

# PROPOSITION 47: ESTIMATING LOCAL SAVINGS AND JAIL POPULATION REDUCTIONS



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Research Brief

## Background

Proposition 47, the “Safe Neighborhoods and Schools Act,” which will appear on the November 4, 2014 statewide ballot, proposes to reduce the status of certain low-level property and drug offenses from felonies or wobblers to misdemeanors. These offenses include drug possession for personal use and petty-theft-related offenses (theft, shoplifting, receipt of stolen property, checks for non-sufficient funds, forgery, and check fraud, all for \$950 or less).<sup>1</sup> The measure would not apply to people with prior convictions for registerable sex offenses or certain severe offenses.<sup>2</sup>

The Legislative Analyst’s Office (LAO) estimates that about 40,000 people annually are convicted of the specified offenses and would be affected by the measure, but acknowledges this estimate may be off by several thousand (LAO, 2014). Because the offenses are not serious, violent, or sex-related, most people convicted of these crimes are currently the responsibility of county-level justice systems.<sup>3</sup> Changing the offenses from felonies to misdemeanors would result in shorter jail sentences or sentencing to probation or diversionary programs. The LAO predicts counties could save “several hundred million dollars annually,” primarily from reduced jail populations.

However, some people convicted of these offenses are currently sentenced to state prison because they have a prior conviction for a serious or violent offense or are otherwise ineligible for county placement; the LAO reports this portion at about one-tenth. Should these offenses become misdemeanors, most people convicted of the offenses would no longer be eligible for state prison, resulting in an ongoing drop of several thousand in the prison population. The savings from reduced prison populations and reduced burdens on state courts would be in “the low hundreds of millions of dollars annually” (LAO, 2014). These state savings would be transferred to a fund that would support mental health and substance abuse treatment programs, school truancy and drop-out prevention, and victim services.

The purpose of this brief is to propose a method of estimating savings and jail population reductions in individual counties as a result of implementing Proposition 47, using three counties as examples. By this estimation, every year Los Angeles County would save between \$99.9 million and \$174.8 million, San Diego County between \$28.4 million and \$49.7 million, and San Joaquin County between \$6.8 million

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<sup>1</sup> For a detailed description of these offenses, refer to analysis by Legislative Analyst’s Office (2014).

<sup>2</sup> These offenses are homicide, attempted homicide, solicitation to commit murder, assault with a machine gun on a peace officer or firefighter, possession of a weapon of mass destruction, and any serious and/or violent felony punishable by life imprisonment or death.

<sup>3</sup> Since the implementation of Public Safety Realignment (AB 109) on October 1, 2011, most people convicted of low-level felonies — those considered non-violent, non-serious, and non-sexual — are the responsibility of the county, rather than the state. Exceptions include people with violent, serious, or sex-related prior convictions and people whose parole has been revoked after serving a life-term.

and \$12.0 million as a result of Proposition 47. Most of these savings would accrue from reduced jail populations due to shorter sentences: Annually, 2,497 to 7,490 jail beds could be freed in Los Angeles County, 710 to 2,131 jail beds in San Diego County, and 171 to 513 jail beds in San Joaquin County.

## Method

This analysis uses the counties of Los Angeles, San Diego, and San Joaquin as examples for estimating potential county-level savings and freed jail capacity from implementing Proposition 47. The LAO's statewide estimate of "several hundred million dollars" in county savings is operationalized to a range of \$400 million to \$700 million per year.<sup>4</sup> This estimate is based on the number of people statewide who are convicted of these felonies — specifically, under 17 statutory codes<sup>5</sup> — and who would be affected by the measure. However, these figures are not publicly available by county.

In the absence of county-level convictions by statutory code, this report uses the number of charges filed for felony categories containing those codes, which are reported to the California Department of Justice (DOJ) and are made available by the agency's Criminal Justice Statistics Center (CJSC).<sup>6</sup> Six felony categories contain statutory codes that would be affected by Proposition 47: Burglary,<sup>7</sup> Theft, Forgery/Check/Access Cards, Narcotics, Marijuana, and Dangerous Drugs. For example, the felony "Narcotic" category includes ten penal codes, but only two that would be amended by Proposition 47.

