In counties where a sizeable portion of those arrested already have multiple FTAs due to jail overcrowding and other factors, the restriction in section 1319.5 constrains judicial discretion and limits courts' efficient use of court-operated or court-approved pretrial release programs to process releases for eligible defendants during noncourt hours.

Courts are increasingly implementing evidence-based pretrial release programs<sup>1</sup> designed to ensure (1) the court's release decisions are informed by a risk assessment, with recommendations based on county-specific guidelines that establish which defendants are eligible for release; and

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Hon. Blanca E. Rubio

September 1, 2017

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(2) individuals granted OR release receive appropriate levels of supervision by court-operated or court-approved programs rather than being released without any form of supervision. Penal Code section 1318 sets forth statutory requirements for defendants who receive court-approved OR release and courts have broad authority to impose additional conditions including, when appropriate, drug testing and electronic monitoring.<sup>2</sup>

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The council believes that allowing judges the option to grant OR release to certain arrestees with three or more FTAs without a hearing in open court if they are released under a court-operated or court-approved pretrial release program will encourage more efficient processing of cases, more appropriate levels of supervision, and a reduction in jail overcrowding.

For these reasons, the Judicial Council is pleased to sponsor and support AB 789.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

*Mailed on September 1, 2017*

Sharon Reilly  
Attorney

SR/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

September 18, 2017

Hon. Edmund G. Brown, Jr.  
Governor of California  
State Capitol, First Floor  
Sacramento, California 95814

Subject: Assembly Bill 789 (Rubio) – Request for Signature

Dear Governor Brown:

The Judicial Council respectfully requests your signature on AB 789, which provides courts with discretion to approve own recognizance (OR) release for individuals arrested for certain offenses who have three prior failures to appear (FTA), without holding a hearing in open court, under a court-operated pretrial program or a pretrial release program with approval by the court.

Currently, Penal Code section 1319.5 requires a hearing in open court before an offender arrested for certain offenses who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. In counties where a sizeable portion of those arrested already have multiple FTAs due to jail overcrowding and other factors, the restriction in section 1319.5 constrains judicial discretion and limits courts' efficient use of court-operated or court-approved pretrial release programs to process releases for eligible defendants during noncourt hours.

Courts are increasingly implementing evidence-based pretrial release programs<sup>1</sup> designed to ensure (1) the court's release decisions are informed by a risk assessment, with recommendations

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September 18, 2017

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based on county-specific guidelines that establish which defendants are eligible for release; and (2) individuals granted OR release receive appropriate levels of supervision by court-operated or court-approved programs rather than being released without any form of supervision. Penal Code section 1318 sets forth statutory requirements for defendants who receive court-approved OR release and courts have broad authority to impose additional conditions including, when appropriate, drug testing and electronic monitoring.<sup>2</sup>

Some courts include an OR release component that operates during noncourt hours. On-call magistrates approve OR releases that allow arrestees to return to their jobs and families, while imposing statutory conditions and appropriate levels of supervision. However, these innovative programs have been hindered by the inflexible requirements of section 1319.5, which require a hearing in open court before some arrestees can be granted OR release. During noncourt hours, including weekends and holidays, jail officials may have no option but to release offenders without supervision or court date reminders. Many of those offenders will fail to appear for subsequent court dates, and the dysfunctional cycle of arrest and unsupervised jail release repeats.

The council believes that allowing judges the option to grant OR release to certain arrestees with three or more FTAs without a hearing in open court if they are released under a court-operated or court-approved pretrial release program will encourage more efficient processing of cases, more appropriate levels of supervision, and a reduction in jail overcrowding.

For these reasons, the Judicial Council respectfully requests your signature on AB 789.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

*Mailed on September 18, 2017*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/SR/yc-s

cc: Hon. Blanca E. Rubio, Member of the Assembly

Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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<sup>2</sup> [In re York \(1995\) 40 Cal.Rptr.2d 308, 9 Cal.4th 1133, 892 P.2d 804](#)