

AMENDED IN SENATE JUNE 12, 1995
AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 67

Introduced by Assembly Member Bowen

December 20, 1994

An act to amend Section 1270 of the Penal Code, relating to misdemeanors.

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as amended, Bowen. Misdemeanors: release on own recognizance.

The California Constitution states that a person may be released on his or her own recognizance in the court's discretion.

Existing *statutory* law requires a defendant who is in custody and is arraigned on a complaint alleging a misdemeanor, including a defendant arrested pursuant to an out-of-county warrant involving only misdemeanors, to be released on his or her own recognizance, unless the court makes a finding on the record that the release will not reasonably assure the appearance of the defendant as required.

This bill would create another exception to releasing a defendant on his or her own recognizance when a court finds that releasing the defendant on his or her own recognizance will compromise public safety. The bill would require that

public safety be the primary consideration in determining whether to release a misdemeanor on his or her own recognizance.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1270 of the Penal Code is
 2 amended to read:
 3 1270. (a) Any person who has been arrested for, or
 4 charged with, an offense other than a capital offense may
 5 be released on his or her own recognizance by a court or
 6 magistrate who could release a defendant from custody
 7 upon the defendant giving bail, including a defendant
 8 arrested upon an out-of-county warrant. A defendant
 9 who is in custody and is arraigned on a complaint alleging
 10 an offense which is a misdemeanor, and a defendant who
 11 appears before a court or magistrate upon an
 12 out-of-county warrant arising out of a case involving only
 13 misdemeanors, shall be entitled to an own recognizance
 14 release unless the court makes a finding on the record, in
 15 accordance with Section 1275, that an own recognizance
 16 release will compromise public safety or will not
 17 reasonably assure the appearance of the defendant as
 18 required. Public safety shall be the primary
 19 consideration. If the court makes one of those findings,
 20 the court shall then set bail and specify the conditions, if
 21 any, whereunder the defendant shall be released. ~~If the~~
 22 ~~complaint or the out-of-county warrant arises out of a case~~
 23 ~~alleging a misdemeanor offense in which the commission,~~
 24 ~~attempted commission, or conspiracy to commit the~~
 25 ~~offense involves the possession or use of a firearm, or in~~
 26 ~~which there is a violation of Chapter 9 (commencing with~~
 27 ~~Section 240) of Title 8 of Part 1, willful disobedience of any~~
 28 ~~process or order lawfully issued by any court in violation~~
 29 ~~of Section 166, or Section 186.22, 262, 273a, 273d, 273.5,~~
 30 ~~273.6, 368, 417, 422, 422.6, 646.9, 647.6, 653k, or 653m,~~
 31 ~~Section 1275 shall apply in considering whether to grant~~
 32 ~~or deny a release under this section.~~



1 (b) Article 9 (commencing with Section 1318) shall
2 apply to any person who is released pursuant to this
3 section.

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