

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 1096 (Limón)
Version: February 16, 2022
Hearing Date: March 29, 2022
Fiscal: Yes
Urgency: No
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SUBJECT

Online tool: traffic violator school

DIGEST

This bill requires the online tool developed by the Judicial Council for adjudicating infraction violations, including ability-to-pay determinations, to include an option for a defendant to determine traffic violator school eligibility. The bill also specifies that the court is not precluded from ordering or permitting a defendant to participate in traffic violator school if the defendant elects to use the online tool.

EXECUTIVE SUMMARY

Courts are authorized to order or permit certain persons to attend a licensed traffic violator school in connection with specified traffic offenses. After successful completion of such a program, a conviction for certain offenses can be made confidential and a motorist can avoid receiving a point on their driving record which in turn avoids increases in car insurance premiums.

Existing law requires Judicial Council to develop an online tool for adjudicating infraction violations, including ability-to-pay determinations, and make it available statewide by June 30, 2024.

Concerns have arisen that drivers are unable to take advantage of the online tool, including for ability-to-pay determinations, and also enroll in traffic violator school. In order to avoid forcing drivers to choose between these programs, this bill requires the online tool to include the ability to determine a defendant's eligibility for traffic violator school. The bill also specifies that the court is not precluded from ordering or permitting a defendant to participate in traffic violator school if the defendant elects to use the online tool. This bill is author-sponsored. There is no known support or opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that a judgment that a person convicted of a Vehicle Code infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. Upon request of a defendant, a court shall consider the defendant's ability to pay in connection with its adjudication of a Vehicle Code violation. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. (Veh. Code § 42003.)
- 2) Defines the term "ability to pay" to mean the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and includes, but is not limited to, all of the following regarding the defendant:
 - a) present financial position;
 - b) reasonably discernible future financial position, as specified;
 - c) likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing; and
 - d) any other factors that may bear upon the defendant's financial capability to reimburse the county for the costs. (Veh. Code § 42003(d).)
- 3) Authorizes a court to order or permit certain persons to attend a licensed traffic violator school in connection with specified traffic offenses. (Veh. Code § 42005.)
- 4) Defines a "traffic violator school" as a business that, for compensation, provides, or offers to provide, instruction in traffic safety, including, but not limited to, classroom traffic violator curricula, for persons referred by a court pursuant to Section 42005 or to other persons who elect to attend. (Veh. Code § 626.)
- 5) Authorizes courts to enter into installment plans with defendants in connection with payment of requisite fees for traffic violator school. (Veh. Code § 42007.)
- 6) Requires the Judicial Council to develop an online tool ("online tool") for adjudicating infraction violations, including ability-to-pay determinations. The Judicial Council shall implement the tool on a phased schedule and shall make it available statewide on or before June 30, 2024.
- 7) Provides that a defendant, a designee of the defendant, or the defendant's attorney, may, upon certification, access the online tool. However, a defendant cannot be compelled to use the online tool. (Gov't Code § 68645.)

- 8) Requires every court, by June 30, 2024, to offer online ability-to-pay determinations using the online tool developed by the Judicial Council. (Gov't Code § 68645.2.)

This bill:

- 1) Requires the online tool to include the ability to determine a defendant's eligibility for traffic violator school, as defined in Section 626 of the Vehicle Code.
- 2) Provides that if a defendant elects to use the online tool, the court is not precluded from ordering or permitting a defendant to participate in traffic violator school pursuant to Section 42005 of the Vehicle Code.

COMMENTS

1. Online adjudication of Vehicle Code infractions

SB 847 (Senate Budget Committee, Ch. 45, Stats. 2018) created a pilot program to increase access to the courts and to facilitate the reduction, waiver, or suspension of bail, base fines, fees, penalties, and assessments, as part of ability-to-pay-determinations. The bill required Judicial Council to sponsor the program and to facilitate the online adjudication of Vehicle Code infractions. Judicial Council created the "MyCitations" tool to meet this obligation and partnered with seven Superior Courts in California. According to their website:

The "MyCitations" tool allows people to look up their citation, answer a series of simple questions and submit a request to the court for a possible reduction in the amount owed. Users can also request a payment plan, more time to pay or community service. An important alternative to appearing in person, this new option saves both the public and the courts significant time and resources.¹

Recently, AB 143 (Budget Committee, Ch. 79, Stats. 2021) extended the program and required Judicial Council make an online tool for adjudicating infraction violations, including ability-to-pay determinations available statewide by June 30, 2024. It also provided broad authorization for the courts to allow defendants to agree to forfeit bail, plead guilty or *nolo contendere*, request an ability-to-pay determination, or otherwise adjudicate matters through the use of technology for all infraction violations for which a personal appearance is not required. This paves the way for the MyCitations tool to be made available to each superior court in the state.

