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Proposition 47: Frequently Asked Questions

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What is Proposition 47?

On November 4, 2014, the voters of California passed Proposition 47, a law that changes some low level crimes like drug possession and petty-theft related offenses from potential felonies to misdemeanors. State prison cost savings from the changes will be invested in grants for drug treatment and mental health services for people in the criminal justice system, programs for at-risk students in k-12 schools, and victim services.

What crimes are now classified as misdemeanors under Proposition 47?

With the passage of Prop. 47, certain low-level, nonviolent offenses are now classified as misdemeanors (retroactively and going forward) instead of felonies. These crimes include:

- Simple drug possession
- Petty theft under \$950
- Shoplifting under \$950
- Forging or writing a bad check under \$950
- Receipt of stolen property under \$950

Who is in charge of implementation?

Like any new law, multiple agencies have a responsibility to carry out the intent of the law, and state and local nonprofits will also play a role in ensuring effective implementation.

- Superior courts are primarily responsible for ensuring that their county complies with the new law moving forward in court proceedings. Each county's superior court will develop procedures for processing petitions for resentencing and reclassification in the most efficient way possible.
- Law enforcement agencies are responsible for implementing the law in terms of arrests, bookings and prosecutions.
- The California Department of Finance is responsible for calculating and reallocating the savings in prison costs that result from Prop. 47.
- Community organizations are also working to ensure people with felony records for the offenses changed by Prop. 47 are aware of the opportunity to reclassify those records as misdemeanors.
- Californians for Safety and Justice is working with state, local and community partners to coordinate efforts, share information and advance effective implementation as much as possible.

Will people currently incarcerated for the above crimes be resentenced?

If someone is currently serving a sentence for one of these offenses, they may be eligible for resentencing and release. They must petition a judge in the court in which they were originally convicted of that offense.

- Individuals with previous convictions for crimes such as rape, murder or child molestation or who are in the sex offender registry *will not* be eligible for resentencing under Prop. 47.
- A judge has discretion to prevent release if they determine there is an unreasonable risk to public

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Help Californians win new safety priorities. We pledge to support smart justice strategies that increase safety and reduce costs. Join our efforts to save justice system money so we can invest in prevention, education and health.

to read more.

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\$60K

California spends more than

\$60,000

per inmate each year

AND LESS THAN

\$8,500

per K-12 student

safety.

- Individuals interested in resentencing should contact their local public defender's office or the lawyer who represented them to file a petition. Visit www.safeandjust.org/recordchange (<http://www.safeandjust.org/recordchange>) for more information.



How many people in county jails or state prisons are eligible for new sentences?

Estimates for the number of state and local inmates eligible for new sentences range from 4,000 to 15,000.

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- Because of the way data is collected by law enforcement agencies, it is difficult to know the exact number of people who are eligible for a new sentence.
- Eligibility depends on whether or not the person has a prior conviction for certain offenses, is required to register as a sex offender, or whether the value of the item stolen was worth \$950 or less.

Did Proposition 47 require mass early releases from prisons or jails?

No. No one can be released from state prison without petitioning a judge to hold a court hearing. No one in county jail who has been convicted and is serving their sentence in county jail can be released without petitioning a judge to hold a court hearing.



- Regarding people in or entering county jails *pretrial* (waiting for their trial before any possible conviction), local jurisdictions and law enforcement agencies have discretion to apply policies and practices related to arrests and release.
- Prop. 47 maintained pre-existing legal requirements regarding citations, arrests and pre-detention for felony *and* misdemeanor crimes. Local policies and practices may shift for this population, but that is at the discretion of local decision-makers and not required by Proposition 47.

Did Proposition 47 make stealing a gun worth less than \$950 a misdemeanor?

Proposition 47 maintained California's numerous gun laws—the strictest in the country—enabling felony prosecution for any and all criminal activity related to guns. This includes gun thefts regardless of the value of the gun. Gun crimes are, by definition, serious crimes. Proposition 47 is exclusively limited to non-serious and nonviolent crimes. Additionally, dozens of felony provisions related to gun crimes are maintained by Proposition 47, including (but not limited to): possession of a concealed stolen gun or possession of a loaded stolen gun; use of a firearm to facilitate any crime (including when the gun involved is being stolen and theft is crime in question); stealing guns from residences, stores during non-business hours, or locked automobiles; taking a firearm from the person of another with force or fear; or possession of a concealed stolen weapon by a gang member or possession of a gun by a felon.

Can someone have an old felony conviction on their criminal record changed to a misdemeanor, even if they completed their sentence and are no longer in the criminal justice system?

Yes, this law is retroactive. Individuals are eligible to have any qualifying, prior felony convictions reduced to misdemeanors, no matter how old their record.

- Individuals with previous convictions for crimes such as rape, murder or child molestation or who are in the sex offender registry will not be eligible to get any felonies changed by Prop. 47 reclassified.
- This is true even if a court previously denied a request to reduce one of these six felonies to a misdemeanor.
- Visit www.safeandjust.org/recordchange (<http://www.safeandjust.org/recordchange>) for more detailed information on this process.

How can someone with a previous conviction for a Proposition 47 felony request changing that on their record?

Individuals convicted of one of the six felonies listed in Prop. 47 can request changing that to a misdemeanor at a courthouse in the county where the conviction took place. Visit www.safeandjust.org/recordchange (<http://www.safeandjust.org/recordchange>) for a sample form.

- This must be done at each county courthouse for each felony, if someone has multiple offenses.
- An attorney should review all forms before they are submitted, and forms should be submitted to the court clerk and the District Attorney's office for the county.

Are sheriffs prohibited by state law from booking someone in jail for one of these offenses as they await trial?