

**Traffic Infraction Procedure: Appearances in Court without Deposit of Bail (rule 4.105)**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
1.	<p>ACLU of Northern California  <u>and</u>  Pillsbury Winthrop Shaw Pittman LLP</p> <p>by Christine P. Sun, Esq., Director of  Legal and Policy Dept., ACLU of  Northern California  <u>and</u>  Marley Degner, Esq., Counsel,  Pillsbury Winthrop Shaw Pittman LLP</p>	<p>We are attorneys with the law firm of Pillsbury Winthrop Shaw Pittman LLP and the American Civil Liberties Union of Northern California, respectively. We are writing to provide comments regarding Proposed Rule 4.105 which is set for discussion and possible adoption at the June 1, 2015, meeting of the Rules and Projects Committee and the Executive and Planning Committee (the “Committees”).</p> <p>We would like to thank the Judicial Council for taking emergency action to address the unconstitutional local rules, policies, and practices some Superior Courts have adopted requiring those charged with traffic infractions to pay the full amount of the penalty before they can receive a trial. Withholding the right to contest a traffic citation until the fines, penalty assessments, and other surcharges for the citation are paid in full is a clear violation of due process (among other things), and we appreciate the Judicial Council’s attention to this important issue.</p> <p>We have the following comments to the Proposed Rule:</p> <p><u>I. The Inability to Pay “Bail” Should Not Foreclose The Right to Trial</u> <i>[sic]</i></p> <p>We appreciate that the Committees have made clear that the imposition of “bail” is not appropriate for traffic infractions except under limited circumstances. We suggest that the Committees further clarify that in no circumstance will a defendant be denied a trial because of an inability to post “bail.” If the Proposed Rule is adopted without the addition of language that makes clear that no defendant will be denied a trial due to an inability to post “bail,” the rule could be misinterpreted to allow courts to continue violating the California and federal constitutions.</p> <p>For example, if a person accused of a traffic infraction fails</p>	

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		<p>to sign a written promise to appear, Proposed Rule 4.105(c)(2) states that courts may require a deposit of “bail.” Yet if that person is unable to pay the “bail,” the proposed rule could be misinterpreted to deny them a trial, which would be a clear constitutional violation. The same comment applies to Proposed Rule 4.105(c)(3). Even if a court finds, “based on the circumstances of a particular case, that the defendant is unlikely to appear as ordered without a deposit of bail and the court expressly states the reasons for the finding,” it would be a serious constitutional violation to deny that defendant a trial if they were unable to post the “bail.”</p> <p>Any interpretation of the Proposed Rule that permits a court to deny a defendant a trial because of an inability to post “bail” violates the 14th Amendment to the U.S. Constitution as well as Article I, § 7 of the California Constitution by depriving people of property without due process of law. A criminal fine is a type of criminal punishment. (<i>Southern Union Co. v. U.S.</i> (2012) 132 S.Ct. 2344, 2350-51; <i>People v. Hanson</i> (2000) 23 Cal.4th 355, 360-363.) Due process prohibits the government from imposing criminal punishment prior to an adjudication of guilt. (<i>Bell v. Wolfish</i> (1979) 441 U.S. 520, 535; <i>Kennedy v. Mendoza-Martinez</i> (1963) 372 U.S. 144, 165-166; <i>Wong Wing v. U.S.</i> (1896) 163 U.S. 228, 237.) Due process generally requires that individuals must receive notice and an opportunity to be heard before the government deprives them of property. (<i>United States v. James Daniel Good Real Property</i> (1993) 510 U.S. 43, 48, 53.)</p> <p>Any interpretation of the Proposed Rule that permits a court to deny a defendant a trial because of an inability to post bail further violates the fundamental right of access to the courts under both the 1st Amendment to the U.S. Constitution and</p>	

