



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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MEETING DATE: September 10, 2024

SUBJECT: Consideration of Resolution 2024-144, In Support of Proposition 36: The Homelessness, Drug Addiction, and Theft Reduction Act

RECOMMENDATION:

Adopt Resolution 2024-144.

BACKGROUND:

Passed in 2014, Proposition 47 achieved notable success in making California's criminal justice system more equitable. However, it led to unintended consequences over the past decade, including repeat and often organized retail theft and difficulty incentivizing people to seek drug and mental health treatment. This cycle fuels the circumstances that lead to homelessness.

Following the submittal of over 900,000 signatures in support of "The Homelessness, Drug Addiction and Theft Reduction Act," California's Secretary of State announced that the initiative qualified to appear on the November 5, 2024, statewide ballot as Proposition 36. If approved by voters, this measure would revise elements of Proposition 47, which reclassified certain drug and property-related crimes as misdemeanors instead of felonies.

A major goal of reclassifying specific crimes under Proposition 47 was to reduce incarceration rates and focus resources on violent and serious offenders. However, there continues to be questions about its impact on crime rates, with evidence it has led to an increase in certain types of theft and larceny. For example, following the approval of Proposition 47, the State experienced a nine percent increase in larceny offenses and an increase in auto break-in thefts compared to other states.

In 2017, the California Supreme Court ruled that a person convicted of a felony for stealing a car could now have their conviction reduced to a misdemeanor if the vehicle was worth \$950 or less, and in 2018, researchers found that Proposition 47 contributed to an increase in car burglaries, shoplifting and other thefts. Because thieves now frequently target items below \$950, many retailers have had to secure their high-theft items to prevent further losses. Large retailers, including supermarkets and pharmacies reported that shoplifting increased from 15% to over 50% in some cases following the approval of Proposition 47.

Several major retailers have had to close stores in the hardest hit areas. The incessant criminal acts have led to frustration and safety concerns for business owners, employees, and customers. In some instances, clashes between thieves and retail employees attempting to stop thefts have escalated into violence, even resulting in fatalities.

According to the California Retailers' Association, there are even instances of criminals bringing calculators into stores to ensure the amount of goods they are stealing do not exceed \$950. Because prosecutors often decide against prosecuting thefts under \$950, and with only 6.6% of reported theft incidents resulting in an arrest in 2022, down from 15% in 2013, many retailers no longer report many thefts to the police.

JUSTIFICATION:

The Homelessness, Drug Addiction, and Theft Reduction Act will address homelessness, drug addiction, and theft in the following ways:

Addresses Organized and Serial Retail Theft

- Classifies repeated theft as a felony for individuals who steal less than \$950 if they have two or more prior theft related convictions.
- Allows stolen property values from multiple thefts to be combined so repeat offenders can be charged with a felony if the total exceeds \$950, countering tactics by career criminals to avoid harsher penalties.
- Authorizes 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.

Confronts the Fentanyl Crisis in Our Communities

- The fentanyl crisis has reached alarming levels and is now responsible for 20 percent of youth deaths in California. This measure will define fentanyl as a hard drug, hold individuals convicted of trafficking fentanyl accountable, and would grant judges greater discretion in sentencing drug traffickers.
- Adds fentanyl to the list of hard drugs — such as heroin, cocaine, and methamphetamine — that are illegal to possess with a firearm and authorizes greater consequences for selling deadly quantities.
- Enables 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.

Prioritizes Mental Health and Drug Treatment

- Breaking the cycle of repeat offenders means addressing the many root causes of retail theft. This measure provides critical mental health, drug treatment services, and job training within our justice system for people who are experiencing homelessness or struggling with mental health challenges or substance misuse.
- Enacts a new class of crime called a “treatment-mandated felony” where offenders with multiple hard drug possession convictions would be given the option of participating in drug and mental health treatment in lieu of incarceration.
- Allows offenders who successfully complete drug and mental health treatment to avoid jail time and have the charge fully expunged.

Prop 36 is supported by the League of California Cities, California Police Chiefs, California Small Business Association, California Sheriff's Association and numerous other businesses, elected leaders, law enforcement agencies, taxpayer organizations, social justice organizations, and crime victims' and drug survivor advocates.

FISCAL IMPACT:

N/A

ALTERNATIVES:

Do not adopt Resolution 2024-144 and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Resolution 2024-144, Support of Prop 36 - The Homelessness, Drug Addiction, and Theft Reduction Act.docx](#)