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Staff Report

ITEM NO. SS-2

To: Lemoore City Council

From: Darrell Smith, Chief of Police

Date: November 12, 2014

Meeting Date: November 18, 2014

Subject: Proposition 47 Overview

Discussion:

With the passage of Proposition 47, approved by California voters on November 4th, many crimes that were previously classified as felonies are now reclassified as misdemeanors. The initiative specifically reduces the penalty for non-serious and non-violent property and drug crimes from a felony to a misdemeanor, unless the offender has prior convictions for violent and serious crimes. Prop. 47 would permit resentencing for anyone currently serving a prison sentence for any of the offenses reclassified in Prop. 47 as misdemeanors and certain offenders who have already completed a sentence for one of those felonies may apply to the court to have their convictions changed to misdemeanors. Proposition 47 is a constitutional amendment, it went into effect immediately after the voters enacted it, therefore we must comply with it immediately.

Proposition 47 would reduce the following crimes from a felony to a misdemeanor:

PC 459.5 – Shoplifting (new section)

Entering a commercial establishment, during business hours, with the intent to steal, where the value does not exceed \$950.00. The statute also states "Shoplifting" as defined may not be charged as a theft or burglary. Prior to this new section, entering an establishment with the intent to steal was always a burglary, regardless of the value.

PC 473 (B) – Forgery of checks and related instruments of not more than \$950.00

PC 476 – Non sufficient funds checks totaling not more than \$950.00 (unless three or more specified priors)

PC 490.2 – Grand theft (any form) not more than \$950.00

Grand theft in any form includes grand theft auto, grand theft person, and theft of any firearm valued under \$950.00. Most firearms are valued under \$950.00. Prior to this change to the law, theft of any firearm, regardless of value was a felony.

PC 496 (a) – Receiving/concealing stolen property not more than \$950.00

This applies to possession of any stolen property, including firearms if the value is less than \$950.00.

PC 666 – Petty theft with a prior

This section use to apply to any subject who had a previous conviction of theft, which made the penalty a felony. Now this will only apply to subjects with atrocious criminal history, 290 sex registrants, or convictions of elder abuse.

H&S 11350 – Simple possession of heroin, cocaine, listed controlled substances

Simple possessions of these drugs listed under this section are now misdemeanors. Prior to prop 47, possession of these narcotics was chargeable as a felony. The consequences of a felony conviction gave our local prosecutors the ability to have the drug offender attend a diversion treatment program for a reduced sentence. With the enactment of prop 47, I believe there will now be no incentive for an offender to enter into an eighteen month program when pleading guilty to a misdemeanor will most likely result in no jail time due to overcrowding and at worst, the offender would be placed on supervised release. The danger of this statute change form a law enforcement perspective is the decriminalization of the crime.

H&S 11377 – Simple possession of methamphetamine, ecstasy, GHB, listed substances

This would include the "Date Rape" drug GHB and regardless of the number of times a person is charged with simple possession, it would always be a misdemeanor.

PC 1170.18 – Affected felons may petition for misdemeanor resentencing

Subjects who have previously been convicted of felonies that is now misdemeanors can petition the court for resentencing and immediate release. This applies to an estimated 10,000 current inmates serving state time for various charges, with the potential to affect an estimated 40,000. With the impacts of realignment and jail overcrowding, I believe this will have a significant impact on local crime.

Proponents of proposition 47 say the initiative will create a new state fund, the Safe Neighborhoods and Schools Fund for truancy and drop-out prevention programs in schools, victims' services, and mental health and drug treatment services designed to keep individuals out of prison and jail.

Budget Impact:

There is no impact to the general fund.

Recommendation:

Informational only.