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		<p>Article I, § 3 of the California Constitution. (<i>Jersey v. John Muir Medical Center</i> (2002) 97 Cal.App.4th 814, 821; see also <i>O'Connell v. Judnich</i> (1925) 71 Cal.App. 386, 388 [noting those who have the right to acquire property also have the right to appear in person to prosecute or defend all actions for its protection or preservation].) To the extent the trial occurs, but the defendant is not permitted to be present because he has not paid the “bail,” the process violates Article I, § 15 of the California Constitution.<sup>1</sup> (<i>People v. Kriss</i> (1979) 96 Cal.App.3d 913, 919 [holding that “the defendant may be absent when the court adjudicates guilt and sentences in a misdemeanor or infraction proceeding if (1) he is represented by counsel, or (2) he knowingly and intelligently waives his right to be present”].)</p> <p>And because such an interpretation of the Proposed Rule would create two classes of people: those who can pay to access the courts in a traffic infraction case and those who cannot, it violates the right to equal protection under the 14th Amendment of the United States Constitution and Article I, § 7 of the California Constitution. (See <i>Payne v. Superior Court</i> (1976) 17 Cal.3d 908, 922-923.)</p> <p>In sum, although we are pleased that the Judicial Council is taking swift action to address this serious issue throughout the State of California, the current proposed rule is unconstitutional to the extent it could be misinterpreted to permit a court to require “bail” before trial even of someone who was unable to pay it. We respectfully request that the Committees provide clarification in the Proposed Rule that in no circumstance should a defendant be denied the right to trial because of his or her inability to pay “bail.”</p> <p>II. <u>Comments Regarding Proposed Rule 4.105(c)(2).</u></p>	

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		<p>We suggest that the Committees clarify that this exception applies only where a defendant has been presented with an opportunity to sign a written promise to appear, and refuses to do so. Imposing “bail” in a circumstance where a person has not been given actual notice of the opportunity to promise in writing to appear would be a serious constitutional violation.</p> <p>Thank you for your time and attention to this matter.</p> <p><sup>1</sup> “The defendant in a criminal cause has the right . . . to be personally present with counsel . . . .”</p>	
2.	<p>Hon. Mark Borenstein Judge Superior Court of Los Angeles County</p>	<p>Administrative appeals under Govt Code 53069.4 and Veh. Code 40320.</p> <p>As you consider no longer requiring a Defendant to post bail to contest a traffic ticket, please also consider the corollary practice in connection with administrative appeals under the above noted statutes. These administrative appeals may involve simple parking tickets, but can also involve moving violations where a city or agency has re-classified these violations as administrative penalties. They can also include city code violations (building, safety, etc). Penalty assessments and other mandatory fees are not typically added to the bail amount, but absent a fee waiver by the city or the administrative agency, the penalty must be paid in full as a condition of having an administrative hearing which is itself a pre-condition to judicial review. Often, the alleged violator does not understand (or is unaware) that the parking fine or the code enforcement penalty must be paid first and when they realize this, the time to appeal has expired. If you decide to adopt a rule impacting vehicle code violations in the traffic court, please consider a rule that prevents the collection of the parking ticket (or other code violations</p>	

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		that can have penalties in excess of \$2500) as a condition of an administrative hearing and judicial review.	
3.	California Commission on Access to Justice by Hon. Mark A. Juhas, Chair	<p>The California Commission on Access to Justice<sup>1</sup> writes this letter in support of Rule 4.105, <i>Traffic Procedures: Appearance without Deposit of Bail in Infraction Cases</i>, Agenda Item 1 of the June 1 open meeting. The Commission urges the Rules and Projects Committee to recommend Rule 4.105 for Judicial Council action to make clear that individuals do not have to pay for a traffic infraction before being able to appear in court.</p> <p>The Access Commission was established in 1997 to improve access to civil justice for Californians living on low and moderate incomes. With this goal in mind, we commend the Chief Justice’s request for expeditious rulemaking to ensure fair and consistent practices throughout the state regarding hearing requests in traffic matters. Rule 4.105 will improve access to justice by making access to a court hearing available to all, regardless of income. This rule will assist low-income people especially, allowing them the opportunity to present their cases or to request alternatives to paying the full fine.</p> <p>In addition to this immediate action, the Access Commission supports the Judicial Council’s engagement in a systematic evaluation of the manner in which court fees and fines impact access to justice throughout the state’s court system. While fee waivers are available for civil court appearances, there are a variety of other contexts where prohibitive costs mean that justice is not equally accessible to all.</p> <p>We encourage the Council to identify the range of contexts where the ability to pay might present a barrier and to consider, where appropriate, rulemaking and other tools</p>	

