

# Judicial Council of California

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.:* 24-140 For business meeting on September 20, 2024

#### Title

Traffic: Ability-to-Pay Request Form and Court Order

**Rules, Forms, Standards, or Statutes Affected** Revise forms TR-320/CR-320 and TR-321/CR-321

#### **Recommended by**

Traffic Advisory Committee Hon. Maria Lucy Armendariz, Chair Agenda Item Type Action Required

**Effective Date** January 1, 2025

**Date of Report** August 22, 2024

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### **Executive Summary**

The Traffic Advisory Committee recommends revising two ability-to-pay forms to incorporate options currently offered through the court's online ability-to-pay tool, MyCitations. Multiple stakeholders have requested the same options as MyCitations. Specifically, stakeholders have requested the ability to offer a plea on the form, instead of requiring litigants to go to court.

### Recommendation

The Traffic Advisory Committee recommends the Judicial Council, effective January 1, 2025:

- 1. Revise *Can't Afford to Pay Fine: Traffic and Other Infractions* (form TR-320/CR-320) to expand the types of public benefits listed and to provide an option for a litigant to enter a plea of guilty or no contest; and
- 2. Revise *Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)* (form TR-321/CR-321) by adding a plea section where the court can indicate whether the litigant's plea is accepted, rejected, or otherwise moot because of a previous adjudication.

The proposed revised forms are attached at pages 6–11.

### **Relevant Previous Council Action**

Effective April 1, 2018, the Judicial Council adopted two optional Judicial Council forms—an ability-to-pay application form (TR-320/CR-320) and a judicial order form (TR-321/CR-321)—to assist in implementing California Rules of Court, rule 4.335 on ability-to-pay determinations in traffic and other infraction cases.

### Analysis/Rationale

The Traffic Advisory Committee recommends revisions to forms TR-320/CR-320 and TR-321/CR-321 to be consistent with the online ability-to-pay tool, MyCitations.

### Forms TR-320/CR-320 and TR-321/CR-321

In 2015, the Judicial Council took steps to improve access and fairness in criminal and traffic infraction cases by adopting rule 4.105 of the California Rules of Court, which stated that defendants are not required to post bail before challenging Vehicle Code infractions unless an exception applies. When adopting rule 4.105, the council directed advisory committees to consider changes to rules or forms and to make other recommendations necessary to promote access to justice in all infraction cases, including recommendations related to postconviction proceedings or a defendant's failure to appear or to pay fines or fees. In response to this directive, the Traffic Advisory Committee and the Criminal Law Advisory Committee—in consultation with the Advisory Committee on Providing Access and Fairness—developed and recommended new procedural rules for traffic and other criminal infraction cases.<sup>1</sup> In 2016, the council adopted rule 4.106, which standardized court procedures when a defendant failed to appear or pay, and rule 4.335, which standardized court procedures related to ability-to-pay determinations. Those rules became effective January 1, 2017.

In January 2018, the Traffic Advisory Committee, the Criminal Law Advisory Committee, and the Advisory Committee on Providing Access and Fairness proposed two optional, plainlanguage Judicial Council forms—an application form and a judicial order form—to assist in implementing rule 4.335 on ability-to-pay determinations in traffic and other infraction cases. The forms, TR-320/CR-320 and TR-321/CR-321, were adopted with an effective date of April 1, 2018. The committees intentionally designed the forms using plain language and with a more user-friendly format.

### **MyCitations**

In 2016, with funding from the U.S. Department of Justice's Price of Justice Initiative, the Judicial Council began to study the impact of high fines and fees on low-income court users and to explore options to minimize these impacts. The Judicial Council partnered with five superior courts to design an online process for submitting and adjudicating ability-to-pay determinations.

<sup>&</sup>lt;sup>1</sup> See Judicial Council of Cal., Advisory Com. Rep., *Traffic and Criminal Procedure: Infraction Procedures Regarding Bail, Fines, Fees, and Assessments; Mandatory Courtesy Notices; and Ability-to-Pay Determinations* (Dec. 1, 2016), *https://jcc.legistar.com/View.ashx?M=F&ID=4817182&GUID=D0F79B3B-0A7E-40FC-9F2A-C79D7B4F9024*.

