



# **Report on Proposition 36**

**City Council Meeting – September 17, 2024**

## August 6th Intergovernmental Affairs Committee Meeting:

- The committee received a staff presentation on the Report on Proposed Legislation Related to Retail Theft, Drug Use, and “Smash and Grab” Crimes.
- The report included an overview of the Assembly’s “Californians Together Against Retail Crime” bill package and the Senate’s “Safer California Plan.”
- Staff gave the recommendation to support the Safer California Plan.
  - While the Assembly’s package and the Homelessness, Drug Addiction, and Theft Reduction Act were focused on reducing retail crime and addressing the fentanyl crisis, they did so by imposing harsher penalties for some drug and theft crimes.
  - The City’s Legislative Agenda, approved by the City Council, does not have the language to impose harsher penalties for commercial or drug crimes.
  - Currently, there is language in the Legislative Agenda to increase penalties for repeat offenders of property crimes.
- Motion made to send Proposition 36 to City Council to approve a support position.

## Overview of Proposition 47:

- Proposition 47 reclassified all drug possessions (including cocaine, heroin, fentanyl, and methamphetamine), along with all theft offenses where the value was under \$950, as misdemeanors.
- Proposition 47 created the Safe Neighborhoods and Schools Fund to support rehabilitation programs and fund drug and mental health treatment.
- The California District Attorney's Association, along with a coalition that includes crime victims, business owners, and public safety leaders, collected over 900,000 signatures to put a measure on the November 2024 ballot that would amend Proposition 47.

# Homelessness, Drug Addiction, and Theft Reduction Act

## Overview of Prop 36:

- **Turns Some Misdemeanors Into Felonies**
  - Currently, theft of items worth \$950 or less is generally a misdemeanor. Proposition 36 makes this crime a felony if the person has two or more past convictions for certain theft crimes (such as shoplifting, burglary, or carjacking). The sentence would be up to three years in county jail or state prison. These changes undo some of the punishment reductions in Proposition 47.
- **Lengthens Some Felony Sentences**
  - Proposition 36 allows felony sentences for theft or damage of property to be lengthened by up to three years if three or more people committed the crime together.
- **Requires Some Felonies To Be Served in Prison**
  - Sentences for selling certain drugs (such as fentanyl, heroin, cocaine, or methamphetamine) can be lengthened based on the amount sold. Currently, these sentences are served in county jail or state prison, depending on the person's criminal history. Proposition 36 generally requires these sentences to be served in prison.

# Homelessness, Drug Addiction, and Theft Reduction Act

## Creates New Court Process for Some Drug Possession Crimes

- Allows people who possess illegal drugs to be charged with a “treatment-mandated felony” instead of a misdemeanor if they (1) possess certain drugs (such as fentanyl, heroin, cocaine, or methamphetamine) and (2) have two or more past convictions for some drug crimes (such as possessing or selling drugs).
- These people would generally get treatment, such as mental health or drug treatment. Those who finish treatment would have their charges dismissed. Those who do not finish treatment could serve up to three years in state prison.
- This change undoes some of the punishment reductions in Proposition 47.

# Homelessness, Drug Addiction, and Theft Reduction Act

## Requires Warning of Possible Murder Charges for Selling or Providing Drugs

- Requires courts to warn people that they could be charged with murder if they sell or provide illegal drugs that kill someone. This warning would be given to people convicted of selling or providing certain drugs (such as fentanyl, heroin, cocaine, and methamphetamine). This could make it more likely for them to be convicted of murder if they later sell or provide illegal drugs to someone who dies.

