

# Proposition 47 Removing Barriers to Work

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CALIFORNIANS  
FOR **SAFETY** AND **JUSTICE**

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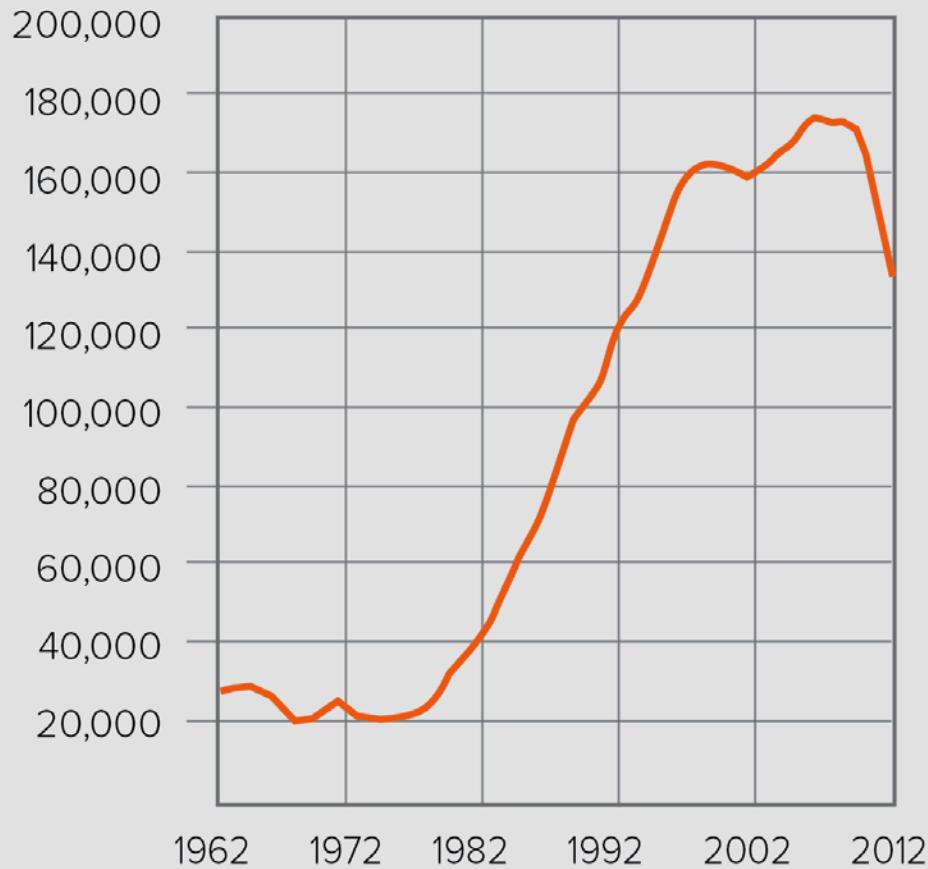
# AGENDA

1. Background and Intent of Prop. 47
2. What Prop. 47 Does and Does Not Do
3. Prop. 47 Impacts To Date

# Background: Why Prop. 47?

- Between 1981-2011 in California:
  - 1500% increase in prison spending
  - 65% return to prison within 3 years
- Overcrowding = population cap mandate
  - Realignment alone did not achieve mandate
- Collateral consequences of felony convictions = severe barriers to stability

