



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 16, 2016

Title

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected
Adopt Cal. Rules of Court, rule 4.108; adopt forms TR-300 (online) and TR-310 (online)

Effective Date

January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017

Recommended by

Traffic Advisory Committee
Hon. Gail Dekreon, Chair

Date of Report

December 1, 2016

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Executive Summary

The Traffic Advisory Committee recommends new forms and a companion rule of court for online installment payments for traffic infractions. Forms TR-300 (online) and TR-310 (online) are designed for use in online interfaces that allow defendants to enter into installment payment agreements under Vehicle Code sections 40510.5 and 42007. New companion rule 4.108 of the California Rules of Court would allow for the use of online interfaces to form installment payment agreements and would require that defendants be advised of their rights before entering into an agreement. It would also provide that forms TR-300 (online) and TR-310 (online) are alternative mandatory forms intended for use in these online interfaces. The committee developed this proposal as part of a larger effort to modernize rules and forms and in response to

council directives to consider recommendations to promote access to justice in all infraction cases.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017:

1. Adopt rule 4.108 of the California Rules of Court; and
2. Adopt forms TR-300 (online), *Online Agreement to Pay and Forfeit Bail in Installments*; and TR-310 (online), *Online Agreement to Pay Traffic Violator School Fees in Installments*.

The text of the new rule is attached at page 10. The forms are attached at pages 11–14.

Previous Council Action

The Judicial Council’s Information Technology Advisory Committee (ITAC) is leading a multiyear, collaborative effort to comprehensively review and modernize statutes, rules, and forms to facilitate electronic filing and service and foster modern e-business practices. Last year, the council’s advisory committees completed phase I, which culminated in the Judicial Council’s adoption of an initial round of technical amendments to address language in the rules and forms that was incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. The Traffic Advisory Committee is now participating in phase II, which involves identifying statutes, rules, and forms that may hinder electronic filing and modern e-business practices, along with developing recommendations to promote and improve e-business practices. ITAC’s Rules and Policy Subcommittee provided input on this proposal before it was first circulated for public comment.

Additionally, recent studies and reports on state infraction laws have raised concerns about procedural fairness in infraction proceedings, particularly about procedures relating to deposit of bail before defendants appear for arraignment. In response, the Judicial Council adopted rule 4.105 on an expedited basis, effective June 8, 2015, to require courts to allow traffic infraction defendants to appear as promised for arraignment and trial without prior deposit of bail, unless certain specified exceptions apply, and to require courts to notify defendants of the option to appear in court without deposit of bail in any instructions or other materials regarding bail provided by courts to the public. The Judicial Council also directed the appropriate advisory committees to consider rule, form, or any other recommendations necessary to promote access to justice in all infraction cases including recommendations related to postconviction proceedings or after the defendant has previously failed to appear or pay.

Rationale for Recommendation

The committee has examined court procedures for infraction cases to recommend ways to improve access to justice as directed by the council and to modernize court procedures. As part of that effort, the committee recommends the adoption of new form TR-300 (online), *Online*

Agreement to Pay and Forfeit Bail in Installments, new form TR-310 (online), *Online Agreement to Pay Traffic Violator School Fees in Installments*, and new companion rule 4.108, *Installment Payment Agreements*.

Use of online interfaces for installment payment agreements

This proposal would provide on a statewide basis for the online interfaces offered by some courts for entering into installment payment agreements under California Vehicle Code¹ sections 40510.5 and 42007. In effect, these online interfaces simulate the interaction between the clerk and the defendant that would occur if the installment agreement were processed in person at the clerk's counter, rather than online.

The online interfaces contemplated by this proposal differ from electronic filing systems generally in that they would be designed to allow for offer and acceptance of the installment agreement before the agreement is electronically filed into the court. Each interface would link directly to a court's case management system such that the online forms would be automatically populated with information relevant to the defendant's case, including pending charges and total bail.

Based in part on input provided by defendants, the online interfaces would calculate the initial payment, the online transaction fee (if any), the total amount due that day, the remaining balance after first payment, the amount of monthly installment payments, the day those payments are due each month, and the starting and ending dates for the monthly payments. The online forms would be populated with this information.

Before entering into installment agreements, the online interfaces would provide defendants with an advisement of rights. Lastly, the online interfaces would let defendants accept the installment agreement by typing their name on the form and electronically filing the form into the court. Courts are not required to offer this online interface, but if courts offer this interface for installment payments, they must use forms TR-300 (online) and TR-310 (online).

Forms TR-300 (online) and TR-310 (online)

Sections 40510.5 and 42007 require the Judicial Council to adopt forms for courts to use for processing installment payment plans under those statutes. Courts are not required to offer installment payment plans, but courts that offer installment payment plans for bail or traffic violator school fees in traffic infraction cases must use forms adopted by the Judicial Council for the intended procedures.

As provided in section 40510.5, existing form TR-300 is used by court clerks to accept payment and forfeiture of bail in installments for traffic infraction violations that do not require a mandatory appearance in court. Under current law, a court that offers installment plans for bail is required to continue the case for completion of the payments and report a bail forfeiture to the

¹ Statutory references are to the Vehicle Code unless specified.

Department of Motor Vehicles as a conviction on the date the agreement is entered into. (Veh. Code, § 40510.5(b), (d).) No trust account is required and payments are distributed when received. (*Id.*, § 40510.5(f).) If a defendant fails to make a payment as agreed, the court may report the failure to pay to the Department of Motor Vehicles, charge a failure to appear or pay under section 40508, issue a warrant, or send a notice that a civil assessment will be imposed if the defendant does not show good cause for the failure to pay. (*Id.*, §§ 40509.5, 40510.5(e); Pen. Code, § 1214.1(b)(1).) Each bail installment payment made in this procedure for infractions is final and not subject to reconsideration as bail that is deposited for other criminal cases. (Veh. Code, § 40510.5(c).)

