

Memorandum 2010-5

Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Further Discussion of Issues)

This memorandum continues the Commission's trial court restructuring work on rights and responsibilities of the county as compared to the superior court.

The staff is systematically searching the codes for provisions that need revision to reflect the shift from county to state funding of trial court operations. The staff is searching the codes alphabetically for key terms, including, "county" and "board of supervisors," to find provisions needing revision that we have not already identified.

The staff has completed its search up through the Elections Code. So far we have identified one additional provision — Education Code Section 56159 — that may need revision. That provision is discussed below.

This memorandum also continues discussion of provisions left over from the 2001 Tentative Recommendation on *Statutes Made Obsolete by Trial Court Restructuring* (hereafter "2001 Tentative Recommendation"). All but one provision has been discussed in previous memoranda. See Memorandum 2009-35; First Supplement to Memorandum 2009-35; Memorandum 2009-50. The remaining provision — Penal Code Section 1463.22 — is discussed below.

Tom Weibel, on behalf of the Department of Motor Vehicles ("DMV"), submitted comments on Section 1463.22 in response to the 2001 Tentative Recommendation. See Exhibit pp. 1-4. He recently submitted additional comments. See Exhibit p. 5. The staff appreciates the comments.

(Note: This study, J-1451, relates to rights and responsibilities of the county as compared to the superior court. Memorandum 2009-35 and its First Supplement pertain to that topic, but they were generated as part of Study J-1404, on *Statutes Made Obsolete by Trial Court Restructuring: Part 5*. Other material in Study J-1404 is moving forward, as a recommendation and a bill. The material from Memorandum 2009-35 and its First Supplement was not ready for that step; our research on rights and responsibilities of the county as compared to the superior

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

court is still ongoing. We therefore created a new study number, J-1451, for that work. When we draft a tentative recommendation in this study, we will include the reforms discussed in Memorandum 2009-35 and its First Supplement.)

EDUC. CODE § 56159. COST ALLOCATION FOR INDIVIDUAL IN LICENSED
CHILDREN'S INSTITUTION OR FOSTER FAMILY HOME

Education Code Section 56159 is part of an article relating to individuals with exceptional needs who are placed in a licensed children's institution or family foster home. See Educ. Code § 56155. The article applies only to individuals placed in such an institution or home by a court, a regional center for the developmentally disabled, or a public agency, other than an educational agency. *Id.*

Section 56159 allocates the cost of residential and non-educational services for the individual, depending on the entity that places the individual in the institution. The section provides:

56159. If a district, special education local plan area, or county office does not make the placement decision of an individual with exceptional needs in a licensed children's institution or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding an education agency, placing the individual in the institution, shall be responsible for the residential costs and the cost of noneducation services of the individual.

It appears that the section provides that when a court — rather than a school district, special education local plan area, or county office of the superintendent of schools — places an individual in an institution or foster home, the court must pay for the residential and non-educational services provided to the individual. See Educ. Code §§ 56022 (“county office” means an office of the county superintendent of schools), 56025 (“district” means school district). (A special education local plan area is the area covered by a school district's local plan for educating individuals with exceptional needs. See Educ. Code § 56195.1(d).)

The staff is unsure why these costs would be allocated to the court. Perhaps the costs are allocated to the court as a way of allocating them to the county, since before trial court restructuring, counties funded courts.

The staff was unable to find cases, regulations, or treatises discussing Section 56159. However, there is one section — Government Code Section 7579(b) — that cross-references Section 56159. Section 7579 provides:

7579. (a) Prior to placing a disabled child or a child suspected of being disabled in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the special education local plan area where the residential facility is located.

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child placed in a licensed children's institution or foster family home.

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies that engage in referring children to, or placing children in, residential facilities, and representatives of local educational agencies. It is not the intent of this section to hinder the courts or public agencies in their responsibilities for placing disabled children in residential facilities when appropriate.

(d) Any public agency other than an educational agency that places a disabled child or a child suspected of being disabled in a facility out of state without the involvement of the school district, special education local plan area, or county office of education in which the parent or guardian resides, shall assume all financial responsibility for the child's residential placement, special education program, and related services in the other state unless the other state or its local agencies assume responsibility.

