

**COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS  
TUESDAY, AUGUST 27, 2024**

**MINUTE ORDER NO. 5**

**SUBJECT: SUPPORT FOR PROPOSITION 36: THE HOMELESSNESS, DRUG ADDICTION, AND THEFT REDUCTION ACT (DISTRICTS: ALL)**

**OVERVIEW**

Whether it's rampant retail theft causing neighborhood store closures and higher prices for working families, or the growing epidemic of fentanyl overdoses, Californians must address these pressing public health and public safety issues. Retail theft not only affects the livelihood of business owners but also disrupts community stability, leading to workplace violence, store closures and increased prices that disproportionately impact low-income families. At the same time, the fentanyl crisis continues to ravage communities, with overdose deaths reaching unprecedented levels and straining our healthcare and emergency response systems. The need for balanced reform is clear: it's on our streets, in our stores, and affecting our communities and families.

Passed in 2014, Proposition 47, the Criminal Sentences, Misdemeanor Penalties, Initiative Statute, expressed the intention to make California's criminal justice system more equitable by expanding opportunities for offenders to be treated at the misdemeanor level. Unfortunately, it also led to a decade of unintended consequences: Repeat, habitual and organized offenders who steal amounts under \$950 and, or repeatedly possess hard drugs such as fentanyl and methamphetamine go without any increased accountability, or incentive to engage in addiction or mental treatment since the consequence is always a citation or misdemeanor. Sadly, there is no dispute that a substantial segment of persons experiencing homelessness suffer from untreated addiction resulting in the staggering data point from our Medical Examiner that this vulnerable population of unhoused individuals has a 117 times higher rate of overdose death, adding to the barriers to prevent and end homelessness.

Supported by over 900,000 signatures, Proposition 36 seeks to provide a balanced reform that preserves options for individuals who want to pursue rehabilitation and diversion, while also providing public safety with tools to hold repeat offenders accountable and incentivize treatment. It also provides accountability for fentanyl dealers by bringing it into the same fold as methamphetamine. Proposition 36 is not a three strikes law nor is it a mandatory state prison law. It maintains judicial discretion needed to allow probation and to order treatment.

It's time for meaningful reforms to our justice system, that ensure our communities are safe. This includes responsible and balanced changes to Proposition 47.

**Proposition 36: The Homelessness, Drug Addiction, and Theft Reduction Act will address homelessness, drug addiction, and theft by:**

- Classifying repeat theft as a felony for individuals who steal less than \$950 if they have two or more prior theft related convictions with the option to reduce to a misdemeanor even on the third theft while the fourth conviction remains a felony.
- Allowing stolen property values from multiple thefts to be combined so repeat offenders can be charged with a felony if the total exceeds \$950.

- Authorizing judges to impose an enhanced penalty when an offender steals, damages, or destroys property by participating in organized theft with two or more offenders or by causing losses of \$50,000 or more.
- Adding fentanyl to the list of hard drugs.
- Enabling stricter penalties for dealers whose drug trafficking causes death or serious injury and warns traffickers of potential murder charges if continued drug trafficking results in fatalities similar to the warnings that are given in DUI cases.
- Enacting a new class of crime called a “treatment-mandated felony” where offenders with two prior hard drug possession convictions would be given the option of participating in drug and mental health treatment in lieu of incarceration.
- Allowing offenders who successfully complete drug and mental health treatment to avoid jail time and have the charge fully expunged.

Therefore, we recommend that the Board adopt a resolution in support of Proposition 36: The Homelessness, Drug Addiction and Theft Reduction Act which will be included on the November 5, 2024, statewide ballot.

#### **RECOMMENDATION(S)**

**SUPERVISOR JIM DESMOND, SUPERVISOR JOEL ANDERSON AND DISTRICT ATTORNEY SUMMER STEPHAN**

Adopt the Resolution titled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO FORMALLY EXPRESSING THE COUNTY’S SUPPORT FOR PROPOSITION 36, THE HOMELESSNESS, DRUG ADDICTION AND THEFT REDUCTION ACT ON THE NOVEMBER 5, 2024 STATEWIDE BALLOT.

#### **EQUITY IMPACT STATEMENT**

The Homelessness, Drug Addiction, and Theft Reduction Act seeks to enhance community safety and address critical issues of retail theft, drug addiction, and homelessness, impacting all Californians, particularly marginalized communities. By classifying repeat thefts and organized retail crime as felonies, the measure aims to protect small businesses and working families from economic harm and neighborhood disinvestment. Including fentanyl in the list of hard drugs and imposing stricter penalties on traffickers addresses the overdose crisis, while offering pathways to treatment over incarceration. These reforms balance justice with compassion; ensuring that repeat offenders face appropriate consequences while maintaining the original intent of reducing incarceration for non-violent offenses will help address disparities in the criminal justice system and enhance community safety for all residents.

#### **SUSTAINABILITY IMPACT STATEMENT**

This proposed action contributes to the County of San Diego’s Sustainability Goal of protecting the health and well-being of all San Diego residents. By supporting the proposed reforms to Proposition 47, the County can promote sustainable public safety policies that protect communities while providing opportunities for rehabilitation and reducing recidivism. This balanced approach is essential for creating safer and more resilient neighborhoods throughout San Diego County. Enhancing public safety is of paramount priority for the County.

## **FISCAL IMPACT**

There is no fiscal impact associated with this recommendation. There will be no change in net General Fund cost and no additional staff years.

## **BUSINESS IMPACT STATEMENT**

The approval and subsequent enactment of The Homelessness, Drug Addiction and Theft Reduction Act ballot measure will help to restore historical protections that have been in place for our business community. By restoring confidence for retailers and others that thefts will be addressed through arrests and prosecutions, regardless of any thresholds, we can protect the business community and may prevent the closure of stores and help stem the exodus of businesses to other states.

## **ACTION:**

A motion was made by Supervisor Desmond, seconded by Supervisor Anderson, for the Board of Supervisors to take action as recommended.

*(A substitute motion was introduced.)*

ON MOTION of Supervisor Vargas, seconded by Supervisor Lawson-Remer, the Board of Supervisors directed the Chief Administrative Officer to work with relevant groups and departments to provide an analysis of how the changes to Proposition 47, through the potential passage of Proposition 36, may impact funding for County services, with a specific focus on behavioral health services, housing and development services, and homelessness-related programs, and return to the Board on October 8, 2024, with a multiple-scenario analysis so the Board can consider taking a position on Proposition 36.

AYES: Vargas, Lawson-Remer, Montgomery Steppe  
NOES: Anderson, Desmond

State of California)  
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER  
Clerk of the Board of Supervisors



Signed  
by Andrew Potter