Existing form TR-310 is used for installment payment of traffic violator school fees for eligible traffic infractions. Installment payment agreements are limited to a maximum length of 90 days by statute. (Veh. Code, § 42007(a)(2).) Proof of completion for attendance of traffic violator school is due at the time of the final payment. (*Ibid.*) If a defendant fails to pay an installment, the court may convert the fee to bail, declare it forfeited, and report the forfeiture as a conviction under section 1803. (*Id.*, § 42007(a)(3).) The court may declare that no further proceedings be had; charge a failure to pay and impose a civil assessment; or issue a warrant. (*Ibid.*)

Forms TR-300 (online) and TR-310 (online) are drafted to follow similar procedures when a court allows defendants to request installment payments through online interfaces without having to appear in person at the court for a clerk to process the request. This procedure would facilitate payment plans for many defendants, including those who live in different counties or other states. The information on the forms is consistent with the above statutes.

Advisement of rights. An online installment payment procedure does not require an arraignment or an appearance before a judicial officer in court, and there are significant legal consequences for failure to make an installment payment. To further enhance procedural fairness for infraction cases, the committee recommends the adoption of forms TR-300 (online) and TR-310 (online) with attachments containing an advisement and waiver of rights.

In addition to the advisements provided in existing forms TR-300 and TR-310,² forms TR-300 (online) and TR-310 (online) would expand notice of defendant's rights to include (1) "To appear in court without deposit of bail for formal arraignment, plea, and sentencing," and (2) "To ask for community service instead of paying the total fine."

Forms TR-300 (online) and TR-310 (online) would also provide notice to defendants of the right to request an ability-to-pay determination at any time before making the final payment, as well as the options available to the court in considering that request:

² The committee has recommended expanding the advisement of rights on forms TR-300 and TR-310 in a separate proposal presented concurrently to the council.

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request.

Form TR-310 (online) would contain the additional notice that “[i]f the court grants your request, you may no longer be eligible for traffic school.”

By electronically filing forms TR-300 (online) or TR-310 (online) through a court’s online interface, a defendant acknowledges that he or she has read and understood the advisement and the terms and conditions of the agreement, elects to waive the rights in the advisements, and agrees to pay and forfeit bail in installments.

Optional provisions. Forms TR-300 (online) and TR-310 (online) would include the following optional provisions:

- Section 2 on both forms and section 5 on form TR-300 (online) would have optional shaded text regarding proof of correction for correctable violations. Some online interfaces may not be programmed to process or track proof of correction for correctable violations. The forms would include optional text shaded in grey for courts with systems that include correctable violations from online installment payments. This text may be omitted by the court if their online interfaces are designed to exclude correctable violations.
- Section 5 on form TR-300 (online) and section 4 on form TR-310 (online) would include optional language allowing courts to charge an additional online transaction fee as authorized by Government Code sections 6159 and rule 10.820 of the California Rules of Court.
- The forms would include optional provisions for defendants to request electronic notifications, SMS text messages, and call reminders about the installment payments due under the agreement. The shaded text is intended to be optional so that courts can omit these provisions if the court is not able to provide electronic notices, text messages, or call reminders.
- The attachments include optional language that would inform defendants: “If you do not make a payment, please contact the court as soon as possible to make arrangements.”

Proposed Rule 4.108

Proposed rule 4.108 would recognize that courts may use online interfaces to enter into installment payment agreements with traffic infraction defendants under sections 40510.5 and

42007. It would require that these online interfaces provide defendants with the advisement of rights in the attachments to forms TR-300 (online) and TR-310 (online) before a defendant may enter into an installment agreement.

Lastly, proposed rule 4.108 would provide that forms TR-300 and TR-300 (online) and forms TR-310 and TR-310 (online) are alternative mandatory forms for use by the courts in entering into installment payment agreements under sections 40510.5 and 42007.

Comments, Alternatives Considered, and Policy Implications

This forms proposal circulated twice for public comment. It was first circulated in March and April 2016. In light of the comments received during the first circulation and other developments, the committee revised the proposal and recommended its recirculation on an expedited basis from August 3–26, 2016, to allow it to go into effect on January 1, 2017. All commenters who submitted comments during the first circulation were instructed to resubmit comments during the second circulation if their concerns had not been addressed in the revised proposal.

External comments

Eight comments were submitted in response to the second invitation to comment; two agreed with the proposal, two agreed with the proposal if modified, one disagreed with the proposal, and three did not indicate their position. The committee's specific responses to each comment are available in the attached comment chart at pages 15–29.

Appearing on the next court day for missed payments. The circulated forms³ contained language requiring defendants who missed a payment to appear in court on the next court day. This language currently appears on the forms TR-300 and TR-310.⁴ One commentator expressed concern about including this language on forms TR-300 (online) and TR-310 (online) because it might increase the workload for clerks. The circulated forms would have also added optional language to the back of the forms instructing defendants to contact the court as soon as possible after missing a payment. The committee had intended to provide two options from which the courts could select depending on their local practices.

In light of the commenter's concern, the committee recommended removing the language instructing defendants to appear in court on the court date after missing a payment. Distinct from section 42003, sections 40510.5 and 42007 do not require that the defendant appear in court on the date that the installment payment plan is due if he or she cannot pay. (See Veh. Code, § 42003(a) [“A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, *he or she shall appear in*

³ All references to “circulated forms” refer to the proposed forms TR-300 (online) and TR-310 (online) that circulated for public comment during the second comment cycle.