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		<p>(e.g., bench cards) that authorize and facilitate alternative approaches, including fee waivers, partial payment plans, and community service in lieu of fines.</p> <p>The Commission is grateful for the opportunity to submit these comments and would be happy to assist the Judicial Council in this critical endeavor.</p> <p><sup>1</sup> The Commission includes appointees from your office as well as from the Attorney General, the President pro Tem of the Senate, the Speaker of the Assembly, the California Judicial Council, California Judges Association, the State Bar of California, Consumer Attorneys of California, California Chamber of Commerce, California Labor Federation, League of Women Voters, the California Council of Churches, the Council of California County Law Librarians, and the Legal Aid Association of California.</p>	
4.	<p>Hon. Karen Riley Commissioner Superior Court of San Diego County Traffic Division</p>	<p>Because many (perhaps most) so called “Traffic Courts” hear many, many infractions <i>other than Vehicle Code infractions</i> (e.g. Municipal Codes, County Codes, Business &amp; Professions Codes, Transit District Codes, Fish &amp; Game Codes, Animal Control Codes, etc., etc.), I suggest that the language of the newly proposed <b>Rule 4.105</b> include reference to <b><u>all infractions</u></b> as opposed to only Vehicle Code infractions.</p> <p>I suggest the following language:</p> <p>(a) <b><u>Application</u></b> <b><u>This rule applies to any infraction violation for which the defendant has received a written notice to appear.</u></b></p> <p>Thank you for your consideration and work in making the proposed changes to insure equal access to justice.</p> <p>(P.S. please note that none of the San Diego Municipal or</p>	

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		<p>Superior Court Traffic &amp; Infraction courts (at least in the last 23 years) have ever, to my knowledge, required (as opposed to allowed) posting of bail in order for a defendant to appear for arraignment or court trial on any infraction case. The only exceptions would be after a defendant has previously failed to appear for trial on the same case, or as required by VC40902 for a trial by declaration. (Of course defendants are allowed to post bail as authorized under VC 40510 and 40519.))</p>	
5.	<p>Chris Ruhl Court Executive Officer Superior Court of Mendocino County</p>	<p>I see no problems with the proposed rule other than those noted below; it is clear, concise and operates within the existing statutory framework. I have also solicited input from our bench and managers and will pass that on by tomorrow if I receive any.</p> <p>A few thoughts:</p> <ol style="list-style-type: none"> <li>1. JCC might want to consider creating a uniform bail waiver form to accompany the new rule.</li> <li>2. Many courts may also have local rules that will need to be revised to be consistent with this new rule. It will not be possible for those rules to be formally revised by the Aug. 15 implementation deadline. It may make sense to note that in the Advisory Committee Comment.</li> <li>3. The Aug. 15 deadline may also create issues if changes are required to the pre-printed language on courtesy notices. We purchase these in bulk and our current supply probably goes through the end of the year. We'd have to throw away a lot of them and scramble to get new ones by Aug. 15. We haven't budgeted for that.</li> </ol>	
6.	<p>Superior Court of Fresno County by Hon. Jonathan B. Conklin Presiding Judge</p>	<p>The Fresno Superior Court is one of the many courts recently contacted by the ACLU requesting that we modify policies related to the collection of traffic court fines and</p>	

