25-01 PROPOSITION 36

Los Angeles County Sheriff's Department

SPECIAL BULLETIN

Field Operations Support Services

PROPOSITION 36

Proposition 36 is known as "The Homelessness, Drug Addiction, and Theft Reduction Act." It was passed by California voters on November 5, 2024, and became effective on December 18, 2024.

AFFECTED SECTIONS OF THE LAW

HEALTH AND SAFETY CODE:

11369 Creates a new law requiring the court to warn convicted drug dealers and manufactures of "hard drugs" that they can be charged with murder if they traffic in hard drugs and a death results.

"Hard Drug" defined: A controlled substance listed in Health and Safety Code section 11054 or 11055, including fentanyl, heroin, cocaine, cocaine base, methamphetamine, phencyclidine, and their analogs. It does ***not*** include cannabis, peyote, LSD, or other psychedelic drugs such as mescaline or psilocybin (mushrooms), any other substance listed in section 11054(d) and (e) or, with the exception of methamphetamine, any other substance listed in section 11055(d).

11370 .1 Adds Fentanyl to the list of controlled substances in the existing law regarding possession of a controlled substance while armed with a loaded, operable firearm.

11370.4 (c) Modifies the enhancement by increasing the punishment for possession for sale of Fentanyl and transportation for sale of Fentanyl in quantities specific to Fentanyl (one ounce (28.35 grams) to over 80 kilograms).

11395 Creates a new law making it a felony crime for possessing a "hard drug" and having two or more prior felony or misdemeanor convictions for the following drug-related crimes:

- 11350 [simple possession]
- 11351 [possession for sale]
- 11351.5 [possession of cocaine base for sale]

- 11352 [sales/transportation]
- 11353 [solicitation of a minor]
- 11353.5 [sales to a minor]
- 11353.7 [sales to a minor in a park]
- 11370.1 [possession while armed]
- 11377 [simple possession]
- 11378 [possession for sale]
- 11378.5 [possession of PCP for sale]
- 11379 [sales/transportation]
- 11379.5 [sales/transportation of PCP]
- 11379.6 [manufacturing]
- 11380 [inducing a minor]
- 11395 [Treatment-Mandated Felony]

NOTE: When making an arrest for hard drug possession, the arresting officer should run a local and state criminal history check so that if there are two prior qualifying convictions, the arrestee can be booked under Health and Safety Code section 11395. This also triggers magistrate/judicial review prior to release.

PENAL CODE:

490.3 Creates a new law permitting a felony to be charged when the value of property or merchandise stolen during one or more acts of theft or shoplifting to be aggregated (combined) to meet the $950 threshold.

666.1(a)(1) Creates a new law permitting a felony to be charged when an offender commits a misdemeanor theft (i.e. petty theft or shoplifting) and has two or more prior misdemeanor or felony theft convictions for any of the following crimes:

- Pen. Code 211 (robbery)
- Pen. Code 215 (carjacking)
- Pen. Code 368 (theft from an elder or dependent adult)

- Pen. Code 459 (burglary)
- Pen. Code 459.5 (shoplifting)
- Pen. Code 487 (grand theft)
- Pen. Code 487h (grand theft of cargo)
- Any grand theft crime described in Pen. Code 484–502.9
- Pen. Code 488 or 490.2 (petty theft)
- Pen. Code 496 (receiving stolen property)
- Pen. Code 530.5 (identity theft or mail theft)
- Veh. Code 10851 (theft or unauthorized use of a vehicle)

NOTE: When making an arrest for petty theft or shoplifting, the arresting officer should run a local and state criminal history check so that if there are two prior qualifying convictions, the arrestee can be booked under Penal Code section 666.1. This charge triggers magistrate/judicial review prior to release.

12022(c) Amends the punishment for being personally armed with a firearm in the commission or attempted commission of the following drug trafficking crimes: Health and Safety Code section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 to be served in state prison instead of local custody.

12022.6 Creates new enhancements when an offender takes, damages, or destroys property more than $50,000 in the commission or attempted commission of a felony, or commits a felony violation of Penal Code section 496.

- Subdivision (b) of Penal Code section 12022.6 provides that where there are multiple charges of taking, damage, or destruction, or multiple violations of Penal Code section 496, the enhancements in section 12022.6 may be imposed if the combined (aggregate) losses to the victims or the combined property values from all felonies exceed the threshold amounts in section 12022.6

12022.65 Creates new enhancements for acting in concert with two or more persons to take, attempt to take, damage, or destroy any property, in the commission or attempted commission of a felony.

- Subdivision (c) permits a court to impose this enhancement and another enhancement on the same single count, including an excessive taking enhancement pursuant to Penal Code section 12022.6.

12022.7 (f) Extends the “great bodily injury” enhancement to apply if someone suffers serious injury or death from using drugs that were sold, furnished, or given by the offender. If proven, this enhancement makes the underlying conduct a “strike” conviction.

REFERENCES:

California Legislative Information - https://leginfo.legislature.ca.gov/faces/home.xhtml

California District Attorneys Association - https://www.cdaa.org/

Los Angeles County District Attorneys General Office Memorandum 24-087

Los Angeles County Criminal Court Bail Schedule Criminal Division - LA Court

AFFECTED LASD DOCUMENTS:

Newsletter 14-25 (Proposition 47 Revised)