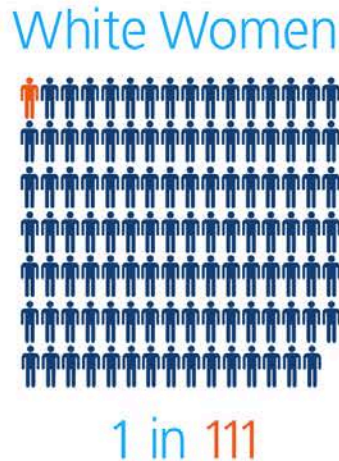
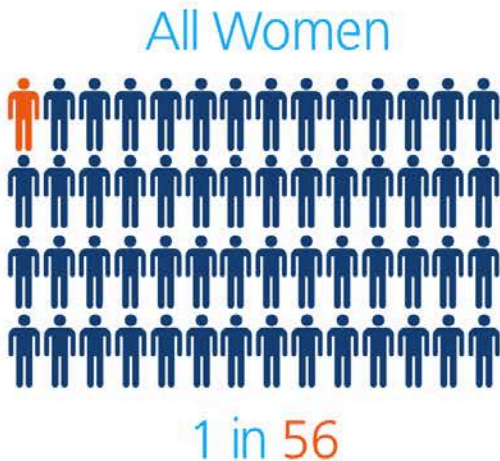
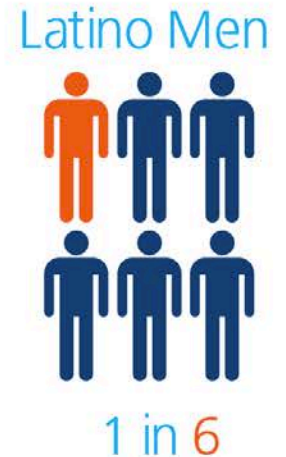
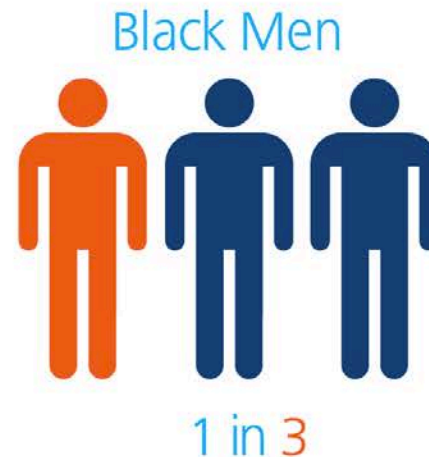
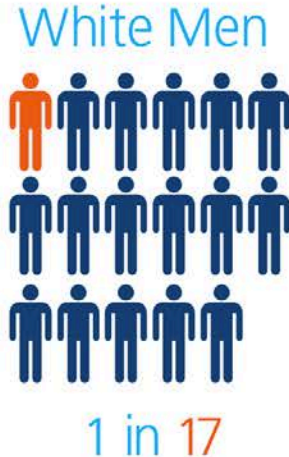
# CALIFORNIA PRISON POPULATION 1962-2012



**5.6X**

as many people  
in state prison  
in 2012 than in  
1962 (when the  
crime rate was  
similar)

# Lifetime Likelihood of Imprisonment



Source: Bonczar, T. (2003). *Prevalence of Imprisonment in the U.S. Population, 1974–2001*. Washington, D.C.: Bureau of Justice Statistics

# Background: Intent of Prop. 47

- Reduce prison for nonviolent offenses, reduce spending on prisons
- Focus law enforcement and incarceration resources on serious and violent crime
- Reduce lifetime consequences of felony convictions for nonviolent offenses

# Proposition 47

## Reclassify

Drug Possession

Petty Theft

Shoplifting

## Retroactive

Resentencing

Record Change

Remove Barriers

## Reallocate

65% Mental Health/Substance

25% Education

10% TRCs

# What Prop. 47 Does: Reclassify

6 crimes are reclassified from from felony/wobbler to misdemeanor:

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



# Reclassify: Eligible Offenses

- Simple Drug Possession Offenses
  - HS 11377 Possession of Controlled Substance
  - HS 11350 Possession of Controlled Substance
  - HS 11357(a) Possession of Concentrated Cannabis (Hashish)

# Reclassify: Eligible Offenses

- Petty Theft-Related Offenses
  - PC 496 Receipt of Stolen Property under \$950
  - PC 476 Forgery/Fraud/Bad Checks under \$950
  - PC 666 Petty Theft under \$950 w/Prior
  - PC 459 “Shoplifting” Commercial Burglary under \$950

# What Prop. 47 Does: Exclusions

**EXCLUDES** anyone with:

- a prior conviction for murder, rape or child molestation
- on the sex offender registry
- a prior forgery or identify theft conviction excluded from check crimes

Did not impact the following crimes:

- Residential burglary, robbery, any other felony

# Reclassifying: Implementation

## HOW TO RECLASSIFY YOUR FELONY UNDER PROP. 47

ARE YOU ELIGIBLE?

### A CONVICTION FOR ONE OF THE FOLLOWING

- ✓ Simple drug possession
- ✓ Petty theft, including commercial burglary \$950 or less
- ✓ Shoplifting \$950 or less
- ✓ Forging/writing a bad check \$950 or less
- ✓ Receipt of stolen property \$950 or less

&

### NONE OF THE FOLLOWING PRIOR CONVICTIONS

- ✓ Prior conviction for rape, child molestation or other violent crimes
- ✓ Sex offender registrant
- ✓ Identity theft
- ✓ Currently serving a sentence or on probation\*

\*You may be eligible for resentencing. See [www.MyProp47.org](http://www.MyProp47.org) for more information.



STEP 2

### COMPLETE PROP 47 FORMS

Download the appropriate forms from the website of the Superior Court where you were convicted.

CHECK [WWW.MYPROP47.ORG](http://WWW.MYPROP47.ORG) TO FIND THESE FORMS

STEP 1

### GET A COPY OF YOUR CRIMINAL RECORD

Go to the Superior Court where you were convicted or contact the California Department of Justice (best option if you have convictions in multiple counties).