In 2012, felony charges were filed against 188,790 people statewide under these six offense categories (CJSC, 2014). Of these, 58,018 were convicted of felonies under the specific statutory codes affected by Proposition 47 (DOJ, 2014). Excluding those whose circumstances disqualify them (i.e., those involving amounts exceeding \$950, or with certain severe prior offenses), the LAO (2014) estimated that around 40,000 of those convicted would have their convictions reduced from felonies to misdemeanors by Proposition 47 (Table 1). While juveniles (who make up 7.4 percent of arrestees for these felonies) would also be affected by Proposition 47, estimates do not include savings from reducing qualifying juvenile felonies to misdemeanors.

**Table 1. Statewide charges filed and convictions affected by Proposition 47, 2012**

Felony Category, 2012	Charges filed	Total convictions for offenses affected by Proposition 47	Estimated convictions affected by Proposition 47	Convictions affected by Proposition 47 as percent of charges filed
Burglary	41,678	14,110	9,727	23.3%
Theft	32,014	8,003	5,517	17.2%
Forgery	6,092	169	117	1.9%
Narcotic	32,631	11,748	8,099	24.8%
Marijuana	11,020	706	487	4.4%
Dangerous Drugs	65,355	23,282	16,050	24.6%
<b>Total</b>	<b>188,790</b>	<b>58,018*</b>	<b>40,000</b>	<b>21.2%</b>

Sources: LAO (2014); CJSC (2013). \*Four offenses under a Proposition-47-affected bribery code (Cal. Pen. Code § 67.5(b)) are not included.

<sup>4</sup> Legislative Analyst's Office, personal correspondence.

<sup>5</sup> Cal. Pen. Code §§ 459; 473; 666; 476a; 487(b); 487a; 487b; 487i; 484e; 67.5(b); 496. Cal Health & Saf. Code § 11350; 11350(a); 11350(b); 11357; 11377. Cal. Pen. Code § 67.5(b) is included in the LAO's analysis, with a total of four convictions, but is excluded from this estimate because it is not included in the CJSC's arrest categories.

<sup>6</sup> These data are reported by DOJ as "complaints sought."

<sup>7</sup> Proposition 47 would create a new crime category of "shoplifting," describing theft from a commercial property under \$950, which can currently be charged as second-degree burglary. The initiative does not affect residential burglary.

This report estimates county-level convictions that would be affected by Proposition 47 in a multi-step procedure. Theft and Los Angeles County are used as examples:

1. **The number of people convicted statewide under each felony category:** Seven of the codes affected by Proposition 47 fall under the felony category of "Theft." There were 8,003 felony convictions under these seven codes in 2012.
2. **The number of people convicted statewide under each felony category who would receive reduced penalties under Proposition 47:** 58,018 people were convicted under the 17 specified statutory codes, but only 40,000, or 68.9 percent, would be convicted of felonies instead of misdemeanors as a result of this initiative. For the purpose of this report, this percentage is applied to all felony categories:  
 $0.689 \times 8,003 = 5,517$  people convicted of theft statewide would see reduced penalties each year
3. **The proportion of people charged with each felony category who would be affected by the measure statewide:** In 2012, of the 32,014 people statewide charged with felony theft, 5,517 were convicted of offenses affected by Proposition 47:  
 $5,517 \div 32,014 = 17.2\%$  of people charged with felony theft statewide would be affected
4. **The number of people in each county who would see reduced penalties for each felony category, based on the statewide proportion:** Los Angeles County charged 8,129 people with felony theft in 2012. Applying the statewide estimate that 17.2 percent of all people charged with felony theft will be affected by the initiative statewide to the corresponding county figure:  
 $0.172 \times 8,129 = 1,401$  people who would be convicted of misdemeanor theft instead of felony theft in Los Angeles County each year
5. **The contribution of each county to the statewide total number of people affected by Proposition 47:** After repeating Steps 1-4 for each offense category, this report calculated the total number of people affected in each county. In Los Angeles County, 9,986 people would be convicted of misdemeanors instead of felonies in the six felony categories, which is 25.0 percent of the total number of 40,000 (See Table 2). This proportion is then used to calculate the county-level cost savings and freed jail beds.