As discussed below, the cross-reference to Section 56159 is difficult to understand, and offers little guidance on the section.

The introductory clause of subdivision (b) ousts the application of Section 56159. The apparent intent is to exempt a public educational agency from paying the residential and non-educational costs of a child placed in a licensed children's institution or foster family home, in the event that an administrator of a special education local plan area is involved in the placement discussion. But the exemption appears unnecessary, because Section 56159 specifically excludes a public educational agency from responsibility for those costs. See Educ. Code § 56159 (providing that "the court, regional center for the developmentally disabled, or *public agency, other than an education agency,*" placing individual in

institution or foster home is responsible to pay individual's residential and non-educational costs) (emphasis added).

Also, the introductory clause of subdivision (b) seems premised on a notion that Section 56159 imposes responsibility for those costs when the special education local plan area is involved in the placement decision. However, Section 56159 appears to apply only when the special education local plan area (or school district, or county office of the superintendent of schools) is *not* involved in the placement decision.

The staff is planning to research the legislative history of Education Code Section 56159, and perhaps Government Code Section 7579 as well, to obtain information on the intended meaning and operation of Section 56159.

Based on our limited understanding of the section, we are unsure whether it needs revision to reflect trial court restructuring. However, as discussed above, it may be that, because counties used to fund trial courts, allocating the cost to the court in Section 56159 was intended to allocate the cost to the county. If so, revisions may be needed to reflect the shift of trial court funding from the counties to the state.

At this point, **the staff encourages knowledgeable individuals and groups to comment on the meaning and operation of Education Code Section 56159, and on whether it needs revision to reflect trial court restructuring.**

PENAL CODE § 1463.22. ALLOCATION OF FINES

Penal Code Section 1463.22 concerns the allocation of fines deposited with the county treasurer for a violation of Vehicle Code Section 16028. That section is violated by failure to provide proof of financial responsibility for a vehicle, upon demand by a peace officer or a traffic collision officer, as specified.

Section 1463.22 provides:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) for each conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and superior courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars (\$10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

The section deviates from the across-the-board application of the general scheme under Penal Code Section 1463, which funnels fines and forfeitures to various entities. Instead, Section 1463.22 allocates to the courts, DMV, and the state's General Fund, specified portions of the revenue from a violation of Vehicle Code Section 16028 (failure to provide proof of financial responsibility).

Historical Background

In the 2001 Tentative Recommendation, the Commission proposed revising Section 1463.22 to delete the reference to the municipal courts in subdivision (a). See 2001 Tentative Recommendation, p. 656.

The Commission included a Note specially soliciting comment on the proper treatment of the county treasury provisions in Section 1463.22. The Commission also sought comment on the proper treatment of the cross-references to Vehicle Code Sections 16031, 16032, 16034, and 16035, all of which had been repealed. The Note stated:

☞ Note: Comment Requested

The Commission is reviewing whether county treasury provisions remain viable, given the enactment of the Trial Court Funding Act, the Trial Court Employment Protection and Governance Act, and other changes to the structure of the trial courts. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200

(state funding of trial court operations). These matters are also being examined by a Joint Court-County Working Group on Trial Court Funding. The Commission solicits comment on the proper treatment of the funding aspects of Penal Code Section 1463.22.

The Commission also solicits comment on the proper treatment of the references to Vehicle Code Sections 16031, 16032, 16034, and 16035, all of which have been repealed. Should these references be replaced with references to other provisions, or simply deleted? If there are no corresponding references currently in the code, should subdivision (b) be deleted altogether?

With regard to the repealed Vehicle Code provisions, the Commission received extensive comments from Tom Weibel on behalf of the DMV. See Exhibit pp. 1-4.

However, the Commission deferred further work on Section 1463.22 because a Joint Court-County Working Group on Trial Court Funding was studying the provision. See First Supplement to Memorandum 2002-17, pp. 19-20. That study is no longer underway.

Section 1463.22 is on a list of provisions for consideration by a Judicial Council task force evaluating criminal fees, fines, forfeitures, penalties and assessments. But we have learned that the task force has suspended its work, due to budgetary issues. Accordingly, the Commission may proceed without duplicating efforts or interfering with that project.

