GOVERNMENT CODE - GOV
TITLE 8. THE ORGANIZATION AND GOVERNMENT OF COURTS [68070 - 77655] *(Title 8 added by Stats. 1953, Ch. 206.)*
CHAPTER 2. The Judicial Council [68500 - 68645.7] *(Chapter 2 added by Stats. 1953, Ch. 206.)*

ARTICLE 7. Ability to Pay Program [68645 - 68645.7] *(Article 7 added by Stats. 2021, Ch. 79, Sec. 8.)*

68645. The Judicial Council shall develop an 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 this tool available statewide on or before June 30, 2024. A defendant, a designee of the defendant, or the defendant's attorney, may, upon certification, access the online tool. A defendant shall not be compelled to use this online tool.

(Amended by Stats. 2021, Ch. 257, Sec. 9. (AB 177) Effective September 23, 2021.)

68645.1. For all infraction violations for which a personal appearance is not required, a court may 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.

(a) The date that the defendant agrees to forfeit bail, plead guilty, or plead nolo contendere shall be reported as the date of conviction for all purposes.

(b) If a defendant requests an ability-to-pay determination, the matter shall be considered adjudicated for purposes of that determination when the defendant agrees to forfeit bail or pleads guilty or nolo contendere.

(c) When a defendant agrees to forfeit bail, plead guilty or nolo contendere through the online tool, or requests an ability-to-pay determination, the defendant has appeared within the meaning of subdivision (a) of former Section 40509 and subdivision (a) of former Section 40509.5 of the Vehicle Code, and the court shall immediately file with the Department of Motor Vehicles the required certificate to recall any failure to appear notifications that have been sent for the citation.

(Amended by Stats. 2022, Ch. 800, Sec. 2. (AB 2746) Effective January 1, 2023.)

68645.15. A defendant's request for an ability-to-pay determination through the online tool shall not impact their eligibility to attend traffic violator school pursuant to Section 42005 of the Vehicle Code.

(Added by Stats. 2022, Ch. 191, Sec. 1. (SB 1096) Effective January 1, 2023.)

68645.2. (a) By June 30, 2024, every court shall offer online ability-to-pay determinations using the tool developed by the Judicial Council. The following shall apply to ability-to-pay determinations made pursuant to this article:

(1) The defendant has the burden of establishing the inability to pay. Courts shall establish criteria for the determination of an inability to pay, and, in doing so, shall consider certain factors including, at a minimum, all of the following:

(A) Receipt of any of the public benefits listed in subdivision (a) of Section 68632.

(B) A monthly income of 125 percent or less of the current poverty guidelines, as updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to Section 9902 of Title 42 of the United States Code.

(2) The court has discretion to make an order consistent with the defendant's present and reasonably discernible future financial circumstances. Except as provided for in paragraph (4), the court is not required to make express findings as to the factors bearing on the determination or the amount it orders payable by the defendant.

(3) Based on any ability-to-pay determination, a court may do any of the following:

(A) Waive or reduce the sum of the total amount due for an infraction violation. Notwithstanding any other law, if the total amount due is reduced, the revenues collected shall be distributed on a pro rata basis.

(B) Extend the time for payment or provide for payment on an installment plan, including those amounts due after any reduction under subparagraph (A).

(C) Allow the defendant to complete community service in lieu of the total amount due. If a defendant qualifies for a reduction in the total amount due, the court may allow the defendant to complete the community service in lieu of the payment on the reduced amount.

(D) Suspend the total amount due in whole or in part.

(E) Offer an alternative disposition.

(4) The online tool shall recommend a reduction of 50 percent or more of the total amount due for all defendants who are in receipt of benefits described in subparagraph (A) of paragraph (1). The court shall make express findings if it deviates from the online tool recommendation by ordering a defendant to pay an amount greater than the recommendation pursuant to this paragraph.

(5) The online tool shall recommend a payment of no more than twenty-five dollars ($25) per month for a defendant who is eligible for a reduction pursuant to paragraph (3) and requests an installment plan.

(6) For purposes of this section, the "total amount due" is the sum of the base fine, penalty assessments, civil assessments, and fees, including mandatory fees, owed and unpaid by the defendant.

(7) As feasible, courts shall notify defendants of the result of the ability-to-pay determination within 30 days.

(8) A defendant is not required to submit bail or pay any fines or fees prior to an ability-to-pay determination.

(9) A court or county shall not charge an administrative fee to an individual for requesting an ability-to-pay determination or participating in an installment payment plan, on a nondelinquent or delinquent account, ordered pursuant to this chapter.

(10) A court or county may recover costs associated with the administration of all installment payment plans ordered under this chapter through a comprehensive collection program pursuant to subdivision (d) of Section 1463.007 of the Penal Code. Recovered costs shall not exceed thirty-five dollars ($35) per nondelinquent installment plan approved.

(b) If a court is using the online tool, paragraphs (1) to (3), inclusive, and paragraphs (6) to (10), inclusive, of subdivision (a) apply to all ability-to-pay determinations conducted through means other than the online tool, which includes paper submissions or in-person applications. When an ability-to-pay determination is made through means other than the online tool, the court shall follow the recommendations stated in paragraphs (4) and (5) of subdivision (a), but may deviate from the recommendation in paragraph (4) of subdivision (a), as provided therein.

(c) The online tool shall provide information in English, Spanish, and any other languages the Judicial Council chooses.

(d) This section does not preclude a court that has not yet adopted online ability-to-pay determinations from adopting procedures or local rules in accordance with this section, unless the Judicial Council adopts rules of court or forms for purposes of this section.