The resulting prototype provided users with the ability to search for their citation and make requests online for reductions for infraction fines and fees based on their ability to pay. The tool, named MyCitations, was initially implemented as a pilot program in 2018.<sup>2</sup> MyCitations (*mycitations.courts.ca.gov/home*) is mandated to be made available by all California superior courts no later than June 30, 2024.<sup>3</sup>

MyCitations provides an online option for people who are struggling with court debt and who have eligible infraction violations that do not require a personal appearance in court. The tool allows a litigant to look up their citation, answer several financial questions (including whether they receive public benefits), and submit a request to the court for a reduction in the amount owed. A user can also request a payment plan, additional time to pay, or community service. The tool also accepts guilty or no-contest pleas.

Unlike MyCitations, the existing forms—adopted a year before the first court went live with MyCitations—do not offer a plea option even though ability-to-pay determinations are generally available only for adjudicated cases.<sup>4</sup> Nor do the forms contain the same financial information options that will be available on MyCitations. Although these forms are helpful for litigants, multiple stakeholders have requested that the forms provide the same options as MyCitations. Most importantly, stakeholders have requested the ability to offer a plea on the form, instead of requiring litigants to go to court. There have also been requests to ensure the types of public benefits that a litigant may select on the form mirror those listed in MyCitations.

The following revisions are recommended by the committee for form TR-320/CR-320:

- In the "Using this form" section on page 1, remove "Use this form **after** the court has decided that you owe the fine" from the second bullet point. This information is no longer applicable because the form will now provide an option for litigants to enter a plea of guilty or no contest.
- In the "Types of fines" section on page 1, clarify the form should not be used for misdemeanors or proof of correction citations to be consistent with advisements in MyCitations.
- In the "Important!" section on page 1, add a second bullet: "This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school."<sup>5</sup>

<sup>&</sup>lt;sup>2</sup> The Budget Act of 2018 (Sen. Bill 847; Stats. 2018, ch. 29) allocated funding to the Judicial Council to implement a pilot program for MyCitations. The pilot program involved eight courts.

<sup>&</sup>lt;sup>3</sup> Gov. Code, § 68645.2(a) (Assem. Bill 143 (Stats. 2021, ch. 79)).

<sup>&</sup>lt;sup>4</sup> Veh. Code, § 42003(b).

 $<sup>^{5}</sup>$  Note that this form should not be used by litigants who wish both to attend traffic school and to have an ability-topay determination. Vehicle Code section 42007(a)(2) requires that installment payments for traffic violator school be completed within 90 days, a time period that is generally shorter than ability-to-pay payment plans.

- In item 2 ("What type of income do you have?"), add the options "WIC" and "Unemployment." These options are planned to appear in MyCitations in summer/fall of 2024.
- In item 5 on page 3, remove the option "Cancel or lower late charges that I have for missing a hearing or failing to pay my fine on time." This option is not applicable because the civil assessment (if any) will be part of the total amount to be reduced.<sup>6</sup>
- Replace item 7, "Driver's license 'hold' or suspension," with new item 7, "Plea selection." Driver's license restrictions due to failure to appear or pay have changed since this form was adopted.<sup>7</sup>
- Make minor technical changes.

The following revisions are recommended for form TR-321/CR-321:

- Add a plea acceptance section on page 1 to account for the revised form TR-320/CR-320 allowing for pleas.
- Reverse the order of the "Request denied" section and the "Need more information" section, for clarity.
- Remove the "extra late charges" check box options from the "Request granted" section, because the civil assessment (if any) will be part of the total amount to be reduced.
- Make minor technical changes.

### **Policy implications**

This proposal furthers the council's policy of ensuring access to justice for all litigants by conforming the forms to MyCitations. Litigants will also be able to avoid unnecessary court appearances.

### Comments

The proposal circulated for public comment between April 2 and May 3, 2024. The proposal received six comments. Five commenters agreed with the proposal, and one agreed with the proposal if modified.