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		<p>fees during the pendency of court proceedings. Since that contact, our court has been working diligently to address the concerns set forth by the ACLU.</p> <p>The perception that our court requires all individuals who receive traffic citations to post bail in the full amount of potential fines and fees is one that needs to be corrected. In reality, our court, like most others, provides an option to a litigant to request a reduction or elimination of bail prior to a hearing when financial or other circumstances support such request. We have recently modified language present on our court's website and we continue to examine existing policies and practices to ensure such option is made clear to all traffic court litigants.</p> <p>I request this committee consider all aspects of any potential Rule change, including increased administrative tasks and financial cost to the trial courts. Perhaps more important, this committee should also consider the potential negative impact of any Rule change upon the traffic litigants impacted by such rules.</p> <p>Many traffic litigants ultimately resolve matters without an actual trial, even if they initially request such trial. Typically, those litigants fully intend to resolve matters, however, if given the option, delay such resolution as long as possible. Unfortunately, such delays often result in those same litigants failing to appear or failing to otherwise resolve their traffic citation.</p> <p>If a litigant, after consideration of any request to reduce or eliminate bail, is required to post bail, any subsequent failure to appear or to pay a fine or fee will not otherwise adversely impact the status of their license. A failure to appear or pay will also not result in additional administrative fees and fines based upon such failure.</p>	



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		<p>Since the litigant has already posted bail in the amount of a potential fine, that money is available to the court to resolve the matter and close the case upon a finding of guilt.</p> <p>A Rule change that would eliminate the discretion of a judicial officer to require posting of fees and fines prior to a hearing creates not only significant administrative challenges for a trial court, it may actually work to the detriment of traffic court litigants. I encourage the Rules Committee leave the discretion of a judicial officer to require posting of fees and fines, dependent upon financial ability to do so, unchanged.</p>	
7.	<p>Superior Court of Orange County by Adriaan Ayers Chief Operations Officer</p>	<p>The following comments are submitted on behalf of Orange County Superior Court.</p> <p>The proposed rule, as written, may potentially remove the incentive for a defendant to appear in court while increasing the court's workload and cost in court resources for non-appearances at court trial. If the goal is to provide defendants the opportunity to appear in court without depositing bail, a mechanism to ensure an appearance at the court trial proceeding should be included in the process. Without this mechanism, courts may experience a high rate of failures to appear (FTA) for court trials when bail or a bail waiver is not required. Court resources are expended to set cases for trial and subpoena law enforcement officers. In addition, when a defendant fails to appear, court resources are expended for the hearing process, as well as time expended by law enforcement officers or others subpoenaed for the hearing.</p> <p>4.105(a)- Application of this rule states that it applies to any traffic infraction violation of the Vehicle Code. There are</p>	

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		<p>instances when the citation lists combined violations (i.e., VC code and H&amp;S code on one citation.) For clarity, the rule should be amended to read that it <i>“applies to any traffic infraction citation for violations of the Vehicle Code.”</i></p> <p>4.105(b)- Consider the proposed rule change to include the following:</p> <ul style="list-style-type: none"> <li>· A defendant who requests a court trial must sign an own recognizance (OR) release form and promise to appear on the trial date. The form should include the consequences for failing to appear such as the imposition of a civil assessment, suspension of driver’s license, imposition of a VC40508(a) for failure to appear, etc.</li> <li>· The signature by a defendant on such a form may increase the likelihood of an appearance and provide the court with various courses of action if the defendant fails to appear at trial.</li> <li>· The rule should read “Except as provided in (c), courts must not require a deposit of bail for a defendant to appear for arraignment and trial upon the signing of an own recognizance release form and promise to appear at trial”.</li> <li>· Attached is Orange County’s local bail waiver form as an example. A similar type mandatory or optional Judicial Council form could be created for these OR release purposes.</li> </ul>	
8.	Superior Court of Riverside County by Hon. Harold W. Hopp Presiding Judge	Our judicial officers are concerned that the presumption of the proposed rule is that defendants charged with traffic offenses may enter a not guilty plea and obtain a trial date without posting bail or demonstrating an inability to post bail. Currently, at least in our court, if a defendant is unable to post bail, he or she may request an arraignment before a judicial officer and, at that hearing, request OR release or	