⁴ The committee has recommended removing this language from forms TR-300 and TR-310 in a separate proposal.

court on that date for further proceedings,” italics added].) Because forms TR-300 (online) and TR-310 (online) provide only for installment payment plans under sections 40510.5 and 42007—not 42003—these forms do not need to provide this instruction to the defendant.

Online interfaces and forms. One commenter requested that the proposal require all courts to implement online interfaces. The committee declined to incorporate this suggestion into the proposal because courts are not statutorily required to offer installment payment plans and because some courts do not currently have the technological capabilities to offer online installment plans.

Another commenter requested that the committee combine the two sets of forms (one set for use at the clerk’s counter and one in online interfaces). The commenter expressed concern that two sets of forms would lead to confusion among defendants who might try to file the online forms at the clerk’s counter. The committee revisited the possibility of combining the two sets of forms. Although it strove to minimize the differences between the forms, it ultimately concluded that it would not be feasible to use only one set of forms for both purposes because: (1) there is insufficient space on the front of the form to provide alternate instructions, and (2) providing alternate instructions on the form—depending on whether the installment payment plan is entered into at the clerk’s counter or through an online interface—might cause unnecessary confusion.

Moreover, the online forms would not be available to the public on the Judicial Council website. As provided in proposed rule 4.108, the online forms are intended for use by the courts only in online interfaces, which would generate and populate the forms. They are not intended to be electronically filed into the court through other means. Because access to the forms would be limited, the committee does not anticipate that a member of the public will present the online form at the clerk’s counter.

Proof of correction. One commenter suggested that the language regarding proof of correction be mandatory rather than optional. The committee decided to retain the language as optional on the form because some courts are unable to provide online installment payment plans for correctable violations due to the limitations of their case management systems. They have designed their online interfaces to allow only those defendants whose offenses do not require proof of correction. Allowing them to remove this language from the forms used in their online interfaces will avoid confusion.

Translation of forms. One commenter recommended translating the advisement of rights into the most common language in the issuing county. The committee recognizes the importance of increasing access to the courts for defendants who do not read English. The Language Access Planning Task Force has developed a Translation Protocol and a Translation Action Plan to assist the council in prioritizing the translation of Judicial Council forms and other materials. If approved by the council, these forms would be considered as part of that effort.

Other comments. The circulated forms also advised defendants that they may be charged with a misdemeanor under section 40508 if they fail to complete their payment plan. Noting that a defendant may be charged with a misdemeanor or an infraction under section 40508, one commenter recommended revising the advisement to better track the statute. The committee agreed and incorporated the suggestion into this proposal.

Lastly, one commenter requested that the forms be revised to allow defendants to consent to automated call reminders, in addition to text messages and electronic notices. The committee agreed and incorporated this suggestion into the proposal.

Internal comments

The circulated forms contained language advising defendants that they would also be giving up the right to ask the court to consider their ability to pay in determining the fee for traffic violator school and the fine, penalties, and fees for the case. While recognizing the importance of advising defendants that they would be waiving this right, the committee, on further reflection, decided against adding this particular advisement to the forms. The committee was concerned that this advisement might lead to confusion that a defendant was permanently giving up that right. Defendants do give up the right to request an ability-to-pay determination at the time they enter into the installment payment agreement, but they still retain the right to request an ability-to-pay determination at any time while the judgment remains unpaid.⁵ Although the committee decided against adding this advisement to the section on the waiver of rights, it retained the notice informing defendants that they have a right to request an ability-to-pay determination based on changed circumstances at any time before making the final payment.

Alternatives

In response to the council's directives to consider recommendations to promote access to justice in all infraction cases, the committee considered other alternatives such as legislative proposals. Those proposals, however, typically involve a lengthy process that must be pursued separately and have other implications that are distinct from the procedures addressed in an expedited fashion by the current proposal. The committee intends to separately consider recommendations to promote access to justice in future proposals.

Implementation Requirements, Costs, and Operational Impacts

The proposal expands the advisements of rights that courts provide to defendants in traffic infraction cases. In expanding notice of their rights, it is foreseeable that more defendants will assert those rights by, for example, requesting an ability-to-pay determination. The committee expects that any such increase in requests for ability-to-pay determinations would, in turn, result in greater court operations and staffing costs. Moreover, to the extent that some courts may not currently allow defendants to request an ability-to-pay determination after entering into an

⁵ The committee has recommended a separate rules proposal based on Vehicle Code section 42003, which allows for defendants to request an ability-to-pay determination based on changed circumstances at any time during the pendency of the judgment. (Veh. Code, § 42003(e).)

installment payment plan, this proposal, in conjunction with the separate rules proposal on ability to pay that the committee is concurrently presenting to the council, may result in greater court operations and staffing costs and may require providing training for court staff and judicial officers regarding the processing of infraction cases. The committee is sensitive to the impact of these additional costs on courts. Nevertheless, it believes that, on balance, any increased burdens are outweighed by the resulting procedural fairness.

In addition, implementing online interfaces may require changes to case management systems. However, because courts are not required to offer online interfaces for entering into online installment payments to defendants, it would be left to the courts to decide whether any efficiencies gained outweigh the costs. Recognizing that some courts currently offer online installment payments, the committee has recommended an extended implementation date to allow those courts additional time to update their online interfaces. Courts are urged to implement the proposal as soon as reasonably possible, but no later than May 1, 2017.