Two commenters recommended form TR-320/CR-320 contain additional advisements that appear in MyCitations. The Superior Court of Stanislaus County noted that, to be consistent with MyCitations, the form should contain two additional advisements explaining the form is not to be used for misdemeanors or to request a dismissal or reduction based on proof of correction. The Superior Court of Orange County commented that the form should inform litigants that the

<sup>&</sup>lt;sup>6</sup> When the forms were initially adopted, it was unclear whether civil assessments could be included under ability-topay requests. However, Government Code section 68645.2 now clarifies that civil assessments are included in the total amount due. A litigant does not need to separately request the civil assessment be considered. Note that this is not the appropriate form if a litigant is requesting that the civil assessment be eliminated based on good cause.

<sup>&</sup>lt;sup>7</sup> See Assembly Bill 2746 (Stats. 2022, ch. 800), repealing Vehicle Code sections 40509 and 40509.5.

form cannot be used to submit proof of correction. The committee agreed with these suggestions and recommends these additional changes.

An individual commented on the proposal requesting expanded community services options as part of the proposal. The committee determined this suggestion is outside the scope of the current proposal.

A chart of comments and committee responses is attached at pages 12–14.

### Alternatives considered

Based on a significant number of stakeholder requests and legislative changes, the committee did not consider taking no action. There were no significant alternatives considered.

### **Fiscal and Operational Impacts**

Expected costs are limited to possible case management system updates and the production of new forms.

### Attachments and Links

- 1. Forms TR-320/CR-320 and TR-321/CR-321, at pages 6-11
- 2. Chart of comments, at pages 12–14
- 3. Link A: Veh. Code, § 42003, *leginfo.legislature.ca.gov/faces/codes\_displaySection.xhtml?sectionNum=42003.&lawCode* =VEH
- Link B: Veh. Code, § 42007, leginfo.legislature.ca.gov/faces/codes\_displaySection.xhtml?sectionNum=42007.&lawCode =VEH
- 5. Link C: Gov. Code, § 68645.2, *leginfo.legislature.ca.gov/faces/codes\_displaySection.xhtml?sectionNum=68645.2.&lawCod e=GOV*

## R-320/CR-320

### Can't Afford to Pay Fine: Traffic and Other Infractions

### Using this form

- If you can't afford to pay your fine, fill out this form to ask for a lower fine, a payment plan, more time to pay, and/or community service.
- You may use this form even if your fine has been sent to collections. If you have more than one fine, use one form for each fine.
- Mail or take this form to the court listed on your ticket. If you want to file the form electronically, ask the court if it allows "e-filing."
- If you lost your ticket or have questions, contact your court at www.courts.ca.gov/find-my-court.htm.

### Types of fines

- Use this form for traffic fines (like speeding) or other infractions (like fishing without a license or drinking in public), not for misdemeanors.
- This form is not for parking tickets. Read your parking ticket to find out what you can do.
- Do not use this form for a dismissal or reduction of charges for tickets requiring proof of correction.

### Important!

- Do not use this form to tell the court that you didn't do anything wrong. See the instructions on your ticket and visit www.courts.ca.gov/selfhelp.htm for more information on fighting it.
- This form cannot be used to sign up for traffic school. Please contact your court if you wish to request a reduction and traffic school.

### Your information

Street or mailing address:			
Street	City	State	Zip
Telephone:	OK to text you at this number?*	🗌 No	Yes
Email (optional):	OK to email you at this email?*	🗌 <mark>No</mark>	Yes

\* Some courts don't use text messages or email to contact court clients. Message and data rates would apply.

Superior Court of California, County of

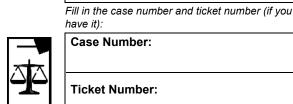
Fill in court name and street address:

CONFIDENTIAL

Clerk stamps date here when form is filed.