(Amended by Stats. 2023, Ch. 131, Sec. 100. (AB 1754) Effective January 1, 2024.)

68645.3. (a) A court may allow the online tool to electronically verify through encrypted transmittal whether the defendant receives public benefits, defined as any of the public benefits listed in subdivision (a) of Section 68632, by accessing a statewide, county, or other political subdivision of the state database, including the State Department of Social Services.

(b) The court shall obtain the defendant's consent before the online application may electronically verify benefits.

(c) The online application process shall inform the defendant of all of the following information:

(1) A defendant has the burden of establishing the defendant's inability to pay.

(2) The online verification is one of the possible means of substantiating the inability to pay.

(3) Other accepted means of verifying inability to pay.

(4) A defendant may upload other evidence in addition to or in lieu of the verification results.

(d) If the court is unable to verify that a defendant receives benefits as described in this section, the defendant may submit other evidence of an inability to pay to the court.

(e) Each court, by adopting a local rule, may authorize the clerk of the court to make ability-to-pay determinations. If a court authorizes the clerk of the court to make those determinations, both of the following apply:

(1) The determinations shall be based on specified criteria as established by the court and posted on its internet website. The criteria may include whether the defendant is receiving public benefits, including those listed in subdivision (a) of Section 68632. The court may establish criteria that waive or reduce the sum of the base fine, penalty assessments, civil assessments, and fees, including mandatory fees, owed by the defendant, by a specified amount, by a specified percentage, or by other specified criteria.

(2) If the clerk of the court denies the reduction, the defendant has the right to a review of the decision by a judicial officer in the trial court.

(Added by Stats. 2021, Ch. 79, Sec. 8. (AB 143) Effective July 16, 2021.)

68645.4. (a) A court may offer trials by declaration through an online tool for all infractions for which a personal appearance is not required. If a court offers online trials pursuant to this section, all of the following shall apply, notwithstanding Section 40902 of the Vehicle Code:

(1) A defendant shall elect to have an online trial prior to the appearance date indicated on the notice to appear, unless the court grants the defendant an extension, or the court permits the defendant to have a trial at a later date.

(2) If a defendant elects to have a trial through the online tool pursuant to this section, the court shall not require the defendant to submit bail in advance, unless the court makes express findings as to why a particular defendant shall be required to submit bail.

(3) Testimony and other relevant evidence may be introduced in the form of a notice to appear, a business record or receipt, a sworn declaration of the arresting officer, and a sworn declaration by the defendant.

(4) If a defendant elects to have a trial through the online tool pursuant to this section, the defendant shall not have a right to a trial de novo.

(b) If a court elects to offer online trials pursuant to this section, it shall also make trials by written declaration available to defendants, and paragraphs (1) to (4), inclusive, of subdivision (a) shall apply to all trials by written declaration.

(c) A court may adopt local rules or forms to be consistent with this section, and the rules and forms shall govern proceedings pursuant to this section unless the Judicial Council adopts rules of court or forms for purposes of this article.

(Amended by Stats. 2022, Ch. 57, Sec. 8. (AB 199) Effective June 30, 2022.)

68645.5. (a) No later than February 1, 2022, and annually until February 1, 2025, the Judicial Council shall provide to the Legislature a report including the following information from participating courts that have adopted online ability-to-pay determinations for infraction violations:

(1) Total number of infraction filings.

(2) Total number of ability-to-pay requests made through:

(A) The online tool.

(B) Other locally established ability-to-pay procedures.

(3) Demographic information on defendants using the online tool as reported by the defendant, including but not limited to, income level, public benefits status, race or ethnicity or both, when feasible, and ZIP Code.

(4) The total amount of initial fines and fees assessed for individuals making ability-to-pay requests.

(5) The total amount of adjusted fines and fees recommended by the online tool.

(6) The total amount of fines and fees ordered through:

(A) The online tool.

(B) Other locally established ability-to-pay procedures.

(7) Of the total amount of fines and fees ordered, the total amount collected from:

   (A) Online requests.

   (B) Requests via locally established ability-to-pay procedures.

  (8) The number of payment plans ordered through the online tool.

  (9) The number of online trials by declaration conducted in participating courts.

(b) The Judicial Council shall submit the report required pursuant to subdivision (a) in compliance with Section 9795.

(c) In the report due to the Legislature on February 1, 2023, and in addition to the information required in subdivision (a), the Judicial Council shall provide information on the first seven pilot courts, including implementation challenges, the overall effectiveness of the programs in these courts, and how those pilots informed the implementation in subsequent courts.

(Amended by Stats. 2022, Ch. 57, Sec. 9. (AB 199) Effective June 30, 2022.)

68645.7. (a) On or before January 10 of each year, the Department of Finance, in consultation with the Judicial Council, shall estimate the level of funding needed to backfill the judicial branch for the amount reduced based upon the ability-to-pay determinations granted to defendants pursuant to this article. The estimate shall be developed by the Department of Finance, in conjunction with the Judicial Council, and based on the data provided to the Judicial Council by the trial courts as required in subdivision (b). The Department of Finance shall distribute the funds to the judicial branch appropriated for that purpose in the annual Budget Act or any other act approved by the Legislature. The department shall publish its estimate and transmit it to the Legislature at the time of the submission of the Governor's Budget pursuant to Section 12 of Article IV of the California Constitution.

(b) The Judicial Council shall collect data from the trial courts necessary to request funding from the Department of Finance for the purposes of subdivision (a). Only trial courts that provide data in accordance with the method required by the Judicial Council are eligible for this funding.

(Added by Stats. 2021, Ch. 79, Sec. 8. (AB 143) Effective July 16, 2021.)