Attachments and Links

1. Cal. Rules of Court, rule 4.108, at page 10
2. Judicial Council forms TR-300 (online) and TR-310 (online), at pages 11–14
3. Chart of comments, at pages 15–29

Rule 4.108 of the California Rules of Court is adopted, effective January 1, 2017, to read:

1 **Rule 4.108. Installment Payment Agreements**

2
3 **(a) Online interface for installment payment agreements**

4
5 (1) A court may use an online interface to enter into installment payment
6 agreements with traffic infraction defendants under Vehicle Code sections
7 40510.5 and 42007.

8
9 (2) Before entering into an installment payment agreement, an online interface
10 must provide defendants with the Advisement of Rights stated in Attachment
11 1 of *Online Agreement to Pay and Forfeit Bail in Installments* (form TR-300
12 (online)), and *Online Agreement to Pay Traffic Violator School Fees in*
13 *Installments* (form TR-310 (online)).

14
15 **(b) Alternative mandatory forms**

16
17 (1) The Judicial Council has adopted the following alternative mandatory forms
18 for use in entering into installment payment agreements under Vehicle Code
19 sections 40510.5 and 42007:

20
21 (A) *Agreement to Pay and Forfeit Bail in Installments* (form TR-300); and
22 *Online Agreement to Pay and Forfeit Bail in Installments* (form TR-
23 300 (online)); and

24
25 (B) *Agreement to Pay Traffic Violator School Fees in Installments* (form
26 TR-310); and *Online Agreement to Pay Traffic Violator School Fees in*
27 *Installments* (form TR-310 (online)).

28
29 (2) Forms TR-300 (online) and TR-310 (online) may be used only in online
30 interfaces for installment payment agreements as provided in subdivision (a).

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
ONLINE AGREEMENT TO PAY AND FORFEIT BAIL IN INSTALLMENTS (Vehicle Code, § 40510.5)	

TO BE COMPLETED BY THE COURT

Read carefully, and if you agree, type your name below and submit the form.

TICKET NUMBER:
CASE NUMBER:

1. I am the defendant in this case, and I have been charged with the following infraction violation(s) of the Vehicle Code that do not require me to go into court:

a. § _____ b. § _____ c. § _____ d. § _____ e. § _____

2. My court appearance date or extension date has not passed [and I have provided proof of correction for any correctable violations (if applicable).]
3. I want to forfeit and pay bail for the violation(s) listed above. I understand that the court does not have to allow me to make installment payments.
4. I understand that by completing this agreement, each violation that is reportable to the Department of Motor Vehicles (DMV) will be reported as a conviction.

5. TERMS OF THE AGREEMENT:

Total bail (including penalties and administrative fee of \$ _____) is \$ _____

Initial Payment (10% minimum): \$ _____
 [Online transaction fee (if applicable): \$ _____]
 Total amount due today: \$ _____
 Remaining balance after first payment: \$ _____

I agree to pay the remaining balance in monthly installments of at least \$ _____ due on the ____ day of each month, starting on ____/____/____ and until paid in full on or before ____/____/____.

I agree that: All payments must be made by the due date, and there is no grace period.
 If I do not make a payment on time, I may have to pay the rest of my unpaid bail immediately.

I understand that if I do not complete my payment plan, the court may:
 Charge me with a failure to appear or pay under Vehicle Code section 40508.
 Charge a civil assessment of up to \$300 (Pen. Code, § 1214.1) or have a warrant issued for my arrest.
 Report the failure to pay to the DMV, which may suspend or place a hold on my driver's license.
 Assign the case to a collection agency or the State Franchise Tax Board for collection.

I understand that if I pay as agreed [and if any proof of correction has been filed with the court as required], my bail forfeiture will be complete, and at that time, the case will be closed.

I have read and understood my rights as explained in this agreement and attachment, and I choose to give them up. (See Attachment 1.) I have read, understood, and agreed to the terms and conditions stated above.

I understand that by electronically filing this document it will be deemed signed. (Code of Civ. Proc., § 1010.6(b)(2)(A) and Cal. Rules of Court, rule 2.257(b).)

(TYPE NAME OF DEFENDANT)	(DRIVER'S LICENSE/ D NUMBER)	(ADDRESS)
(TELEPHONE NUMBER)		(CITY, STATE, ZIP CODE)

- [I have provided a cellular phone number, and I authorize the court to send me SMS text messages or call reminders regarding payments that I owe under this agreement.] [Optional]
- [I have provided an e-mail address, and I authorize the court to send me electronic notices regarding payments that I owe under this agreement.] [Optional]

ACCEPTED (date): _____

BY: _____
(CLERK OF THE SUPERIOR COURT)

ADVISEMENT OF RIGHTS

By choosing to pay and forfeit bail in installments and not go into court, you will be giving up these rights:

- To appear in court without deposit of bail for formal arraignment, plea, and sentencing;
- To ask for community service (if available) instead of paying the total amount due;
- To request and have a court trial, to challenge the charges without deposit of bail, unless the court orders bail;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request.

[If you do not make a payment, please contact the court as soon as possible to make arrangements.]
[Optional]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
ONLINE AGREEMENT TO PAY TRAFFIC VIOLATOR SCHOOL FEES IN INSTALLMENTS (Vehicle Code, § 42007)	

TO BE COMPLETED BY THE COURT

Read carefully and, if you agree, type your name below and submit the form.

1. I am the defendant in this case. I have been charged with the following infraction violation(s) of the Vehicle Code that do not require me to go into court and that are eligible for confidential conviction(s) by completion of traffic violator school:

a. § _____ b. § _____ c. § _____ d. § _____ e. § _____

2. My court appearance date or extension date has not passed [and I have provided proof of correction for any correctable violations.]

3. I want to pay the traffic violator school fees for the violation(s) listed above. I understand that the court does not have to allow me to make installment payments.

