



Judicial Council of California . Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on July 27, 2012

Title	Agenda Item Type
Criminal and Traffic: Uniform Bail and Penalty Schedules, July 2012 Edition	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	July 27, 2012
Recommended by	Date of Report
Traffic Advisory Committee	July 23, 2012
Hon. Mark S. Borrell, Chair	Contact
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Executive Summary

Effective July 13, 2012, the Judicial Council adopted the July 2012 Uniform Bail and Penalty Schedules to incorporate information on a statutory increase to the state penalty assessment imposed under Government Code section 76104.7 in criminal cases. Page x of the preface to the revised schedules includes an example of the calculation of fines, penalties, and fees for multiple violations when a case is eligible for referral to a traffic violator school program. The example contains certain inadvertent numerical errors that need to be corrected. The Traffic Advisory Committee recommends updating the council's schedules to show the correct numerical values and assist courts in revising local bail schedules to facilitate proper collection of criminal fines, fees, and penalties in accordance with the new law.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective July 27, 2012, adopt the revised page x of the preface to the July 2012 Uniform Bail and Penalty Schedules.

The proposed revision follows as Attachment A.

Previous Council Action

By circulating order, CO-12-04, the Judicial Council adopted the July 2012 Uniform Bail and Penalty Schedules to bring the schedules into conformance with legislation that requires courts to collect an increased penalty assessment for the state's DNA Identification Fund.

Rationale for Recommendation

Under Vehicle Code section 40310, the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Penal Code section 1269b requires that courts annually revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The Judicial Council establishes the schedule for traffic infractions.¹ Although sections 40310 and 1269b require adoption of revised local and statewide bail schedules annually, no statutes prohibit revision of the schedules more often when new laws that affect the schedules are enacted. Revising the council's schedules will assist courts in revising local bail schedules to conform to current law and in imposing fines, penalties, and fees properly in criminal cases.

Senate Bill 1006 (Stats. 2012, ch. 32) amended Government Code section 76104.7 to authorize an increase of the state DNA penalty imposed on fines assessed in criminal cases. The Judicial Council adopted a revised July 2012 Uniform Bail and Penalty Schedules to reflect this change in the law. The revised schedules included inadvertent numerical errors on page x of the preface to the schedules. Revisions to page x are proposed to correct the numerical values.

The proposed revision to Section VIII.E on page x of the preface to the schedules follows as Attachment A. Proposed changes to accurately re-calculate numerical values of fines, penalty assessments, and total bail to reflect the increased DNA penalty assessment appear as blue text with additions underlined and deletions struck out. The numerical values in the preface of the schedules are set out in a Word document that is embedded in an Excel spreadsheet. Use of this software configuration allows for better formatting of text, but requires manual revision of numerical values without automated formulas for re-calculation of changes as used in the schedules. Changes to specific numerical values on page x in the recent revision of the schedules were not updated accurately and have been revised as indicated in Attachment A.

The Traffic Advisory Committee recommends that the council adopt the attached proposed revision of the schedules to correct the inadvertent numerical errors on page x.

Comments, Alternatives Considered, and Policy Implications

No alternatives were considered. The proposed changes to page x were not circulated for comment because they are minor technical corrections that are unlikely to create controversy.

¹ Penal Code section 1463.28 authorizes specific counties, when authorized by the county board of supervisors, to exceed the bail amounts established in the council's schedule under Penal Code section 1269b.

The preface to the schedules must be revised to accurately reflect new law and assist courts with collection of the proper amounts for traffic offenses.

Implementation Requirements, Costs, and Operational Impacts

Revision of page x of the preface to the schedules may require that courts update local bail schedules to show the correct numerical values.

Relevant Strategic Plan Goals and Operational Plan Objectives

Adoption of revised schedules supports Strategic Plan Goal III, Modernization of Management and Administration, and Operational Plan Objective III.4: Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.

Attachment

Attachment A: Page x of the preface to the Uniform Bail and Penalty Schedules, July 2012 Edition

Attachment A

C driver’s license from attending traffic violator school to avoid points for traffic violations. Vehicle Code section 42005(d) excludes violations of Vehicle Code sections 20001, 20002, 23103, 23104, 23105, 23140, 23152, 23153, or 23103, as specified in section 23103.5, from eligibility for traffic violator school to avoid points.

Sample Calculation of Bail, Traffic Violator School Fee, and Court Operations Assessment for Multiple Offenses

1. Violation of Vehicle Code sections 21453(a), 22108, 24252(a), and 26707.
2. No prior convictions are charged.
3. “Additional penalties” of between \$22 and \$27 as set out in section III for every \$10 of base fine or part thereof plus the surcharge on the base fine:

“Total Bail” Without Traffic School or Proof	Traffic Violator School and Correction Total With Proof
VC 21453(a) = \$ 100	(VC 21453(a)) <u>\$394414</u>
VC 22108 = \$ 35	(VC 22108) (\$ 0)
VC 24252(a), VC 26707 = \$ 50	TVS fee \$ 49
Total base fine = \$ 185	TVS/DMV admin.fee \$ 3
Penalties and surcharge = \$ <u>612604</u>	Correction fee (2 X \$25) \$ 50
TOTAL BAIL = \$ <u>797789</u>	Court operations (2 X \$40) \$ 80
Court operations = \$ 160	(CAP/TAP fee; VC 11205) (\$)
Conviction assessment = \$ 140	Conviction assessment \$ 70
	TOTAL \$ <u>646666</u>

4. If the defendant is ordered to attend traffic violator school under VC 41501 for VC 21453(a) and VC 22108, per VC 42007 the defendant is charged for the greater/more severe of the qualifying offenses: VC 21453(a) @ \$394414 plus the \$49 and \$3 DMV TVS fee per VC 42007.1 (total of \$446466).
5. The charges of VC 21453(a) and VC 22108 are continued under VC 41501. The charges of VC 24252(a) and VC 26707 are continued pending proof of correction, required under VC 40522 for dismissal.
6. The defendant presents to the court timely evidence that he or she has completed traffic violator school. The VC 21453(a) and VC 22108 violations are reported under VC 41501. If the defendant submits to the court timely evidence under VC 40616 that the violations of VC 24252(a) and VC 26707 have been corrected, the VC 24252(a) and VC 26707 violations are dismissed under VC 40522, and a \$50 “transaction fee” is charged under VC 40611. The court operations assessment of \$80 is collected and distributed as required by Penal Code section 1465.8 for reporting of VC 21453(a) and VC 22108 for completion of traffic violator school and a criminal conviction assessment of \$70 is collected under Government Code section 70373.
7. The case is closed, with the court collecting \$646666 (\$394414 + \$49 + \$50 + \$80 + \$70 +\$3) plus any fee under VC 11205. Under VC 42006, courts that conduct night or weekend court may also collect an assessment of \$1.

IX. Late Charge

Vehicle Code section 40310 requires the imposition of a late charge of 50 percent on any traffic penalties not paid within 20 days.