**Ticket Number:** 





<b>2</b> V	/hat type of income do you have?					
	] I do not get money from any source. (Skip to $(3)$ )					
	$\Box$ I get public benefits. (Check <b>all</b> that apply, then skip to (3))					
	CalFresh (food stamps)	Medi-Cal				
	General Assistance / county relief	SSI: Supplemental Security Income				
	SSP: State Supplementary Payment	IHSS: In-Home Supportive Services				
	CalWORKs: California Work Opportunity and	TANF: Temporary Assistance for Needy Families				
	Responsibility to Kids Act	WIC: California Special Supplemental Nutrition				
	CAPI: Cash Assistance Program for Immigrants					
	<ul> <li>Unemployment compensation</li> <li>None of the above</li> </ul>	Other				
_						
	I do <b>not</b> get public benefits, but I get money from o					
a.	How much money do you earn (take-home pay) or g family from a spouse or live-in romantic partner)?	get from other sources (including income received in your				
	$\underline{\qquad}$ every: (Check one) $\Box$ Year	$\Box$ 2 weeks $\Box$ Twice a month				
	U Week	Month Season				
	Other:					
b.	This money supports me and other peop	ple.				
c.	If I pay the fine, I would: (Check all that apply, if an	ny)				
	□ Not have enough money to pay my rent/mortgag	e. I pay \$ for rent/mortgage every				
	(Check one): $\Box$ Month $\Box$ Week $\Box$ Other	r:				
		ving expenses. <i>Basic living expenses are things like: food,</i> , medication, insurance (medical, car, house, and rental),				
	□ Not have enough money to pay my debt for othe	r court cases.				
	Have other problems ( <i>please explain</i> ):					
<u> </u>						
	o you have anything that shows your put					
$T_{i}$	hings like an EBT card, paystubs, tax returns, rent or	mortgage checks, or utility bills. $\frac{1}{5} = \frac{1}{5}$				
a.	Yes, I have attached <b>copies</b> to this form.					
		<i>ur own records. Any copies you attach can be destroyed after</i> <i>out any social security numbers, or other private information,</i>				
b.						

Can't Afford to Pay Fine: Traffic and Other Infractions

What has changed in your family's life since then? ( <i>Check all that apply, if any.</i> )					
Lost job or reduced hours at work. Started to receive multic homefits					
<ul> <li>Started to receive public benefits.</li> <li>Suffered a serious illness or disability.</li> </ul>					
				□ Other:	
<ul> <li>What are you asking the court to do? (Ch</li> <li>□ Lower the amount I owe on the fine. </li> </ul>					
Payment plan: I want to pay:       \$<     every month on the day of the month,	<ul> <li>Not all courts offer all of these choices.</li> </ul>				
until this fine is paid off.	• Contact the court listed on your ticket to find out about your choices.				
$\Box$ More time to pay. Please change my					

### 6 Other information:

List other facts (if any) about why you can't pay the fine or about your choices in (5). (You can add extra pages or attach other documents that help you explain.)

Plea selection (In order to submit your request using this form, if your case is unadjudicated, you need to admit responsibility for the ticket by entering a plea of guilty or no contest. If you do not want to admit responsibility or you do not understand your rights, do not use this form. Instead, contact your court to set up a court appearance.) By entering a plea you will be giving up the following rights:

- To be represented by an attorney employed by you;
- To have a speedy and public trial in front of a judge;
- To testify, to present evidence, and to use court orders without cost to compel the attendance of witnesses and the production of evidence on your behalf;
- To have the witnesses against you testify under oath in court, and to question such witnesses; and
- To remain silent and not testify and not incriminate yourself.

Make a choice between pleading guilty or no contest. A no contest plea is a way of saying, "I don't believe I did all that the officer charges, but I admit violating the law."

Note: Once you admit responsibility, you will have a conviction for this traffic offense that will be reported to the Department of Motor Vehicles (DMV).

Your plea (check one):

■ **No contest plea.** I am the defendant in the case. I have read, understand, and waive the rights above; there are facts to support my plea; I am entering my plea freely and voluntarily, and I agree to plead "no contest." I understand that, for purposes of this case, a plea of no contest will be considered the same as a plea of guilty and that if I plead no contest the court will find me guilty.

