



CPOA Fact Sheet

REALIGNMENT & PROP 47

Background

As a result of AB 109 in 2011, enormous changes were made to California law. Over 500 statutes were amended, and California's criminal justice system has since been complying with these provisions. AB 109 resulted in 'realigning' certain felony convicted persons from state prisons to local jails.

Key factors of the legislation include:

- Convictions of one of about 500 felony crimes in California that are considered "non-serious, non-violent and non-sex-related," will result in sentences to county jail and/or non-custodial mandatory supervision (similar to probation), whereas before you could have been sentenced to California state prison.
- If you are currently serving a prison sentence for a "realignment" crime, when you are released you will be supervised by county probation officers under a new scheme called Postrelease Community Supervision (PRCS) instead of by state parole agents.
- Realignment is not the same thing as felony probation in California, although California Penal Code Section 1170(h) provides that "mandatory supervision" shall be conducted in accordance with the "terms, conditions, and procedures generally applicable to persons placed on probation

What Was the Purpose?

The basic idea behind realignment AB 109 is to punish low-level felony offenders with local jail or out-of-custody "mandatory supervision" instead of prison. Because jails and probation departments are run at the county level, the law thus shifts from the state to the local level responsibility for dealing with certain felons.

Which Crimes Do Not Pertain to AB 109?

Due to the fact that realignment is designed to deal with low-level and low-risk offenders, not people who are considered too dangerous to be rehabilitated within the community.

The following offenses and offenders are excluded from realignment:

- Violent felonies under Penal Code 667.5 and offenses where the defendant has a prior conviction for one of the violent felonies under Penal Code 667.5
- Serious felonies under Penal Code 1192.7 and offenses where the defendant has a prior conviction for one of the serious felonies under Penal Code 1192.7
- Certain sex crimes in California where the offender is Required to Register as a Sex Offender in California
- Certain aggravated white-collar crimes pursuant to California Penal Code Section 186.11

- Approximately 60 other crimes that the legislature has decided to exclude, such as California Penal Code 273.5 pc corporal injury on a spouse, California Penal Code 92 pc bribery of judges or jurors, and California Penal Code 266(h) pc pimping.

In the News

<http://www.pasadenastarnews.com/general-news/20141217/30-jailed-during-san-gabriel-valley-ab-109-compliance-sweep>

<http://www.osidenews.com/2014/08/31/eight-arrested-ab-109-compliance-sweep-vista/>

<http://www.osidenews.com/2014/07/27/oceanside-ab-109-compliance-sweep/>

What's Next for Law Enforcement?

Just as law enforcement was getting into the swing of complying with AB 109 and realignment, California voters passed **Proposition 47 (The Safe Neighborhoods and Schools Act)** on November 4, 2014. Prop 47 reduces a number of property and drug crimes from felonies and wobblers to straight misdemeanors, unless the defendant has one of a handful of very specific serious and violent priors. In most cases there are no enhancements available, regardless of how many prior convictions the defendant has for the same offense. Further, it allows anyone currently serving or having completed a felony sentence for one of these offenses to petition for resentencing or reclassification of their conviction as a misdemeanor. Any cost savings that would result from the measure would be split between the Board of State and Community Corrections, the Department of Education, and the Victims Compensation and Government Claims Board.

What about people who were previously convicted of a felony under one of these crimes?

The measure allows for anyone currently serving a felony sentence for one of the crimes that will now be a misdemeanor to petition for resentencing, but gives the court discretion to deny the petition if resentencing would pose an unreasonable risk that the petitioner will commit a new violent felony

The measure also provides that anyone who has completed a felony sentence for one of the new misdemeanors can apply to have their felony conviction designated as a misdemeanor -- prosecutors and victims cannot request a hearing on the application.

Crimes that would be impacted by Prop 47

Commercial burglary – Under Prop 47, entering a commercial establishment during business hours with intent to commit larceny of property not exceeding \$950 would be “shoplifting”, which would be a straight misdemeanor. Prosecutors would be prohibited from charging those facts as burglary. There are no enhancements for repeat offenses.

Forgery – Currently a wobbler, forgery would be a straight misdemeanor under Prop 47 if the person is forging a check, money order, cashier's check, etc., not exceeding \$950. There are no enhancements for repeat offenses.

Bad checks – Currently, anything under \$450 is a misdemeanor, unless the person has a prior conviction for a similar offense. Under Prop 47, the limit would be \$950 and it would be a misdemeanor unless the person has THREE priors for similar offenses.

Grand theft – Under current law, the distinction between petty theft and grand theft is based on the value and the nature of the property. Theft of certain items is always grand theft (e.g., guns and cars), and there is a lower grand theft value threshold for theft of certain other property (e.g., crops and chickens). Under Prop 47, theft of property where the value does not exceed \$950 would be considered petty theft and would be a misdemeanor, regardless of the type of property stolen (e.g., guns) or the number of prior theft convictions.

Receiving stolen property – Currently a wobbler, but prosecutors have discretion to specify in the accusatory pleading that it is a misdemeanor if the value is less than \$950. Prop 47 would make anything under \$950 a misdemeanor. There are no enhancements for repeat offenses.

Petty theft enhancement – Currently, petty theft can be charged as a wobbler if a person has three or more priors for theft. Under Prop 47, that would only apply to certain serious or violent offenders with one theft-related prior.

Drug possession – Generally, simple possession of controlled substances is currently either a wobbler or a felony. Under Prop 47, possession of a wide variety of controlled substances (e.g., cocaine, heroin, GHB, etc.) would only be a misdemeanor. The initiative makes no changes to marijuana possession penalties, which are already misdemeanors or infractions. There are no enhancements for repeat offenses.