Organization of Discussion

In the discussion below, we begin by examining the reference to the municipal courts. Next, we turn to cross-references to the repealed Vehicle Code sections. We then address whether provisions on county treasury deposits need revision to reflect the shift of court funding from the county to the state. Finally, we present a proposed amendment to Penal Code Section 1463.22, which incorporates each revision recommended earlier in the discussion.

Reference to the Municipal Courts

Penal Code Section 1463.22(a) provides that a specified amount of money collected in connection with each violation of Vehicle Code Section 16028 is to be “allocated to defray costs of *municipal* and superior courts incurred in administering” specified Vehicle Code provisions. (Emphasis added.)

Because municipal courts no longer exist following their unification with the superior courts, **the reference to the municipal courts should be deleted.**

Repealed Vehicle Code Sections

Subdivision (a) of Penal Code Section 1463.22 provides that certain funds are to be deposited to a special account to defray costs incurred by *the courts* in administering specified Vehicle Code sections. Similarly, subdivision (b) provides that certain funds are to be deposited to a special account to defray costs incurred by *the DMV* in administering specified Vehicle Code Sections.

However, the sections for which administrative costs are to be defrayed were repealed. Although the issue is not directly related to trial court restructuring, the Commission should consider fixing the obsolete cross-references. Issues relating to defraying DMV costs are considered first, followed by issues relating to defraying court costs.

Deposits To Defray DMV Costs

Under Section 1463.22(b), a specified amount is to be deposited for each conviction of a violation of Vehicle Code Section 16028. The amount is to be set aside to help defray the DMV's costs of administering Vehicle Code Sections 16031, 16032, 16034, and 16035. However, those provisions have been repealed.

Tom Weibel, on behalf of the DMV, submitted extensive comments on this issue, in response to the 2001 Tentative Recommendation. We recently contacted Mr. Weibel to see whether that input remains the same, and he replied in the affirmative. See Exhibit p. 5. The DMV's input is therefore discussed below.

Vehicle Code Sections 16028, 16031, 16032, 16034, and 16035 were repealed by their own terms in the early 1990s. However, similar provisions were later enacted, requiring proof of financial responsibility for a vehicle, as well as fines for failure to provide such proof. See 1996 Cal. Stat. ch. 1126 (AB 650), §§ 6-8 (enacting Vehicle Code Sections 16028-16030); see also 1999 Cal. Stat. ch. 880 (SB 652), § 11-13 (amending Vehicle Code Sections 16028-16030). As explained below, some of these provisions impose similar administrative duties on the DMV as the repealed provisions. See *id.*; see also Exhibit pp. 2-3.

Under Vehicle Code Section 16030, the DMV must suspend the driving privilege of a person convicted of providing false evidence of financial responsibility, upon receipt of the conviction. Also, the DMV may suspend or revoke a license for violating a court's restriction of driving privileges to the course of employment. See Veh. Code § 16030(b) (violation of restriction is "grounds for suspension or revocation of the license under 13360," which authorizes DMV to suspend or revoke license). Furthermore, Section 16030

envisions the maintenance of proof of financial responsibility at the DMV for three years following a specified conviction. See Veh. Code § 16030(a).

Under former law, the DMV had to suspend driving privileges of a driver who failed to maintain proof of financial responsibility as required. See former Veh. Code § 16034(d); 1984 Cal. Stat. ch. 1322, § 15. Also, the DMV itself (rather than the court) could restrict driving privileges to the course of employment. See former Veh. Code § 16035; 1984 Cal. Stat. ch. 1322, § 16. Like Section 16030(a), former law envisioned the maintenance of proof of financial responsibility at the DMV for three years following a specified conviction. See former Veh. Code § 16034(a); 1984 Cal. Stat. ch. 1322, § 15.

Additionally, Vehicle Code Section 13365 requires the DMV to suspend driving privileges upon receiving notice of a failure to appear. That includes a failure to appear that stems from a failure to provide proof of financial responsibility. Similarly, former Section 16031 required the DMV to suspend driving privileges for a failure to appear, following a violation specifically relating to a failure to provide proof of financial responsibility. See 1984 Cal. Stat. ch. 1322, § 12.