**Table 2. Estimated people with reduced penalties under Proposition 47 (2012)**

Offense categories affected by Prop 47	Statewide	Los Angeles	San Diego	San Joaquin
Burglary	9,727	2,315	769	201
Theft	5,517	1,401	247	155
Forgery / Checks / Access Cards	117	40	4	3
Narcotics	8,099	2,187	736	90
Marijuana	487	134	25	9
Dangerous drugs	16,050	3,910	1,060	227
Total	40,000	9,986	2,841	684
Convictions as % of statewide total		<b>25.0%</b>	<b>7.1%</b>	<b>1.7%</b>

Source: CJSC (2013); DOJ (2014).

One caveat of this methodology is that it assumes that the proportion of total convictions that are affected by the measure (i.e., 40,000 out of 58,022) is consistent across all felony categories and across all counties. This may overestimate the number of people affected in some categories (i.e., categories where most

felony convictions will remain felonies after Proposition 47 is implemented, such as burglary) while underestimating those in other categories.

## Findings

By this estimation, Los Angeles County, San Diego County, and San Joaquin County would account for 25.0 percent, 7.1 percent, and 1.7 percent, respectively, of the convictions affected by Proposition 47. For the estimates of cost savings and jail beds freed shown in Table 3, the county's proportion of the total statewide convictions for qualifying offenses is assumed to be equal to the county's proportion of statewide freed county jail beds and statewide county-level cost savings attributable to Proposition 47. Due to the LAO's acknowledged uncertainty over specific cost savings, this estimate uses a range of cost savings and freed jail capacity.

The primary cost savings at the county level would be attributable to freed jail capacity: Statewide, the downgrading of felonies to misdemeanors for these convictions would free capacity of local jails by 10,000 to 30,000 beds, resulting in annual savings of between \$400 million and \$700 million.<sup>8</sup> County-level savings would also accrue from reduced probation populations of unspecified “tens of thousands” annually (information in this area is particularly uncertain), along with lower court and law enforcement costs for managing people charged with misdemeanors as opposed to felonies (LAO, 2014).

**Table 3. Potential county-level impact of Proposition 47: Jail beds freed and cost savings**

	Statewide	Los Angeles	San Diego	San Joaquin
Jail beds freed				
Lower-bound estimate	10,000	2,497	710	171
Upper-bound estimate	30,000	7,490	2,131	513
Estimated annual cost savings (millions)				
Lower-bound estimate	\$400	\$99.9	\$28.4	\$6.8
Upper-bound estimate	\$700	\$174.8	\$49.7	\$12.0

Sources: LAO (2014); CJSC (2013).

Thus, this report estimates that every year, Los Angeles County would save between \$99.9 million and \$174.8 million, San Diego County between \$28.4 million and \$49.7 million, and San Joaquin County between \$6.8 million and \$12.0 million if Proposition 47 was implemented. Most of these savings would accrue from the reduced need for jail beds for those whose felonies are reduced to misdemeanors: Los Angeles County would experience between 2,497 and 7,490 jail beds freed, San Diego County between 710 and 2,131 beds, and San Joaquin County between 171 and 513 beds. However, these beds would not necessarily all be empty; many counties struggle with jail overcrowding, and would likely use a portion of the beds to reduce early releases. Across California, more than 10,000 people are released early from jail each month to relieve crowding, including approximately 1,500 people in Los Angeles County, 900 in San Diego County, and 500 in San Joaquin County (BSCC, 2014).

This report focuses on county-level savings. The LAO estimates the state prison population would also drop by “several thousand” per year, in addition to the temporary reduction of “a couple thousand” people in prison who would be eligible for resentencing and release. This population reduction, combined with savings to state courts, would result in savings to the state of \$100 million to \$300 million per year.<sup>9</sup> These savings would be transferred to a fund that would support mental health and substance abuse treatment programs, school truancy and drop-out prevention, and victim services.

<sup>8</sup> Legislative Analyst's Office, personal correspondence.

<sup>9</sup> *Ibid*

## Sources

Board of State and Community Corrections (BSCC). (2014). Data Dashboard, Jail Population Trends, Early Releases Due to Lack of Housing Capacity. At: [http://www.bscc.ca.gov/s\\_datashboard.php](http://www.bscc.ca.gov/s_datashboard.php)

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**Please note:** Each year, every county submits their data to the official statewide databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy and to correct information upon revision, CJCJ cannot be responsible for data reporting errors made at the county, state, or national level.

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