¹ *MyCitations: Online Ability to Pay Determinations for Infractions*, California Courts, available at <https://www.courts.ca.gov/abilitytopay.htm> [as of March 7, 2022].

2. Traffic school and MyCitations

Traffic violator school is typically offered to a motorist who receives a ticket for a moving violation that is considered an infraction, such as a motorist receiving a speeding ticket. Upon receiving a moving violation ticket, a motorist has the opportunity to attend traffic violator school if they have not received another ticket within 18 months. Completing traffic violator school allows a motorist to avoid receiving a point on their driving record which in turn avoids increases in car insurance premiums.

Courts have the ability to reduce fines for those who cannot afford them or offer installment payments for moving violations, generally through ability-to-pay determinations. If the driver proves financial hardship then they may enroll in an installment program or receive other relief. These can often be the only options to enable an individual to pay back a moving violation ticket. Any attendant fees and penalties must generally be paid in order for a motorist to be provided with the option to enroll and complete traffic violator school.

Concerns have arisen that those faced with financial hardship who have committed eligible traffic infractions are unable to utilize the MyCitations tool, and its easily accessible ability-to-pay determinations, and also participate in traffic violator school. In fact, the MyCitations homepage advises users that they should not use the tool if they “would like to attend traffic school.”²

According to the author:

SB 1096 ensures that a person who is eligible for traffic school will be able to enroll in traffic school regardless of whether or not they are on a payment plan for their citations. Payment plans have helped many low income Californians escape an endless cycle of late fees from a single violation. In some Counties, receiving a payment plan online can disqualify a person from traffic school, even if they are otherwise eligible. People should not have to make a choice between citations that they cannot afford or increased insurance rates.

This bill attempts to facilitate the harmonization of these two tools by requiring the online tool to include the ability to determine a defendant’s eligibility for traffic violator school. Given that the law regarding ability-to-pay determinations, and specifically the online adjudication of those determinations, seeks to serve policy goals that overlap with the law governing traffic violator school, it is arguably counterproductive to make the two programs mutually exclusive. However, concerns have been raised that while

² *Request a Fine Reduction*, California Courts, available at <https://mycitations.courts.ca.gov/home> [as of March 7, 2022].

there should not be an either/or choice, the tool is not necessarily appropriate for *determining* a driver's eligibility for traffic violator school. To respond to this concern, the author has agreed to remove the provision providing: "The online tool developed pursuant to this article shall include the ability to determine a defendant's eligibility for traffic violator school, as defined in Section 626 of the Vehicle Code." Instead, language will be included that ensures a request for an ability to pay determination will not be considered in connection with determining eligibility for traffic violator school as follows:

Amendment:

Replace subdivision (a) with: "(a) A defendant's request for an ability to pay determination will not impact eligibility to attend traffic violators school."

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Prior legislation:

SB 847 (Senate Budget Committee, Ch. 45, Stats. 2018) *See* Comment 1.

AB 143 (Budget Committee, Ch. 79, Stats. 2021) *See* Comment 1.

AB 1134 (Limon, 2019) would have required courts to permit a defendant who is ordered or permitted to attend traffic violator school, and who demonstrates to the court an inability to pay the total required fee immediately, to pay the fee in installments. It would have made the defendant eligible to attend traffic violator school upon payment of the first installment. This bill died in the Assembly Appropriations Committee.

AB 1310 (Reyes, 2019) would have extended the payment plan to pay off a traffic fine when permitted to attend a traffic violator school and deleted or waived other court-related fees associated with traffic school. This bill died in the Senate Appropriations Committee.