As a result, the DMV says that it

continues to expend resources for suspension actions based on a driver's failure to appear or failure to pay for a citation based on [Vehicle Code] sections 16028 [and] 13365 (*no proof of insurance at the time of a traffic stop or at the time of a traffic collision*). This was one of the original requirements contained in repealed [Vehicle Code] section 16031 (Statutes of 1985). Additionally, the current provisions of [Vehicle Code] section 16030 now mandate DMV to suspend the driving privilege of any person for one year, upon receipt of a court abstract of conviction, for providing false evidence of [financial responsibility] to a peace officer or clerk of the court.

Based on legislative mandates, DMV continues to sanction drivers who fail to provide valid evidence of [financial responsibility], or who fail to appear and/or pay for such violations.

Exhibit p. 2 (emphasis in original).

The DMV writes that it receives funding for administering these provisions, pursuant to Penal Code Section 1463.22, just as the DMV had previously received funding for administering the repealed sections. See Exhibit pp. 1, 5.

The DMV therefore suggests replacing the references to the repealed sections with references to Vehicle Code Sections 16030 and 13365, under which the DMV

performs duties similar to those it performed under the repealed sections. Based on all the above, that generally sounds reasonable.

However, as the DMV acknowledges, Section 13365 is broader than former Section 16031. The DMV explains that, in suggesting the reference to Section 13365,

it is not the [DMV's] intent to receive funding beyond what we are already getting, but only to preserve the existing reimbursement of our administrative costs. If necessary, we would be agreeable to some sort of language specifying only [a financial responsibility-related failure to appear].

Exhibit p. 1. Including a reference to Vehicle Code Section 13365, but limiting it to a failure to appear relating to a failure to provide proof of financial responsibility seems appropriate. Otherwise, it might imply that the DMV is to receive funds to offset administrative costs other than the ones that Penal Code Section 1463.22 was actually intended to fund.

Taking together all of the above, for purposes of preparing a tentative recommendation, the staff recommends **replacing the references to repealed Vehicle Code Sections 16031, 16032, 16034, and 16035 in Penal Code Section 1463.22(b) with a reference to Vehicle Code Section 16030 and a reference to Vehicle Code 13365 that is limited to a violation relating to failure to provide proof of financial responsibility.**

Deposits To Defray Court Costs

Under Section 1463.22(a), a specified amount is to be deposited for each conviction of a violation of Vehicle Code Section 16028. The amount is to be allocated to the trial courts to defray their cost of administering Vehicle Code Sections 16028, 16030, and 16031.

Each of those sections was repealed by its own terms. However, as discussed above, similar provisions were enacted as new Vehicle Code Sections 16028 and 16030. See 1996 Cal. Stat. ch. 1126, §§ 6, 8. It therefore appears that the references to Sections 16028 and 16030 should be maintained, but that the reference to Section 16031 should be deleted.

Accordingly, for purposes of preparing a tentative recommendation, **the staff recommends revising Penal Code Section 1463.22(a) to remove the reference to Vehicle Code Section 16031.**

County Treasury Deposits

Penal Code Section 1463.22(a) directs the county treasurer to deposit into a special account a specified amount of money received for each conviction of violating Vehicle Code Section 16028, to be used to defray court costs in administering specified Vehicle Code provisions (§§ 16028, 16030, 16031).

The special account is not identified. But it appears to be under the county treasurer's control, because the county treasurer must redeposit money not needed to defray court costs. That money is to be distributed under the general scheme in Penal Code Section 1463.

Before trial court restructuring, it made sense for the county treasurer to control funds allocated to defray court costs, because counties funded the courts. Now, court operations are funded by the state. Accordingly, it seems that the county should no longer control funds allocated to defray court costs of administering the law (specifically, the court costs of administering of Vehicle Code Sections 16028 and 16030).

However, Penal Code Section 1463.22(a) expressly provides that the funds in the special account are to defray court costs of administering the specified provisions. Perhaps that is sufficient. It may be that, by stating the purpose for which the funds are to be used, no revisions are necessary. Existing Government Code sections provide a means to deposit money into an account separate from the county treasury. For example, Section 68085.9 authorizes a court, with the consent of the Administrative Director of the Courts and the county, to deposit money into a bank account separate from the county treasury. Also, Section 77009(b) provides that a court and county may agree for the court to "provide depository services in an account established by the Judicial Council for criminal fees, fines, and forfeitures, with the approval of the Administrative Director of the Courts."

