14-25 - Proposition 47 (Revised)

Los Angeles County Sheriff's Department
NEWSLETTER
Field Operations Support Services, (323) 890-5411

Proposition 47 (Revised)

Proposition 47 was passed on November 4, 2014, by the voters of California. These new penalties and offenses became effective **November 5, 2014**. Proposition 47 has reduced specified offenses to misdemeanors, creates a new "shoplifting" crime, and allows resentencing of certain convicted felons as misdemeanor offenders.

Under Proposition 47 penalties for certain drug and theft crimes are reduced from potential felonies to misdemeanors unless committed by "Proposition 47 Ineligible" criminals. "Proposition 47 Ineligible" criminals are identified as Penal Code section 290(c) registrants and those with a prior for the very serious crimes listed in Penal Code section 667(e)(2)(c)(iv) such as homicide offenses and crimes punishable by death or by life in prison. Such offenses also include: rape, murder, child molestation, and sex offenses.

The following offenses are now changed from felony to misdemeanor arrests when a value less than $950.00 is involved, with the exception of individuals that are considered "Proposition 47 ineligible." In addition, the listed Health and Safety codes have been changed from felony to misdemeanor offenses.

Penal Codes / Statistical Codes / Charge Level:

- 459.5 / Stat Code 383 (F/M) - The **new misdemeanor crime** of "shoplifting" is defined as entering a commercial establishment, during business hours, with the intent to steal, where the value of the taken items does not exceed $950. "Shoplifting" as defined may not be charged as a theft or a burglary.
- 473(b) / Stat Code 103 - 107 (F/M) - Forgery of checks and related instruments of not more than $950 is now a misdemeanor.
- 476a / Stat Code 101 (F) - 102 (M) - NSF checks totaling not more than $950 (unless 3 or more

specified priors) is now a misdemeanor.

- 490.2 / Stat Code 080 - 099 (F/M) –- This definition section makes Grand Theft (**any form**) of items valued not more than $950 a misdemeanor. The charge code and the Stat Code used depends on what is stolen and where from, not the value of the item.

- 496(a) / Stat Code 290 (F/M) - Receiving/concealing stolen property of items valued not more than $950 is now a misdemeanor.

- 666(a) / Stat Code 381 - 389 (F/M) - "Wobbler" "petty theft with a prior" applies only to "Proposition 47 Ineligible" defendants with specified priors and certain elder abusers. For all other defendants, petty thefts are **misdemeanors regardless of the number of prior thefts.**

Note: Deputies must obtain a declared value of items stolen from victims in cases where the amount of the theft was not previously relevant, such as theft of firearms, vehicles, and thefts from persons. In cases where a loss above $950 makes the crime a felony, a "fair market" value must be established and included in the incident report.

Health and Safety Codes:

- 11350(a) / Stat Code 184 (F) 185 (M) - Simple possession of heroin, cocaine, and other listed controlled substances is now a misdemeanor.

- 11357(a) / Stat Code 182 (F) 188 (M) - Simple possession of concentrated cannabis is now a misdemeanor.

- 11377(a) / Stat Code 184 (F) 185 (M) - Simple possession of methamphetamine, ecstasy, GHB, and other listed substances is now a misdemeanor.

Proposition 47 also impacts the following:

Proposition 47 also enacted a new Penal Code section 1170.18, which sets forth procedures for those previously convicted and sentenced for one of the above offenses to petition for resentencing under the misdemeanor provisions. Unless a court determines that the person poses an "unreasonable risk" of committing one of the crimes listed in Penal Code section 667(e)(2)(c)(iv), the petitioner will get resentenced and his/her conviction will be deemed a misdemeanor for all purposes, except any restriction on possessing firearms will remain in effect. The provisions of "Marsy's Law" will apply to the

resentencing.

Previous felonies which carried three-year statutes of limitation and resulted in arrests, bookings, higher bail, in-custody filing deadlines, DA prosecution, preliminary hearings and felony sentences are now misdemeanor classifications and will generally mean one-year statutes of limitation, citation and release per Penal Code section 853.6, city attorney prosecution in some jurisdictions, shorter trial deadlines, and lighter maximum sentences.

All persons arrested for Proposition 47 charges and warrants issued for a Proposition 47 charge, regardless of the warrant amount, shall be booked, livescanned, and their criminal history checked to determine if a previous conviction could make the current arrest a felony. Proposition 47 misdemeanor drug possession cases shall be assigned according to the case assignment manual (MPP 4-17/005.00). DNA shall only be taken if a felony charge applies, or if the suspect qualifies per the requirements listed within FOD 05-001. If AJIS and/or Livescan does not accept the new arrest code information during the booking process, the over-ride function must be used.

Exception: When an arrestee is required to be booked at IRC, LCMC or CRDF based on the medical/mental health screening factors, and the arrestee's charge or warrant does not meet the criteria for being booked at that facility, the arrestee shall be cited and released in the field.

References:

1. California Legislative Information http://leginfo.legislature.ca.gov/faces/codes.xhtml
2. California Secretary of State, Text of Proposed Laws http://vig.cdn.sos.ca.gov/2014/general/pdf/text-of-proposed-laws1.pdf#prop47
3. Los Angeles County District Attorney's Office "One Minute Brief" Number 2014-22
4. Field Operations Directive 05-001

Original Date: November 5, 2014; Revised: 11/10/14; 01/13/15; 01/26/16; 05/19/16