STEP 3

### MAKE YOUR RECLASSIFICATION PACKET(S)

Your Reclassification Forms + Your Criminal Record = Your Packet.

- 1 Copy for Superior Court
- 2 Copy for District Attorney
- 3 Original for your files

MAKE 3 COPIES OF EACH PACKET!

Note: You will need one packet for each felony conviction that you want reclassified to a misdemeanor. Some counties may require additional forms.

CHECK [WWW.MYPROP47.ORG](http://WWW.MYPROP47.ORG) FOR MORE INFORMATION ON EACH COUNTY.

STEP 4

### FILE YOUR PAPERS

- 1 One packet to the District Attorney's Office where convicted. Your county may require you to serve this packet in person.
- 2 One packet to the Superior Court where convicted.
- 3 Keep the other packet for your files.

CHECK [WWW.MYPROP47.ORG](http://WWW.MYPROP47.ORG) FOR YOUR COUNTY'S SPECIFIC FILING REQUIREMENTS.

STEP 6

### ACCESS NEW OPPORTUNITIES

You may be eligible for new benefits now that your felony has been reclassified.

STEP 5

### WAIT FOR YOUR APPROVAL

In most counties, the Superior Court will notify you by mail when your application is approved. Some counties may require that you return to the Court for the results of your application. You are entitled to a hearing if there is a dispute.

MYPROP47

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MYPROP47.ORG

# What Prop. 47 Does: Retroactive

## Retroactivity Clause:

- Incarcerated people can petition a judge for release
- People with old records can petition for record change of old felonies
  - In most cases, no hearing required
  - Submit a copy of record with completed county reclassification forms
  - Legal help to fill out forms is recommended

# Why Retroactivity Matters

- California has more than 4,800 post-release prohibitions for people with felony convictions
  - 58% are job related
  - 73% are lifetime bans
- Barriers to jobs, education and housing can be removed with a record change
- Expungement is possible!
- **AB 2765 SIGNED 9/28/16 – Deadline is now extended to November 4, 2022**

# Expungements

What does an expungement do?

- ✓ Dismisses a conviction or
- ✓ Withdraws a plea

# Expungements

- ❑ Were they sentenced to local jail and not State Prison?
  - ❑ Did person successfully complete probation?
  - ❑ Was person clean of contacts with w/LE w/in 1<sup>st</sup> year?
  - ❑ Was probation terminated early?
  - ❑ Was it probation and *NOTAB* 109?
  - ❑ Are all fines/Restitution paid?
- If yes, dismissal of the conviction is mandatory
- If no, a judge decides at a court hearing whether it is “**in the interests of justice**” to dismiss the conviction



# What *does* change after expungement

## Expungement often helps with:

- Employment options
- Housing options
- Family unification
- Student loans
- Immigration\*
- Public safety
- Civil rights
- Fundamental fairness
- Dignity value

\* Check with an immigration attorney before proceeding

# Prop 47 and Clean Slate Remedies

- Remedies beyond P47
- Prop 47 differs b/c it is mandatory
- Other CSR apply more broadly & no end time
- Will vary from Judge to Judge
- Hard work, community engagement, self-transformation shows Judge “Interest of Justice”
- Designed so that past decisions don’t limit future opportunities

# What Prop. 47 Does: Reallocate

## Reallocation clause:

- Prison cost savings calculated annually
- Reallocated to:
  - 65% to BSCC for mental health, drug treatment, diversion
  - 25% to BOE for programs for at-risk youth
  - 10% to VCF for trauma recovery victim services
- 2014 LAO estimate
  - “Low Hundreds of Millions of Dollars per year”
- 2016 Final Budget
  - \$68 million

# What Prop. 47 does NOT do:

- Does not prevent arrest
  - Existing state law authorizes law enforcement arrest and custody of people for misdemeanor crimes
- Does not prevent local incarceration
  - Existing state law authorizes incarceration of up to a year in jail for misdemeanor crimes
- Does not prevent treatment
  - Existing state law authorizes supervised misdemeanor probation and treatment for misdemeanors

**Prop. 47 did not change these existing state laws**

# Prop. 47: Impacts So Far

- October 2015 report found nearly 5,000 fewer in state prison
  - with a less than 5% recidivism rate
- 18,000 fewer people in County Jails.
- Court mandated population cap achieved for the first time and a year ahead of schedule
- Reduced county jail crowding = fewer early jail releases for violent and serious offenses
  - LA County: violent offenses now serving 90% of sentence (was less than 60%)
- More than 250,000 applications for record change

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