4. TERMS OF THE AGREEMENT:

The total fee (including an administrative fee of \$ _____) is: \$ _____

Initial Payment (10% minimum): \$ _____

[Online transaction fee: \$ _____]

Total amount due today: \$ _____

Remaining balance after first payment: \$ _____

I agree to pay the remaining balance within 90 days. I will pay in monthly installments of at least \$ _____ due on the ___ day of each month, starting on ___ / ___ / ___ and until paid in full on or before ___ / ___ / ___.

I agree that: All payments must be made by the due date and there is no grace period.

If I do not make a payment on time, I may have to pay the rest of my unpaid fees immediately.

I understand that if I do not complete my payment plan the court may:

Charge me with a failure to pay under Vehicle Code section 40508.

Charge a civil assessment of up to \$300 (Pen. Code, § 1214.1) or have a warrant issued for my arrest.

Report convictions and the failure to pay to the Department of Motor Vehicles (DMV), which may suspend or place a hold on my driver's license.

Assign the case to a collection agency or the State Franchise Tax Board for collection.

I understand that my case will continue to be open until the date that my last installment is paid. If I pay as agreed and if my proof of completion of traffic school is reported, a confidential conviction will be reported to the DMV and no further proceedings will be held.

I have read and understood my rights as explained in this agreement and attachment, and I choose to give them up. (See Attachment 1.) I have read, understood, and agreed to the terms and conditions stated above.

I understand that by electronically filing this document it will be deemed signed. (Code of Civ. Proc., § 1010.6(b)(2)(A) and Cal. Rules of Court, rule 2.257(b).)

(TYPE NAME OF DEFENDANT)	(DRIVER'S LICENSE/ D NUMBER)	(ADDRESS)
		(CITY, STATE, ZIP CODE)

(TELEPHONE NUMBER)	<input type="checkbox"/> [I have provided a cellular phone number, and I authorize the court to send me SMS text Messages or call reminders regarding payments that I owe under this agreement.] [Optional]
(E-MAIL ADDRESS)	<input type="checkbox"/> [I have provided an e-mail address and I authorize the court to send me electronic notices regarding payments that I owe under this agreement.] [Optional]

ACCEPTED (date): _____

BY: _____
(CLERK OF THE SUPERIOR COURT)

ADVISEMENT OF RIGHTS

ATTACHMENT 1

By choosing to pay traffic violator school fees in installments and not go into court, you will be giving up these rights:

- To appear in court without deposit of bail for formal arraignment, plea, and sentencing;
- To ask for community service (if available) instead of paying the total amount due;
- To request and have a court trial, to challenge the charges without deposit of bail, unless the court orders bail;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses testifying under oath against you; and
- To remain silent and not testify.

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request. If the court grants your request, you may no longer be eligible for traffic school.

[If you do not make a payment, please contact the court as soon as possible to make arrangements.]

[Optional]

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

v	Commentator	Position	Comment	Committee Response
1.	<p>Advisory Committee on Providing Access and Fairness By Hon. Kathleen E. O’Leary Cochair</p> <p>Hon. Laurie D. Zelon Cochair</p>	A	<p>The Advisory Committee on Providing Access and Fairness (PAF) is committed to addressing issues of access to the courts and fairness in the court system. PAF understands that there are complicated and intersecting issues involving California’s fines and fees, low-income families, and communities of color. Many of the people coming into traffic court do not have attorneys and it can be difficult for them to understand and move through the traffic court process.</p> <p>PAF has been collaborating with the Traffic and Criminal Law Advisory Committees on strategies to improve access <i>and</i> fairness for Californians in traffic court. PAF provided input during the development of proposal number SP16-08 and is supportive of that proposal. SP16-09 and SP16-10 take additional, important steps toward improving access <i>and</i> fairness for traffic court litigants. PAF looks forward to continued collaboration with the Traffic and Criminal Law Advisory Committees.</p>	<p>The committee appreciates the input provided by the Advisory Committee on Providing Access and Fairness.</p>
2.	<p>California Commission on Access to Justice State Bar of California By Hon. Mark A. Juhas, Chair</p>	N/I	<p>We support the creation of online installment payment forms, and the proposed associated rule of court. With shortened court hours, and the long commutes and precarious employment that many low income Californians experience, it is important to have a way to apply for installment payments that does not require going to court. We recommend against potential online transaction fees. The likely increased collections should be used to cover those costs. The Access Commission recommends that the</p>	<p>The committee appreciates the input provided by the California Commission on Access to Justice of the State Bar of California. Because Government Code section 6159(g) and California Rules of Court, rule 10.820, allow courts to charge a fee for the costs of using a credit card, debit card, or electronic funds transfer, the committee declines to amend the form to remove the reference to the optional online transaction fee.</p> <p>The online forms will be populated through the</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