Accordingly, it may be that some counties and courts have an agreement that fines collected under Penal Code Section 1463.22 are to be deposited with the courts. But it appears this would occur on a county-by-county basis. Since the deposits are to help offset court costs, perhaps Penal Code Section 1463.22 should directly provide that the money is to be under court control. If so, it is unclear whether Section 1463.22 should be revised to direct the money into the Trial Court Trust Fund, a court bank account, or elsewhere.

At this point, the staff is unsure what revisions, if any, would be appropriate to the county treasury provisions in Penal Code Section 1463.22(a). Accordingly, we should specially seek comment on this issue.

Staff Recommendation

Taking together all of the above, for purposes of preparing a draft of a tentative recommendation, **the staff recommends revising Penal Code Section 1463.22 along the following lines:**

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) for each conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of ~~municipal and superior courts~~ incurred in administering Sections 16028, and 16030, ~~and 16031~~ of the Vehicle Code. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections ~~16031, 16032, 16034, and 16035~~ 16030 of the Vehicle Code, and the administrative costs incurred by the Department of Motor Vehicles pursuant to Section 13365 of the Vehicle Code when the underlying charge is an infraction under Article 2 (commencing with Section 16020) of Chapter 1 of Division 7 of the Vehicle Code, or a misdemeanor under the same article. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those ~~sections~~ provisions of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars (\$10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

Comment. Section 1463.22 is amended to reflect the unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

The section is further amended to reflect the repeal of cross-referenced provisions in the Vehicle Code, and the enactment of similar provisions in that code. See 1996 Cal. Stat. ch. 1126, §§ 6, 8 (enacting Vehicle Code Sections 16028 and 16030); 1984 Cal. Stat. ch. 1322, §§ 9, 12, 13, 15, 16 (enacting former Vehicle Code Sections 16028, 16031, 16032, 16034 and 16035, which were later repealed by their own terms).

☞ Note: Comment Requested

The Commission specially solicits comment on whether subdivision (a) should continue to provide that funds to defray court costs are under the county treasurer's control, given the shift of funding court operations from the county to the state. See Gov't Code §§ 77003 and Cal. R. Ct. 810 ("court operations" defined), 77009 (Trial Court Operations Fund), 77200 (state funding of trial court operations).

If not, how should subdivision (a) be amended? Specifically, which entity should control the funds to defray court costs, and where should the funds be deposited?

NEXT STEP

The staff will continue its systematic searches of the codes for provisions that need revision to reflect the shift from county funding to state funding of trial court operations. We hope to complete this sometime this spring. We will then prepare a draft of a tentative recommendation, which will include all of the reforms the Commission has tentatively approved.

Respectfully submitted,

Catherine Bidart
Staff Counsel

From: "Weibel, Tom" <tweibel@DMV.CA.gov>
To: "bgaal@clrc.ca.gov" <bgaal@clrc.ca.gov>
Subject: Statutes Made Obsolete by Trial Court Restructuring - Proposed Revisions to Penal Code Section 1463.22
Date: Feb. 13, 2002

Dear Ms. Gaal:

I have attached comments and suggested amendment language prepared by our Licensing Operations Division in response to Mr. Sterling's request regarding Section 1463.22 of the Penal Code.

Section 13365 of the Vehicle Code, one of the suggested references, is a broad section pertaining to failures to appear in general, and not just those related to financial responsibility violations. In suggesting this reference, it is not the Department of Motor Vehicles' intent to receive funding beyond what we are already getting, but only to preserve the existing reimbursement of our administrative costs. If necessary, we would be agreeable to some sort of language specifying only FR-related FTAs.

Despite the obsolescence of some of the specific references, we received \$479,683.53 during FY 2000-2001 pursuant to 1463.22(b) PC, according to the State Controller's Office on about 300,000 16028 VC violations (the courts often waive the fines, thus the disparity between convictions and revenue). The Motor Vehicle Account is in some jeopardy, and we can ill afford to give up this money.

Call me if you wish to discuss this issue, or, for greater technical expertise on the affected processes, call Julie Montoya, manager of our Post Licensing Policy Unit, at 657-5691.

