

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 27, 2011
POSITION: Oppose

BILL NUMBER: AB 877
AUTHOR: N. Skinner

BILL SUMMARY: Vehicles: Nonfelony Offenses: Removal or Records

This bill would expand existing provisions of law that allow for the dismissal of non-felony motor vehicle offenses pending at the time of a defendant's commitment to California Department of Corrections and Rehabilitation (CDCR) or the Division of Juvenile Facilities to also include persons sentenced to a county jail for six months or more.

FISCAL SUMMARY

The Department of Motor Vehicles (DMV) estimates \$103,000 in 2011-12 and \$178,000 annually thereafter in personal services costs to process requests from county jail facilities.

The Judicial Council estimates \$100,000 to \$200,000 annually in trial court workload costs to process additional petitions allowed by the bill. These increased court costs would be offset to the extent that some criminal cases would be dismissed and removed from the courts' docket resulting in fewer prosecutions and corresponding cost savings to the trial courts.

COMMENTS

Finance is opposed to the bill because the estimated costs to the DMV and the courts are not included in the enacted budget. This bill would apply to over 80,000 county jail inmates currently incarcerated in California, which would result in additional DMV and trial court workload costs to process petitions.

Analyst/Principal (0744) J. Gregg	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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ANALYSIS

A. Programmatic Analysis

Existing law:

- Dismisses non-felony offenses arising out of the operation of a motor vehicle, or a violation of the vehicle code as a pedestrian, that are pending against a person at the time of his or her commitment to the custody of the Director of Corrections or the Department of the Youth Authority.
- Prohibits the suspension, revocation or refusal to issue or renew a driver's license due to a pending non-felony offense occurring prior to the time a person was committed to the custody of the Director of Corrections or the Department of the Youth Authority, or as a result of a notice received by the DMV from a court, if the offense that gave rise to the notice occurred prior to the time a person was committed to the custody of the Director of Corrections or the Department of the Youth Authority.
- Requires the DMV to remove from its records any notice received by it pursuant to Vehicle Code Section 40509, upon receipt of satisfactory evidence that a person was committed to the custody of the Secretary of the Department of Corrections and Rehabilitation or the Division of Juvenile Facilities after the offense that gave rise to the notice occurred.

This bill would:

- Expand existing law relating to the dismissal of non-felony motor vehicle offenses pending at the time of a defendant's commitment to state prison to provide the same relief to persons who are sentenced to a county jail for six months.
- Exempt from prosecution non-felony offenses arising out of the operation of a motor vehicle or a Vehicle Code violation as a pedestrian against a person who has been incarcerated in county jail for 90 or more days in any consecutive 12-month period subsequent to the date of the offense or violation.
- Provide that non-felony offenses for specified driving-under-the influence or specified reckless driving offenses will not be dismissed.

Discussion:

According to the author's office, while current law provides relief to anyone who has been committed to CDCR with an outstanding Vehicle Code violation, the code does not apply to persons sentenced to county jail unless they are also or subsequently sentenced to CDCR.

The author's office states that formerly incarcerated inmates without a legal driver's license face major barriers to re-entry and becoming a productive member of society. A defendant who is unable to obtain a driver's license is less employable, less likely to pay child support, apt to drive despite the lack of a license, and unable to obtain insurance. Quite frequently, upon their release, these individuals often are arrested on a warrant relating to additional charges for the failure to appear in court for a hearing on non-felony Vehicle Code charges scheduled for a date on which the individual was in prison or jail and unable to appear.

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There may be safety concerns that the bill would remove any incentive for a person that anticipates incarceration to follow traffic laws, including violations such as misdemeanor hit and run. The California Highway Patrol reports that in 2010, 8,638 people were convicted of misdemeanor hit and run.

Additionally, the California District Attorneys Association argues "we are concerned that AB 877 will portend serious personnel and fiscal implications for district attorney offices. The existing statute results in the filing of numerous petitions, many of which are filed by defendants who do not qualify for relief. Analyzing each of these cases takes time and resources. By expanding the scope of existing law to include persons who have served 90 days or longer in jail in a 12-month period, AB 877 will greatly increase the number of petitions seen by district attorney offices. This is especially problematic in this time of rapidly shrinking law enforcement resources."

B. Fiscal Analysis

The Department of Motor Vehicles (DMV) estimates \$103,000 in 2011-12 and \$178,000 annually thereafter in personal services costs to process requests from county jail facilities.

The Judicial Council estimates \$100,000 to \$200,000 annually in trial court workload costs. These increased court costs would be offset to the extent that some criminal cases would be dismissed and removed from the courts' docket resulting in fewer prosecutions and corresponding cost savings to the trial courts. The amount of the offset savings is unknown, depending on the outcome of the petitions filed under the provisions of AB 877.

Code/Department Agency or Revenue Type	(Fiscal Impact by Fiscal Year)									Fund Code		
	SO	LA			2011-2012			2012-2013			2013-2014	
	CO	PROP	FC	FC	FC	FC	FC	FC				
0250/Jud Branch	SO	No	C	\$100 - 200	C	\$100 - 200	C	\$100 - 200	C	0932		
2740/DMV	SO	No	C	\$103	C	\$178	C	\$178	C	0044		
<u>Fund Code</u>	<u>Title</u>											
0044	Motor Vehicle Account, STF											
0932	Trial Court Trust Fund											