

**ASSEMBLY BILL**

**No. 805**

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**Introduced by Assembly Member Jones-Sawyer**

February 21, 2013

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An act to amend Section 1275 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as introduced, Jones-Sawyer. Bail.

Existing law provides that in setting, reducing, or denying bail, a judge or magistrate is required to consider the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. Existing law also provides that public safety is the primary consideration in setting, reducing, or denying bail. Existing law authorizes a court to employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.

This bill would provide that in setting, reducing, or denying bail, a judge or magistrate may consider the report prepared by that staff.

This bill would also make technical, nonsubstantive changes to these provisions.

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 1275 of the Penal Code is amended to  
2 read:

1 1275. (a) In setting, reducing, or denying bail, ~~the a~~ judge or  
2 magistrate shall take into consideration the protection of the public,  
3 the seriousness of the offense charged, the previous criminal record  
4 of the defendant, and the probability of his or her appearing at trial  
5 or hearing of the case. The public safety shall be the primary  
6 consideration. *In setting bail, a judge or magistrate may take into*  
7 *consideration information included in a report prepared in*  
8 *accordance with Section 1318.1.*

9 In considering the seriousness of the offense charged, ~~the a~~ judge  
10 or magistrate shall include consideration of the alleged injury to  
11 the victim, and alleged threats to the victim or a witness to the  
12 crime charged, the alleged use of a firearm or other deadly weapon  
13 in the commission of the crime charged, and the alleged use or  
14 possession of controlled substances by the defendant.

15 (b) In considering offenses wherein a violation of Chapter 6  
16 (commencing with Section 11350) of Division 10 of the Health  
17 and Safety Code is alleged, ~~the a~~ judge or magistrate shall consider  
18 the following: (1) the alleged amounts of controlled substances  
19 involved in the commission of the offense, and (2) whether the  
20 defendant is currently released on bail for an alleged violation of  
21 Chapter 6 (commencing with Section 11350) of Division 10 of the  
22 Health and Safety Code.

23 (c) Before a court reduces bail *to* below the amount established  
24 by the bail schedule approved for the county, in accordance with  
25 subdivisions (b) and (c) of Section 1269b, for a person charged  
26 with a serious felony, as defined in subdivision (c) of Section  
27 1192.7, or a violent felony, as defined in subdivision (c) of Section  
28 667.5, the court shall make a finding of unusual circumstances and  
29 shall set forth those facts on the record. For purposes of this  
30 subdivision, “unusual circumstances” does not include the fact  
31 that the defendant has made all prior court appearances or has not  
32 committed any new offenses.