v	Commentator	Position	Comment	Committee Response
			<p>forms be made usable on smartphones, because that is the means by which many low income people access the internet. We also recommend that the “Advisement of Rights” be translated into the most common languages, other than English, in the issuing county.</p> <p>Thank you again for the invitation to comment. We are heartened to see the needs of low income people considered so prominently in the proposed rules.</p>	<p>use of an online interface. Courts are encouraged to design their online interfaces to be accessible on smartphones.</p> <p>The committee recognizes the importance of increasing access to the courts for defendants who do not read English. The Language Access Planning Task Force has developed a Translation Protocol and a Translation Action Plan to assist the council in prioritizing the translation of Judicial Council forms and other materials. If approved by the council, these forms would be considered as part of that larger effort.</p>
3.	Hon. Christine Copeland Commissioner Superior Court of California, Santa Clara County	A	Just out of curiosity and out of concern for already overworked clerks, the bit on the form about “if I miss a payment I will go to the clerk’s office the next court day after the missed payment” - I assume that institutes yet another process whereby the clerk has to re-do due dates or the like. I imagine that the defendant still has to complete payments within 3 months from the inception of the payment agreement, and that a missed payment doesn’t turn a 3 month payment plan into a 4 or 5 month payment plan?	<p>The committee appreciates Commissioner Copeland’s input.</p> <p>Distinct from Vehicle Code section 42003, sections 40510.5 and 42007 do not require that the defendant appear in court on the date that the installment payment plan is due if he or she cannot pay. (See Veh. Code, § 42003(a) [“A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, <i>he or she shall appear in court on that date for further proceedings,</i>” italics added].) Because forms TR-300 (online) and TR-310 (online) provide only for installment payment plans under sections 40510.5 and 42007—not 42003—these forms do not need to provide this instruction to the defendant. Accordingly, the committee agrees and has removed from the forms the language notifying the defendant that he or she must see the clerk on the day after the due date of the missed</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

v	Commentator	Position	Comment	Committee Response
				payment.
4.	<p>Albert De La Isla Principal Administrative Analyst West Justice Center Superior Court of California, Orange County</p>	N/I	<p>[Form TR-300 (online): “My court appearance date has not passed [and I have provided proof of correction for any correctable violations].”]</p> <p>Should have a statement that all proof of correction needs to be submitted prior to online agreement.</p> <p>[Form TR-300 (online): “I understand that if I pay as agreed [and if any proof of correction has been filed with the court as required],”]</p> <p>Should not be optional, should be mandatory text.</p> <p>[Form TR-300 (online): “[I have provided a cellular phone number, and I authorize the court to send me SMS text messages regarding payments that I owe under this agreement.] [Optional]”]</p> <p>Should also state that they authorized automated call reminders.</p> <p>[Form TR-300 (online): “[I authorize the court to send me electronic notices regarding payments that I owe under this agreement.]</p>	<p>The committee appreciates Mr. De La Isla’s input. The committee declines to pursue this suggestion. It has retained the language regarding proof of correction as optional on the form because some courts are unable to provide online installment payment plans for correctable violations due to the limits of their current case management systems. They have designed their online interfaces to allow only those defendants whose offenses do not require proof of correction, but allowing them to remove this language from the forms will avoid confusion.</p> <p>Please see response above.</p> <p>The committee agrees and has incorporated the suggestion into the proposal.</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

v	Commentator	Position	Comment	Committee Response
			<p>[Optional]”</p> <p>I have provided an e-mail address and I authorize the court to send me. . . .</p> <p>Consistency</p> <p>[Form TR-310 (online): “My court appearance date has not passed [, and I have provided proof of correction for any correctable violations.”]</p> <p>Should be mandatory.</p> <p>[Form TR-310 (online): “[I have provided a cellular phone number, and I authorize the court to send me SMS text messages regarding payments that I owe under this agreement.] [Optional]”]</p> <p>Should include authorization of automated call reminders.</p> <p>[Form TR-310 (online): “[I authorize the court to send me electronic notices regarding payments that I owe under this agreement.]”</p> <p>I have provided an e-mail address and I authorize the court to send me. . . .</p> <p>Consistency</p>	<p>The committee agrees and has incorporated the suggestion into the proposal.</p> <p>Please see response above.</p> <p>Please see response above.</p> <p>The committee agrees and has incorporated the suggestion into the proposal.</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

5.	Robert M. Hertzberg Senator, 18th Senate District	N/I	<p>Honorable Gail Deckreon and Honorable Tricia Ann Bigelow:</p> <p>I appreciate the opportunity to comment on the proposed rules related to traffic criminal procedures, notices, and fees. It is encouraging to see continued work by Judicial Council to make rules of the court easier for individuals to seek remedies and to make amends for vehicle violations.</p> <p>I reviewed the three traffic proposals, and generally appreciate the clarity of notices, timeliness, standardization, and attempts to move certain actions online. It is a great frustration that county courts have different rules and forms, not to mention the near-total lack of online uniformity and access to county courts. These proposals will make it clearer to all Californians what their rights are and how to seek fee waivers or ability to pay determinations and will take a modest, but important, step toward modernizing the courts.</p> <p>These proposals will hopefully reduce the crushing burden of fines and fees for low income individuals by facilitating ability to pay determinations and fee waivers. The modest online tool for requesting a payment plan should be mandatory, not optional, for each of the 58 courts. These are important, if small, steps in the right direction.</p> <p>Unfortunately, the proposals do nothing to</p>	<p>The committee appreciates Senator Hertzberg’s input. It declines to pursue the suggestion to make online interfaces mandatory because courts are not required to offer installment payment plans by statute and because some courts do not currently have the technological capabilities to offer online installment plans. The committee declines to pursue the remainder of these suggestions at this time because they are outside the scope of this forms proposal. The committee may consider these suggestions in drafting future legislative proposals.</p>
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

