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AB-1927 Criminal procedure: notice to appear. (2015-2016)

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Assembly Bill No. 1927

CHAPTER 19

An act to amend Section 853.9 of the Penal Code, relating to criminal procedure.

[Approved by Governor June 07, 2016. Filed with Secretary of State June 07, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1927, Lackey. Criminal procedure: notice to appear.

Existing law, under specified circumstances, requires an officer or his or her superior to prepare in duplicate a written notice for an arrested person to appear in court. Existing law requires that when an officer or the prosecuting attorney has filed the notice to appear with the court, an exact and legible duplicate copy of the notice, in lieu of a verified complaint, constitutes a complaint to which the defendant may plead "guilty" or "nolo contendere."

This bill would provide that, if the notice to appear issued to and signed by the arrested person is being transmitted in electronic form, the copy of the notice to appear issued to the arrested person need not include the signature of the arrested person, unless specifically requested by the arrested person.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 853.9 of the Penal Code is amended to read:

853.9. (a) (1) If written notice to appear has been prepared, delivered, and filed by an officer or the prosecuting attorney with the court pursuant to Section 853.6, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead "guilty" or "nolo contendere."

(2) If the defendant violates his or her promise to appear in court, or does not deposit lawful bail, or pleads other than "guilty" or "nolo contendere" to the offense charged, a complaint shall be filed which shall conform to the provisions of this code and which shall be deemed to be an original complaint; and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding subdivision (a), if the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

(c) If the notice to appear issued to and signed by the arrested person is being transmitted in electronic form, the copy of the notice to appear issued to the arrested person need not include the signature of the arrested person, unless specifically requested by the arrested person.