



BOARD OF SUPERVISORS

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NEVADA COUNTY BOARD OF SUPERVISORS

BOARD AGENDA MEMO

MEETING DATE: October 8, 2026

TO: Board of Supervisors

FROM: Supervisor Lisa Swarthout, District 3
Supervisor Susan Hoek, District 4

SUBJECT: Resolution supporting California Proposition 36, Allows Felony Charges and increases sentences for certain drug and theft crimes. Initiative Statute.

RECOMMENDATION: Adopt the attached Resolution.

FUNDING: N/A

BACKGROUND: California voters approved Proposition 47 in 2014, a prison reform ballot measure aimed at reducing state prison populations. The measure reclassified certain nonviolent crimes, such as drug possession and petty theft under \$950, from felonies to misdemeanors. It also redirected savings from reduced incarceration to grant programs to support mental health and drug treatment, reduce truancy in K-12 education, and victim services.

Proposition 36 proposes to make several key changes to Prop 47's 2014 reforms:

Proposition 47 Actions

- Reclassified certain drug (including personal use) and theft-related offenses where property was under \$950 as misdemeanors (previously felonies).
- Resentenced individuals already serving sentences for felonies

Proposition 36 Proposed Actions

- Reclassifies certain drug offenses (including fentanyl), and repeated theft convictions where property is under \$950—as felonies
- Establishes new felony sentencing for certain crimes of

(reclassified as Prop 47 misdemeanors), reducing their prison time.

- Redirected savings from incarceration costs to mental health and drug treatment programs, reducing truancy, and victim services.

up to three years in county jail or state prison, (lengthier if multiple people involved and/or fentanyl, heroin, cocaine, or methamphetamine was involved).

- Creates new “treatment-mandated felony” which would mandate convicted offenders get mental health or drug treatment (or face incarceration).
- For certain crimes, would require that offenders serve their sentences in a state prison, as opposed to county jails
- Requires courts to warn people they could be charged with murder if they sell or provide illegal drugs that result in someone’s death.

Proposition 36 allows people who possess illegal drugs to be charged with a “treatment-mandated felony,” instead of a misdemeanor, in some cases. Specifically, this applies to people who (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.

The California District Attorney Association sponsored Prop 36, citing concerns that Prop 47 led to fewer arrests and decreased accountability for theft. Property theft spiked during the COVID-19 pandemic, and the high visibility of retail theft including viral videos also fueled public sentiment there was insufficient accountability for these types of crimes. The initiative also seeks to provide criminal justice partners with a stronger “stick” to approach addressing the state’s fentanyl crisis. The Chief Probation Officers of California has taken a support position, along with the California State Sheriff’s Association. However, the California Public Defenders Association has taken an oppose position.

The initiative statute entitled “Homelessness, Drug Addiction, and Theft Reduction Act” was placed on the November ballot via the voter signature initiative process, with support from retail groups in California. It is important to note that the proposition does not include any specific provisions to address homelessness despite its title.

Nevada County District Attorney Jesse Wilson, and Nevada County Sheriff Shannan Moon, are in support of Proposition 36 and urge the Board to take a support position. Moreover, the Nevada County Public Defender anticipates that a passage of Proposition 36 will increase costs throughout the criminal justice system, while

decreasing resources at the same time and has raised concerns on its efficacy. The Public Defender anticipates due to an increase of caseloads, there may be a need for additional attorneys and staff support in order to meet its mandate.

The Legislative Analyst's Office (LAO) estimates that Prop 36 could cost the state and counties hundreds of millions of dollars annually due to increased prison and jail populations. In fact, the Legislature narrowly passed a prison bed-reduction bill AB 2178 (Ting) during the final week of session, noting that Prop 36 could reverse the LAO's current projected trends showing 15,000 empty prison beds by 2025, and 19,000 by 2028. The measure would also reduce funding for Prop 47-supported grant programs, such as treatment and victim services, as fewer savings would be available from reduced incarceration. Additionally, there would be an unknown increased cost for courts, county jails, and community supervision services. While it is expected that the fiscal impact to Nevada County may be minimal, it remains unknown to what extent the actual impact will have on the County and its services, notably on the Sheriff, District Attorney, Behavioral Health (via Drug Court), Probation and the Public Defender's Office.

Despite concerns on unknown increased costs, we believe that Proposition 36 is needed to help address the continued crime that was exacerbated by the passage of Proposition 47 that hamstrung law enforcement's ability to do their job and protect the community. Therefore, in an effort to help further mitigate the unintended consequences created by Prop 47 that reclassified certain felonies to a misdemeanor that has created major challenges for law enforcement officials to curb crime, we recommend the Board adopt the attached Resolution supporting California Proposition 36.

Sincerely,

Supervisor Lisa Swarthout
District 3

Supervisor Susan Hoek
District 4