# Homelessness, Drug Addiction, and Theft Reduction Act

## Cities in Support

- The following Cities have taken a “Support” position on Proposition 36:
  - City of Alameda
  - City of Arcadia
  - City of Clovis
  - City of Covina
  - City of El Cajon
  - City of Elk Grove
  - City of Hughson
  - City of Huntington Beach
  - City of La Puente
  - City of La Verne
  - City of Lawndale
  - City of Pismo Beach
  - City of Rosemead
  - City of Lake Elsinore
  - City of Temecula
  - City of Whittier
  - County of Fresno
  - County of San Joaquin

# Homelessness, Drug Addiction, and Theft Reduction Act

## Support:

- Corporations
  - Target
  - Walgreens
  - Walmart, Inc.
- Unions
  - California District Attorneys Association
  - California Police Chiefs Association
  - California Retailers Association
  - California State Sheriffs' Association
- Organizations
  - American Petroleum and Convenience Store Association
  - California Business Roundtable
  - California Correctional Peace Officers Association
  - California Grocers Association
  - League of California Cities
  - Contract Cities Association
  - California State Association of Counties
  - Rural County Representatives of California



# Homelessness, Drug Addiction, and Theft Reduction Act

## Opposition:

- Governor Gavin Newsom
- Assembly Speaker Robert Rivas
- ACLU of Northern California
- Action for Safety and Justice
- Anti-Recidivism Coalition
- Civil Rights Corps
- Disability Rights California
- League of Women Voters of California

# Homelessness, Drug Addiction, and Theft Reduction Act

## Local Impacts (LAO Analysis):

- **Net Increase in County Jail and Community Supervision Population**
  - Proposition 36 could reduce the jail and community supervision population, with some people going to state prison instead of the county level.
  - In other ways, it would increase this population because some people would spend more time in county jail or on community supervision.
  - Overall, Proposition 36 is likely would increase the county population. This increase could be around a few thousand people (there are about 250,000 people at the county level now).
- **Increase in Local Court-Related Workload**
  - It would also increase the workload for local prosecutors and public defenders. This is because felonies usually take more time to resolve than misdemeanors. Also, treatment-mandated felonies would create workload for some county agencies (such as probation or behavioral health departments).
- **Total Increase in Local Criminal Justice Cost**
  - In total, Proposition 36 would increase local criminal justice costs, likely by tens of millions of dollars annually.

# Homelessness, Drug Addiction, and Theft Reduction Act

## Local Impacts (County Analysis)\*:

- Proposition 36, if approved by voters, could increase the caseloads managed by County staff for court proceedings and post-release supervision and impact the fulfillment of the County's Care First, Jails Last initiatives.
- Departments report that, depending on criminal referrals for prosecution and subsequent sentencing, Proposition 36 could create budget pressures to staff and manage the additional felony court cases, and the County could face additional costs associated with an increase in the incarceration rate and associated resources for those with and without mental health or substance abuse treatment needs.
- In addition, Proposition 36 could reduce Proposition 47 funding, of which the County received over \$58 million since 2017. The reduction of funding could impact programs and services such as the Skills + Experience for the Careers of Tomorrow (SECTOR) and Reentry Intensive Case Management Services (RICMS) programs.

\*The impacts noted above are based on analyses provided by the departments of Health Services, Justice, Care, and Opportunities, and Sheriff, and the offices of the Alternate Public Defender, Public Defender, and County Counsel.

# Homelessness, Drug Addiction, and Theft Reduction Act

## State Fiscal Impacts:

- **Increase in State Prison Population**
  - It would require some people who now serve their sentences at the county level to serve them in state prison. Also, it lengthens some prison sentences. The prison population could increase by around a few thousand people (there are about 90,000 people in prison now).
- **Increase in State Court Workload**
  - This is because felonies usually take more time to resolve than misdemeanors. Also, treatment-mandated felonies would increase court workload.
- **Increase in state criminal justice costs and less funding for mental health and drug treatment, and other services**
  - In total, Proposition 36 would increase state criminal justice costs, likely ranging from several tens of millions of dollars to the low hundreds of millions of dollars annually.
  - Proposition 47 created a process in which the estimated state savings from its punishment reductions must be spent on mental health and drug treatment, school truancy and dropout prevention, and victim services. These estimated savings totaled \$95 million last year.
  - By undoing parts of Proposition 47, Proposition 36 reduces the state savings from Proposition 47. This would reduce the amount the state must spend on mental health and drug treatment, school truancy and dropout prevention, and victim services. This reduction likely would be in the low tens of millions of dollars annually.

## Next Steps:

- City Council can vote to support, oppose, or remain without a position.
- City Councilmembers can take action individually.



**Thank you**

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