**Guilty plea.** I am the defendant in the case. I have read, understand, and waive the rights above; there are facts to support my plea; I am entering my plea freely and voluntarily; and I agree to plead guilty.

## 8) Read and sign below

**I promise that the information above is correct.** *I declare under penalty of perjury, under the laws of the State of California, that all information on or attached to this form is true.* 

Sign vour name

Date:

Type or print your name

TR-321/C	Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)	Clerk stamps date here when form is filed.
	<b>:</b> You said that you don't have enough money to pay what elow for the court's decision.	06/28/2024 DRAFT Not approved by the Judicial Council
1 Plea sel	ection	
The c	ourt accepts your plea of guilty or no contest for each offense ed.	Superior Court of California, County of
The c	ourt rejects your plea of guilty or no contest for each offense ed.	
	case was previously adjudicated (there was previously a bail ture or a finding of guilty or no contest).	
Ioriei	ture of a finding of guilty of no contest).	Case Number:
		Ticket Number:
<mark>2</mark> 🗆 Requ	uest granted: The court decided that you don't have enough	money to pay what you owe.
\$	The amount you owe is lowered to \$ Pay the new amount of \$	
	by (date):	
	☐ You will pay what you owe in monthly payments.	
	Pay \$ on the	day of every month for
	months.	
	Your <b>first</b> payment will be on <i>(date)</i> :	
	Your <b>last</b> payment will be on <i>(date)</i> :	·
×	☐ You can have more time to pay what you owe. Pay \$	on (date):
	☐ You will do community service instead of paying what you	ı owe.
	You must do hours of community service by <i>(date)</i> :	
	Contact our court to learn how to set up community service.	1

This is a Court Order.

## Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)

Case Number:

-	Need more information: The cou	It has more questio			
-	Please contact your court to set up a	5	cial officer.		
	Clerk's phone number:				
-	Clerk's address:				
-	Please come to court at <i>(time)</i> :	on (date):	Go to I	Department:	
	Bring these things with you:				$\hat{\Lambda}$
	(1)				
	(2)(3)				_ Don't mi the court d
	(3)				
	Request denied: The court decide	d that you have to p	bay the full cost of	what you owe.	
	The court decided that:				
	$\Box$ You have enough money to pay where $\Box$	nat you owe.			
	☐ You made a request before, but you	u did not show that	your situation has	changed since you	r last request.
	Pay the full cost of what you owe (\$		ate):	<u> </u> .	
	See the court's website for payment in	formation.			
e:					
		-	Judg	ge (or Judicial Offi	cer)
CI	lerk's certificate of service				
I a	am a clerk of the Superior Court of		County. I certify	that I am not a pa	rty to this action
I se	served a copy of this order to: <i>Name of per</i>	son served		in the follow	ing manner:
	Service by mail: I placed a filed cop	by of this order in a	sealed envelope ad	dressed to the foll	owing address
	Street or mailing address:		City	State	Zip
	Sireei		Cuy	Siule	Ζιp
	The envelope was mailed by U.S. mail				
	The envelope was mailed by U.S. mail Place:				
	· ·	, Cal	ifornia, on (date):		
	Place:	, Cal	lifornia, on <i>(date):</i> order:		
	Place:	, Cal	lifornia, on <i>(date):</i> order:		
Da	Place:	, Cal sent a copy of this o to	lifornia, on <i>(date):</i> order:	on Date	
Da	Place: $\Box$ Electronic service: I electronically so from Electronic service address	, Cal sent a copy of this o to	lifornia, on <i>(date):</i> order: rvice address	on Date	
	Place: $\Box$ Electronic service: I electronically s from Electronic service address ate:	, Cal sent a copy of this o to Clerk, by:	lifornia, on <i>(date):</i> order: rvice address	on Date	