Tom Weibel
Assistant Legislative Officer
Department of Motor Vehicles
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PENAL CODE SECTION 1463.22

The Department of Motor Vehicles (DMV) offers the following comments regarding the proper treatment of the references to California Vehicle Code Sections 16031, 16032, 16034, and 16035 which have been repealed.

Although the above referenced CVC sections were repealed in 1990, similar provisions of the Financial Responsibility (FR) citation program were re-enacted on January 1, 1997, as the result of passage of Assembly Bill 650, and further expanded by the passage of Senate Bill 652 effective January 1, 2000.

DMV continues to expend resources for suspension actions based on a driver's failure to appear or failure to pay for a citation based on CVC sections 16028/13365 (*no proof of insurance at the time of a traffic stop or at the time of a traffic collision*). This was one of the original requirements contained in repealed CVC section 16031 (Statutes of 1985). Additionally, the current provisions of CVC section 16030 now mandate DMV to suspend the driving privilege of any person for one year, upon receipt of a court abstract of conviction, for providing false evidence of FR to a peace officer or clerk of the court.

Based on legislative mandates, DMV continues to sanction drivers who fail to provide valid evidence of FR, or who fail to appear and/or pay for such violations. Rather than repeal Penal Code Section 1463.22(b), DMV respectfully requests the repealed CVC sections be replaced with corresponding references to the current provisions of law.

This change will allow DMV to continue to defray its costs in administering the provisions of the CVC related to uninsured motorists.

Suggested language attached

CVC sections prior to 1990	Current CVC sections
16028 Evidence of Financial Responsibility – Required every person to show evidence of financial responsibility if requested to do so by a peace officer.	16028 Evidence of Financial Responsibility – Requires every person to show evidence of financial responsibility upon demand of a peace officer.
16031 Failure to Appear: Financial Responsibility Offense – (a) Required DMV to suspend upon notice of a failure to pay or failure to appear for a violation of subdivision (a) of Section 16028 Subdivision (b) Required DMV to suspend the registration of an employer vehicle, if responsible for the violation and failed to appear or pay a fine.	13365 Suspension for Failure to Appear – Requires DMV to suspend for two failure to pay or failure to appear notices, including violations of Section 16028.
16032 Unpaid Fine: Lien on Vehicle	No corresponding section.
16034 Proof of Financial Responsibility Required –Required every person conviction of section a 16028(a) violation to file proof of insurance within 60 days, and maintain proof for three years. Persons convicted of a violation of section 16029 False Evidence of Financial Responsibility would be suspended for one year, or restricted by the court, and required to maintain proof of insurance for three years.	16030 False Evidence of Financial Responsibility: Penalties – Requires DMV to suspend for one year for a conviction of 16028(a) or allows the court to restrict.
16035 Course of Employment Restrict – Allowed any person convicted of a violation of subdivision (a) of Section 16028 or 16029 to receive a restricted license if driving a motor vehicle was necessary to perform the duties of their primary employment.	See Above

PENAL CODE SECTION 1463.22

Penal Code § 1463.22 (amended). Moneys deposited with county

SEC. ____ . Section 1463.22 of the Penal Code is amended to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) for each conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of ~~municipal~~ and superior courts incurred in administering Sections 16028, and 16030, ~~and 16031~~ of the Vehicle Code. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars (\$3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections ~~16031, 16032, 16034, and 16035~~ 16030 and 13365 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars (\$10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

Comment. Subdivision (a) of Section 1463.22 is amended to reflect unification of the municipal and superior courts pursuant to Article VI, Section 5(e), of the California Constitution. Subdivision (b) is amended to reflect the proper Vehicle Code sections where administrative costs are incurred by the Department of Motor Vehicles based upon the actions required after convictions for failure to be in compliance with the current financial responsibility laws.

**EMAIL FROM TOM WEIBEL, DEPARTMENT OF MOTOR VEHICLES
(FEBRUARY 3, 2010)**

Catherine -

I asked program staff to review what I provided eight years ago, and they confirmed that it all continues to be valid and appropriate today. Thanks for the opportunity to review the material - I'd forgotten all about it.

Tom Weibel
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