			<p>eliminate the widespread use – and abuse – of the license suspensions to collect-court ordered debt. The United States Department of Justice indicated last year that this practice is of questionable constitutionality. Years ago, license suspensions may have seemed like a useful tool for collection court-ordered debt, but now we know the negative impact it has on millions of Californians.</p> <p>The fact is, a suspended license means lost income, lost employment, and generally increases the burden of poverty. It’s much harder to get childcare, education, and work without transportation. And state data shows that the tool unfairly burdens communities of poverty and color.</p> <p>This is an issue about which I am passionate. I have carried several pieces of legislation over last two years addressing injustice. And until we start using better, fairer, punishments that more closely fit the nature of these crimes (i.e., minor traffic offenses), we will not have the fair justice system that Californians deserve.</p>	
6.	Superior Court of California, El Dorado County By Jackie Davenport Assistant Court Executive Officer	N	Please see El Dorado Court’s comments to the proposed rule changes. We disagree with the proposals to allow a defendant to request ability to pay determinations/hearings and therefore disagree with the proposed language to allow a defendant to request a determination on ability to pay any time before the final payment.	The committee appreciates the court’s input. While this forms proposal does notify defendants of their right to request an ability-to-pay determination, the court’s comments are directed primarily to proposed rule 4.335’s ability-to-pay provisions. Proposed rule 4.335 circulated concurrently with this forms proposal, and the committee has provided specific responses to the court’s concerns in the comment chart attached to

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

				the council report for that proposal.
7.	Superior Court of California, Los Angeles County	AM	<p>Suggested Modifications:</p> <p>On both forms we suggest changing line 2. from:</p> <p>“My court appearance date has not passed,...”</p> <p>to</p> <p>“My court appearance or extension date has not passed,...”</p> <p>Also, we propose removing the reference to a “misdemeanor” Vehicle Code section 40508 as reflected under, “5. Terms of Agreement,” about 2/3rds of the way down the page on both forms TR-300 (online) and TR-310 (online). A Vehicle Code section 40508 charge can be added as either a misdemeanor or an infraction, and therefore we recommend rewording that line to allow courts the flexibility to charge as either.</p> <p>Suggested change:</p> <p>“Charge me with a misdemeanor under Vehicle Code section 40508.”</p> <p>to</p> <p>“Add an additional charge under Vehicle Code section 40508.”</p>	<p>The committee appreciates the court’s input.</p> <p>The committee agrees and has incorporated the suggestion into the proposal.</p> <p>Because a defendant may be charged with an infraction or a misdemeanor under Vehicle Code section 40508, the committee agrees with this suggestion and has incorporated it into the proposal.</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<p>Request for Specific Comments:</p> <ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? <p>No comment.</p> <ul style="list-style-type: none"> • Could forms TR-300 and TR-300 (online) or Forms TR-310 and TR-310 (online) be combined to provide for one set of forms for each type of installment payment agreement, while also serving as forms that may be used both at the clerks counter and online. <p>Yes, we feel that the creation of new “online forms” are not necessary and possibly confusing.</p> <p>There are already existing Rules of Court and Laws which would require a local court to create an electronic version of an already existing Judicial Council form that mirrors the non-electronic version. Also, if a member of the public provided the online version of the form at a traffic window, the Clerk’s Office would be obligated to accept the form anyway, rendering the distinction between the forms moot. We suggest making one form that applies to all applications. Electronic advisements could be added in an “as applicable” format.</p> <p>References:</p>	<p>No response required.</p> <p>The committee revisited the possibility of combining the two sets of forms, but ultimately concluded that it would not be feasible for two reasons: (1) there is insufficient space on the front of the form to provide alternate instructions and (2) providing alternate instructions on the form, depending on whether the installment payment plan is entered into at the clerk’s counter or through an online interface, might cause unnecessary confusion.</p> <p>The online forms would not be available to the public on the Judicial Council website. As provided in proposed rule 4.108, the online forms are intended for use by the courts only in online interfaces, which would generate and populate the forms. They are not intended to be electronically filed into the court through other means. Accordingly, the committee does not anticipate that a member of the public will present the online</p>
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<p><u>Rule 1.31(e)</u> “Except as provided in rule 3.52(6), concerning court fee waiver orders, rule 5.504, concerning court orders in juvenile court proceedings, and rule 7.101.5, concerning court orders in proceedings under the Probate Code, courts may not require the use of an altered mandatory Judicial Council form in place of the Judicial Council form. However, a judicial officer may modify a Judicial Council form order as necessary or appropriate to adjudicate a particular case.” (emphasis added)</p> <p><u>Government Code section 68511</u> “The Judicial Council may prescribe by rule the form and content of forms used in the courts of this state. When any such form has been so prescribed by the Judicial Council, no court may use a different form which has as its aim the same function as that for which the Judicial Council’s prescribed form is designed. The Judicial Council shall report periodically to the Legislature any statutory changes needed to achieve uniformity in the forms used in the courts of this state.” (emphasis added)</p> <ul style="list-style-type: none"> • Are there any additional forms, procedures, instructions or advisements that should be added to the proposal. <p>No comment.</p> <ul style="list-style-type: none"> • Would the proposal provide a cost 	<p>form at the clerk’s counter.</p> <p>Although courts must use mandatory Judicial Council forms and may not require the use of an altered mandatory Judicial Council form (Gov. Code, § 68511; Cal. Rules of Court, rule 1.31(e)), the Judicial Council may authorize the use of alternative mandatory forms by rule of court. (See, e.g., Cal. Rules of Court, rule 7.101.)</p> <p>No response required.</p>
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<p>savings?</p> <p>No.</p> <ul style="list-style-type: none"> • Would the proposal increase costs? <p>Yes.</p> <p>Major Costs to CMS for implementation and programming due to possible ability to pay hearings:</p> <ol style="list-style-type: none"> 1. The court would have to create at least two hearing types to define what stage the defendant is requesting the ability to pay hearing. If made prior to a failure to pay status, the costs have to be covered by operations. If the case has already been referred to collections, then the costs could be recoverable as a collections issue. 2. Additional costs would be incurred by updating our current forms to conform to the latest JC version for printed and imaged use. 3. Programming would be needed for new rulings, change of bail amounts, calendaring, and notices for rulings. 4. Interface programming would be needed to update bail amounts as they change in ETRS and PRD. 5. Programming would be needed to interface with GC Services systems, so that cases referred 	<p>No response required.</p> <p>Some of the anticipated additional costs and burdens identified by the court appear to be a result of proposed rule 4.335 on ability to pay determinations. The forms give defendants notice that they may request an ability-to-pay determination based on changed circumstances while the installment payment plan remains pending. To the extent that these forms are implicated, it would be because the forms give defendants notice that they may request an ability to pay determination based on changed circumstances while the installment payment plan remains pending. Other costs identified may be related to updating the court's interface for online traffic installment forms.</p>
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<p>to collections can be set on the court's calendar for an ability to pay hearing. Cases may need to be returned to GCS after the hearing.</p> <p>Operational Costs:</p> <p>1. Costs for processing the initial requests would be negligible, since our Court already provides the program. If the Judicial Council mandated the payment plan for traffic school, costs would increase temporarily because the program would have to be developed and implemented.</p> <p>2. For our court, the process has been established and has been fairly successful. Minor additional training would be needed.</p> <p>3. Staffing increases for calendaring the new hearing types, providing notice of rulings, and cashiering could be incurred.</p> <p>• What would be the implementation requirements be for courts?</p> <p>Would include:</p> <ul style="list-style-type: none">▪ CTS – Programming updates to the existing form, development of new hearing types, calendaring, financial interface and changes to the bail amount. Integration with GC Services.▪ Operational Implementation – Procedure development and training.	
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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			<ul style="list-style-type: none"> ▪ Possible dedication of specific courtrooms to hear the ability to pay hearings. • Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <p>No. Since our resources are divided between the new CMS and other issues, we may need more time to implement.</p> <ul style="list-style-type: none"> • How well would this proposal work in courts of different sizes. <p>No comment.</p>	<p>Because the committee recognizes that some courts may need additional time to implement this proposal, it has recommended an extended implementation date. Specifically, that courts are urged to implement this proposal as soon as reasonably possible, but no later than May 1, 2017.</p> <p>No response required.</p>
8.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, Joint Rules Subcommittee	AM	<p>General Comment:</p> <ol style="list-style-type: none"> 1. The JRS <i>strongly</i> recommends that the effective date of the new rule and forms discussed in this proposal be changed to July 1, 2017 to provide the trial courts with additional time to successfully and comprehensively implement this and the other urgent traffic proposals. While the JRS appreciates the authoring committees adjusting their timeline to present at the October 2016 Judicial Council business meeting so that the trial courts would have two months to implement, doing so would not actually give the courts two full months for implementation. After taking into 	<p>The committee appreciates the input of the Joint Rules Subcommittee.</p> <p>Because the committee recognizes that some courts may need additional time to implement this proposal, it has recommended an extended implementation date. Specifically, that courts are urged to implement this proposal as soon as reasonably possible, but no later than May 1, 2017.</p>

SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

			<p>consideration the four court holidays and additional time that court staff will take for vacation during November and December, the courts will have significantly less than two full months for implementation.</p> <p>Also, accurate and comprehensive implementation will require more than two months for most trial courts and, especially so, for the smaller courts. An implementation period of less than two months creates significant challenges and burdens for courts of all sizes. For smaller courts, the following changes were specifically identified:</p> <ul style="list-style-type: none">• Smaller courts do not have internal technology staff to assist in making changes to forms or case management systems. It would be costly to expect any vendors to quickly expedite any changes including necessary programming modifications.• Small court management teams may only consist of two to three individuals (at best) that need additional time to develop processes and appropriate training for staff in and out of the courtroom. Those same individuals are also responsible for attempting to work with technology vendors to implement changes on courtesy notices, programming, and in-house forms.• Increased costs that have not been built into the 2016-17 budget allocations.• Significant costs for printing, postage and mailing.	
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<ul style="list-style-type: none"> • Increased costs for related vendor services. • Increased staff workload to process notices, applications, hearing requests, other new requirements. • Additional costs and time associated with the modification of case management systems. <p>While the JRS sees the urgency in modifying the rules of court and related forms, it strongly recommends the implementation date be changed to July 1, 2017 so that the courts have the ability to implement the changes accurately and effectively.</p> <p>Suggested Modification:</p> <p>1. Regarding the “Advisement of Rights” section of forms TR-300 (online) and TR-310 (online), the JRS recommends adding “(if available)” and replacing “suspend all” with “reduce” as indicated by the highlighted text below:</p> <p><u>To ask for community service (if available) instead of paying the total fine;</u></p> <p><u>...If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total fine, or suspend all or reduce part of the fine.</u></p> <p>Some trial courts do not offer community</p>	<p>The committee agrees and has incorporated the suggestion onto the forms.</p>
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SP16-10

Traffic: Online Installment Payment of Bail Forfeiture and Traffic Violator School Fees

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

		<p>service. By adding “if available” as indicated above, the revised forms would be more clear in conveying that the courts are not mandated to provide community service as an alternative to payment.</p> <p>The JRS recommends eliminating references to suspension of the entire fine because it believes that it would be inappropriate to remove all penalties in adjudicating an infraction violation based on the financial status of the defendant. One who has been adjudicated to have violated the law should suffer some detriment, even if, based on the defendant’s financial circumstances, it is appropriate to reduce the penalty to a nominal amount in one payment or over time, or to order community service.</p>	<p>In exercising discretion, a judge may suspend the base fine in whole or part. These forms are intended to correspond with the exercise of judicial discretion. However, even if a judge were to suspend the full amount of the base fine, the defendant would still have to pay any mandatory fees required by statute.</p>
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