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		<p>reduced bail. We are very concerned that if defendants may routinely obtain a trial date without posting bail, many who could have posted bail will not do so and will request a trial date on the hope that the citing officer will not attend and that the case will be dismissed. The proposed rule will result in far more requests for trial and far more police officers taken away from other duties only to attend court for a trial that never occurs because the defendant either does not attend (again, hoping that the case will be dismissed if the officer does not attend) or does not occur because the officer attends the trial and the defendant changes his or her plea, essentially not contesting the charge.</p> <p>We recommend that the rule be written so that defendants are given the opportunity to either post bail or to be arraigned by a judicial officer, where they may request either OR release or reduced bail. Although this likely would result in more arrangement hearings, it would also permit the court to require bail where the defendant can post it, perhaps in a reduced amount, and would be far less likely than the proposed rule to result in more cases being set for trials that will never occur.</p> <p>To give you the front line perspective, here are some comments on the proposed rule from of our most experienced judicial officers hearing traffic matters:</p> <p>I believe that Proposed Rule of Court 4.105 will result in the following:</p> <ul style="list-style-type: none"> <li>• An increase in the number of trials</li> <li>• An increase in the number of failures to appear on the trial date</li> <li>• An increase in expense for law enforcement agencies as a result of more trials being set and more officers</li> </ul>	

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		<p>subpoenaed for trial</p> <ul style="list-style-type: none"> <li>• A decrease in the fines collected, and an increase in the costs of collecting those fines</li> <li>• An increased need for judicial officers and staffing in the traffic departments.</li> </ul>	
9.	<p>Superior Court of Tulare County by Deanna A. Jasso Director of Court Administration</p>	<p>Tulare County has reviewed the proposed language for Rule 4.105. We do not have any comment for suggested changes as the proposed rule is in line with our court's current practices. As such, implementation of the rule could take place immediately in Tulare County with minor changes to our courtesy notice and website.</p>	
10.	<p>Trial Court Presiding Judges Advisory Committee (TCPJAC) <u>and</u> Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee</p>	<p>On behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC), the TCPJAC/CEAC Joint Rules Subcommittee (JRS) supports the proposal to add rule 4.105 with the following suggested amendments.</p> <p>Specifically, the JRS recommends the following amendments to the proposed new rule:</p> <ul style="list-style-type: none"> <li>• Regarding rule 4.105(a), the JRS recommends that the language be changes to the following, "This rule applies to any traffic infraction violation of the Vehicle Code for which the defendant has received a written notice to appear <u>and has appeared by the appearance date or an approved extension of that date.</u></li> </ul> <p>The members of the JRS understand that the proposed rule is not intended to apply to circumstances when the defendant has failed to appear pursuant to a notice to appear or to an approved extension of the date to appear. The added language clarifies the rule in this regard by explicitly stating that it is applicable only to defendants who appear as required.</p>	

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		<ul style="list-style-type: none"> <li>Regarding rule 4.105(d), the JRS recommends that the last sentence of this subsection be amended to read, “Courts must implement this subdivision as soon as reasonably possible <del>but no later than August 15, 2015.</del>”</li> </ul> <p>The members of the JRS propose this modification to allow the trial courts and law enforcement sufficient time to initiate the changes necessary to implement the new rule.</p>	
11.	<p>Western Center on Law &amp; Poverty; A New Way of Life Reentry Project; Lawyers’ Committee for Civil Rights; East Bay Community Law Center; <u>and</u> Bay Area Legal Aid</p> <p>by Michael Herald and Antionette Dozier Western Center on Law &amp; Poverty</p> <p>Theresa Zhen A New Way of Life Reentry Project</p> <p>Stephen Bingham, Retired Legal Aid Attorney, and Dana Isaac Lawyers’ Committee for Civil Rights</p> <p>Elisa Della-Piana East Bay Community Law Center</p> <p><u>and</u></p> <p>Claire Johnson Raba Bay Area Legal Aid</p>	<p>Thank you for the opportunity to comment on proposed Rule 4.105. The organizations signatory to this letter have been intimately involved in how current traffic court policy affects Californians on the ground, as well as in development of policy solutions to the problem. We are happy that the Judicial Council is taking action to change the current policies that keep people out of court simply because they cannot afford to pay full bail up front.</p> <p>We submitted the comments below in italics following a conference call yesterday with Shelley Curran and Martin Hoshino of your staff. As our comments are only minimally reflected in the written proposed rule issued today, we repeat them here:</p> <ol style="list-style-type: none"> <li><i>The Rule should include all infractions. Though Vehicle Code violations make up a substantial number of infractions for which prepaid bail is required for a court appearance, there are many municipal and county code, transit code, and Penal Code violations that are heard as infractions in traffic court. The same need for equal access applies with all infractions.</i></li> <li><i>The Rule should not include an exception that swallows the rule. The currently proposed 3(c) would allow the current, unequal practices to continue, because the draft</i></li> </ol>	