### SPR24-35

### Traffic: Ability-to-Pay Request Form and Court Order (Revise forms TR-320/CR-320 and TR-321/CR-321)

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

	Commenter	Position	Comment	Committee Response
1.	David L. Condrey San Diego	Α	To Whom It May Concern, I am writing to express my support for the proposed changes to forms TR-320/CR-320 and TR-321/CR-321, specifically regarding the alignment of these forms with the MyCitations tool and the integration of a plea option directly on the form. This adjustment will significantly enhance access to justice, particularly for low-income individuals who may face significant barriers when required to appear in court for traffic and other minor infractions.	The committee appreciates this feedback.
			Moreover, I would like to advocate for an expansion of community service options as an alternative to fines. Current procedures that narrowly interpret or limit the ability to pay with community service disproportionately affect low-income litigants, exacerbating socioeconomic disparities. By mandating that all courts offer a standardized method for converting fines to community service hours, we can ensure a fairer, more inclusive judicial process. This approach not only assists those unable to pay fines but also enriches our communities through the service performed. It is crucial that we recognize and rectify any unintended biases in our judicial system, and providing diverse, accessible payment alternatives, including community service, is a critical step in this direction.	This suggestion is outside the scope of the current proposal, but the committee may consider changes to community service recommendations and calculations in the future.
			I urge the committees to consider these perspectives thoroughly and to continue striving towards a justice system that equitably serves all Californians, regardless of economic status. Thank you for considering my views on this important matter. Respectfully, David L Condrey	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

## SPR24-35

### Traffic: Ability-to-Pay Request Form and Court Order (Revise forms TR-320/CR-320 and TR-321/CR-321)

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

	Commenter	Position	Comment	Committee Response
2.	Orange County Bar Association by Christina Zabat-Fran, President	A	Appropriately modifies optional court form TR-320/CR-320, <i>Can't Afford to Pay Fine: Traffic and Other Infractions</i> , and to form TR-321/CR-321, <i>Can't Afford to Pay Fine: Traffic and Other Infractions</i> (Court Order) to allow plea of guilty or no contest plea on form without requiring litigant to appear in court. Further, conforms forms with the options currently offered through the court's online ability-to-pay tool, <i>MyCitations</i> . The proposal appropriately addresses the stated purpose.	The committee appreciates this feedback.
3.	Superior Court of Orange County by Elizabeth Flores, Operations Analyst	A	<ul> <li>Position on Proposal: In addition to the proposal, the form should also inform defendants that the form cannot be used to submit proof of correction.</li> <li>Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.</li> <li>Would the proposal provide cost savings? If so, please quantify. Yes, this may reduce the number of hearings necessary if the defendant is able to enter their plea on the form.</li> <li>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</li> <li>New docket codes as well as a procedure will need to be created to support pleas being accepted in the Clerk's Office and the ability to track electronic versus manual requests for reporting purposes. A 45-minute training would suffice to get impacted staff up-to-speed.</li> </ul>	The committee agrees with this suggestion and has incorporated it into the revised proposal by including the additional advisement. The committee appreciates this feedback.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

### SPR24-35

### Traffic: Ability-to-Pay Request Form and Court Order (Revise forms TR-320/CR-320 and TR-321/CR-321)

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

	Commenter	Position	Comment	Committee Response
			<ul> <li>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</li> <li>Yes</li> <li>How well would this proposal work in courts of different sizes?</li> <li>The impact would be more significant for larger courts as there may be a more significant number of defendants submitting reduction requests outside of the MyCitations tool.</li> </ul>	
4.	Superior Court of Stanislaus County by Hon. Janine Highiet, Commissioner	AM	The form is intended to be consistent with the online MyCitations tool. The paper form states it is not to be used to contest the ticket or to request traffic school. The online MyCitations tool also advises that the tool is not to be used to request a dismissal/reduction based on proof of correction or if the offense was charged as a misdemeanor (i.e. VC 12500, 14601.1). The paper form should include these two extra advisements to make it clear the form is not intended for these purposes either and to make sure the online version and the paper version are consistent.	The committee appreciates this feedback. The committee agrees with this suggestion and has incorporated it into the revised proposal by including the additional advisements.
5.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee (JRS)	A	The JRS notes that the proposal is intended to provide significant cost savings and efficiencies.	The committee appreciates this feedback.
6.	Norman J. Valdez McArthur	A	No specific comment	No response necessary.