

#J-1408

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print RECOMMENDATION

Repeal of Penal Code Section 1463.5

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

February 2024

California Law Revision Commission
c/o Legislative Counsel Bureau
925 L Street, Suite 275
Sacramento CA 95814

SUMMARY OF RECOMMENDATION

The Commission recommends that Penal Code Section 1463.5 be repealed as obsolete. It authorizes a method for calculating trial court fund distribution that is apparently no longer in use.

This recommendation was prepared pursuant to Government Code Section 8298.

REPEAL OF PROBATE CODE SECTION 1463.5

1 In the course of its extensive work cleaning up the statutes to conform to major changes
2 to trial court structure and responsibilities, the Commission noted a statute that appears to
3 be obsolete: Penal Code Section 1463.5.

4 That provision is part of a complicated set of statutes that govern the distribution of
5 funds received by trial courts. Specifically, Section 1463.5 governs the distribution of
6 certain fines, forfeitures, and assessments received by courts for non-parking offenses.¹

7 Section 1463.5 is procedural. It authorizes the use of “probability sampling” to
8 determine the amounts to be distributed. The probability sampling procedure must be
9 prescribed by the county auditor and approved by the board of supervisors and by a
10 majority of the cities within the county. The reasonableness of the procedure is
11 determined through an audit prescribed by Government Code Section 71383.

12 Government Code Section 71383 was repealed in 1997.² In examining former Section
13 71383, the Commission noted that it had been located within an article entitled “Uniform
14 Accounting System for Courts.” The first section of that article charges the State
15 Controller with responsibility for establishing trial court revenue distribution guidelines,
16 including an audit program.³

17 The Commission made inquiries with the State Controller’s Office and the Judicial
18 Council of California, asking whether the probability method authorized by Penal Code
19 Section 1463.5 is still in use anywhere in the state.

20 Staff at the State Controller’s Office informally suggested that Penal Code Section
21 1463.5 is obsolete, because trial courts no longer use probability sampling, relying
22 instead on a uniform case management system to calculate distributions.⁴

23 Staff at the Judicial Council of California informally suggested that Section 1463.5 is
24 obsolete:

25 To the best of our knowledge, this method [probability sampling] is not currently in use
26 by collection programs. The statute’s provisions do not appear to apply to current trial
27 court revenue distribution procedures.⁵

28 Based on that input, and the fact that the repealed audit provision that is referenced in
29 Section 1463.5 (Government Code Section 71383) seems to have been replaced with a

1. See Pen. Code §§ 1463, 1463.001, 1464; Veh. Code § 42006.

2. 1997 Cal. Stat. ch. 233, § 34. See also 2020 Cal. Stat. ch. 210, § 26.

3. See Gov’t Code § 71380 (“The Controller shall establish, supervise, and maintain trial court revenue distribution guidelines, including a program to audit the accuracy of distributions as provided by law, to ensure that all fines, penalties, forfeitures, and fees assessed by courts, and their collection and appropriate disbursement, shall be properly accounted for and distributed. The trial court revenue distribution guidelines shall apply to superior courts, counties, including counties’ probation departments, central collection bureaus, and any other agencies or entities having a role in this process.”).

4. Email from Henry Mathews, Office of State Controller, to Brian Hebert (July 21, 2022).

5. Email from Don Lowrie, Judicial Council, to Brian Hebert (July 29, 2022).

- 1 system of statewide procedures, the Commission recommends that Penal Code Section
 - 2 1463.5 be repealed as obsolete.
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PROPOSED LEGISLATION

1 **Pen. Code § 1463.5 (repealed). Distribution of specified funds using probability sampling**

2 ~~1463.5. The distribution of funds required pursuant to Section 1463, and the~~
3 ~~distribution of assessments imposed and collected under Section 1464 and Section~~
4 ~~42006 of the Vehicle Code, may be determined and made upon the basis of~~
5 ~~probability sampling. The sampling shall be procedural in nature and shall not~~
6 ~~substantively modify the distributions required pursuant to Sections 1463 and~~
7 ~~1464 and Section 42006 of the Vehicle Code. The procedure for the sampling shall~~
8 ~~be prescribed by the county auditor and the procedure and its implementation shall~~
9 ~~be approved by the board of supervisors and a majority of the cities within a~~
10 ~~county. The reasonableness of the distribution shall be verified during the audit~~
11 ~~performed pursuant to Section 71383 of the Government Code.~~

12 **Comment.** Section 1463.5 is repealed as obsolete.