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		<p><i>rule affords judges complete discretion in requiring advance bail, so long as they state a reason. Without narrow standards about when people can be charged in advance for a court appearance, it is unlikely that county courts will make the needed changes to allow court access for poor and middle class people. Further suggestions about a redraft for this subsection:</i></p> <ul style="list-style-type: none"> <li>• <i>To correspond with existing law about failure to pay and failure to appear (see, e.g., Vehicle Code section 40508(a) and (b)), a bail requirement should only be imposed if there is a finding of willfulness.</i></li> <li>• <i>The Rule should distinguish failures to appear and failures to pay, and allow people with failures to pay to appear in court to contest willfulness of the failure to pay, get installment plans, sign up for community service, or get a reduction in fines/fees based on changed financial circumstance. Even if, under subsection 3(c), people are not allowed to contest the underlying charges without bail, providing more options for payment will allow the court to collect more funds and reduce the number of people who have suspended driver's licenses because they cannot afford to pay.</i></li> <li>• <i>The current exception under 3(c) may be impractical to implement. Our experience representing low-income clients in traffic court leads us to believe that people are typically convicted of a failure to appear without a hearing. It is unclear at which point, if at any point, a judge or commissioner reviews each failure to appear conviction. As such, it is also unclear at which point FTA convictions (which, in cities like Los Angeles,</i></li> </ul>	

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		<p><i>are entered at the rate of many thousands per week) could addressed “on the record” without creating numerous new court hearings. Removing the bail requirement across the board would likely be less costly to implement.</i></p> <p>3. <i>The Rule should include a way to petition the court to waive bail if imposed under an exception to the Rule. What appears on one day to be willful failure to appear could be justified by good cause, such as medical emergencies, lack of notice (particularly for homeless defendants), or good faith attempts to come to court that were stymied (i.e., wrong courthouse).</i></p> <p>4. <i>The Judicial Council should, in its advisory comments, make clear that the “written promise to appear” in subsection 3(b) is satisfied by the signature on a citation that meets the Judicial Council approved form.</i></p> <p>5. <i>In implementing this rule, the Judicial Council should adopt standardized forms. For example, the form should allow good cause waiver of civil assessment as required by Penal Code 1214.1. Current forms often limit good cause to three or four enumerated reasons, in conflict with the broad good cause language in section 1214.1. Implementation should also include some internal monitoring and a court certification program to ensure compliance.</i></p> <p>Upon further review of the written proposed rule, we would like to add the following additional comments:</p> <p>1. The mandatory language of c (1) doesn’t make sense since the defendant has chosen to post bail. We suggest this language instead: “This rule does not pertain to a</p>	

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		<p>defendant who elects a statutory procedure that requires the deposit of bail.” The proposed Advisory Committee comment supports such language.</p> <p>2. The language of section c (2) assumes failure to sign promise to appear was willful. Many people never receive the notice to appear so obviously can’t sign it. We suggest instead this language: “Courts may only require the deposit of bail when it is established that (a) the defendant received the notice to appear and (b) the defendant refused to sign a written promise to appear as required by the court.”</p> <p>3. The Advisory Committee language regarding c (3) should be included in section c(3) itself, slightly modified: “In exercising discretion to require deposit of bail on a particular case, courts must consider the totality of the circumstances, including, among other factors, whether previous failures to pay or appear were willful or involved lack of adequate notice.”</p> <p>We have also reviewed and join in the comments to Proposed Rule 4.105 submitted by the ACLU, with its several constitutional objections. Our comments above are designed to slightly improve a flawed proposed rule but should not be interpreted as indicating our agreement that the proposed rule adequately addresses these constitutional objections.</p> <p>Thank you for considering our views on this very important rule change.</p>	



<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central - 700 Civic Center Dr. West, Santa Ana, CA 92701 <input type="checkbox"/> Harbor-Newport Beach - 4601 Jamboree Rd., Newport Beach, CA 92660 <input type="checkbox"/> North - 1275 N. Berkeley Ave., P. O. Box 5000, Fullerton, CA 92838-0500 <input type="checkbox"/> West - 8141 13th Street, Westminster, CA 92683	FOR COURT USE ONLY
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> <b>vs.</b>  DEFENDANT:	
<b>REQUEST FOR BAIL WAIVER AND TO SET ARRAIGNMENT AND COURT TRIAL</b>	CITATION NUMBER:  CASE NUMBER:

**Notice of Rights:**

- You have the right to request that a trial be scheduled for a date that is at least 5 days after your arraignment.
- You have the right to a speedy trial, within 45 days of submitting your request for a trial.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.
- You have the right to present evidence and to have the Court issue subpoenas to bring witnesses into court at no cost to you.
- You have the right to testify on your own behalf, but you cannot be compelled to be a witness against yourself, and you may remain silent if you choose.
- You have the right to be represented by an attorney at your own expense.

**Request to Waive Bail as Required by Vehicle Code Section 40519:**

\_\_\_\_\_ is the defendant in the above named case. Defendant hereby requests that the Court set an Arraignment and Court Trial on this case without the deposit of bail as required by Vehicle Code section 40519. The defendant is presently financially unable to post the required bail.

**IT IS UNDERSTOOD THAT BY THE SIGNATURE HEREINBELOW OF DEFENDANT OR DEFENSE COUNSEL, DEFENDANT AGREES TO BE BOUND BY THE FOLLOWING:**

The defendant will be assigned a trial date on approval of this waiver and must appear at Trial on the date indicated below. Defendant will be afforded all of the rights listed above at Trial. Counsel for defendant, by execution of this document, represents that Counsel has Defendant's authority to enter into this commitment on Defendant's behalf and to bind Defendant thereto.

Failure to appear at Trial may result in a WARRANT for Defendant's arrest and additional costs and legal actions that may include but are not limited to: a \$300.00 civil assessment added to the original bail pursuant to Penal Code section 1214.1 and suspension of Defendant's driver's license. Defendant may also be subject to wage garnishments, bank levies, and referral to the Franchise Tax Board for interception and collection of income tax refund.

- I declare under penalty of perjury, under the laws of the State of California, that I am the Defendant in the above entitled action and declare that the foregoing is true and correct.
- I declare under penalty of perjury, under the laws of the State of California, that I am Counsel for the Defendant in this matter and that I have the authority of Defendant to execute this document on Defendant's behalf and bind Defendant to the commitments made herein.

Date: \_\_\_\_\_

Declarant's Signature

\_\_\_\_\_

Declarant's Street Address/City/State/ZIP

\_\_\_\_\_

Declarant's Phone Number

**TO BE COMPLETED BY CLERK**

Date: \_\_\_\_\_ Approved by: \_\_\_\_\_

Deputy Clerk

Hearing Set for: Arraignment and Court Trial on \_\_\_\_\_ at \_\_\_\_\_ in Department \_\_\_\_\_

Type of hearing Date Time