

# Prop 47

Criminal Sentences. Misdemeanor  
Penalties. Initiative Statute  
(Safe Neighborhoods & Schools Act)

# General Impacts: Effective 11/5

- Reduces simple possession crimes to misdemeanors
- Reduces many thefts to misdemeanors
- Requires resentencings
- Savings
  - 10% to Victim Trauma Recovery Centers
  - 25% to K-12
  - 65% for grants for mental health, substance abuse & diversion

# Possession of Controlled Substances

- HS 11350, HS 11377, HS 11357(a)
  - No limitation on amount possessed
- Misdemeanor (up to one year) **unless**
  - 290(c) Registrant
  - Prior Conviction for Super Strike

# "Super Strike"

PC 667(e)(2)(C)(iv)/1170.12(c)(2)(C)(iv)

Any homicide or attempted homicide offense defined in PC Sections 187 to 191.5, inclusive

Assault with a machine gun on peace officer or firefighter per PC 245(d)(3)

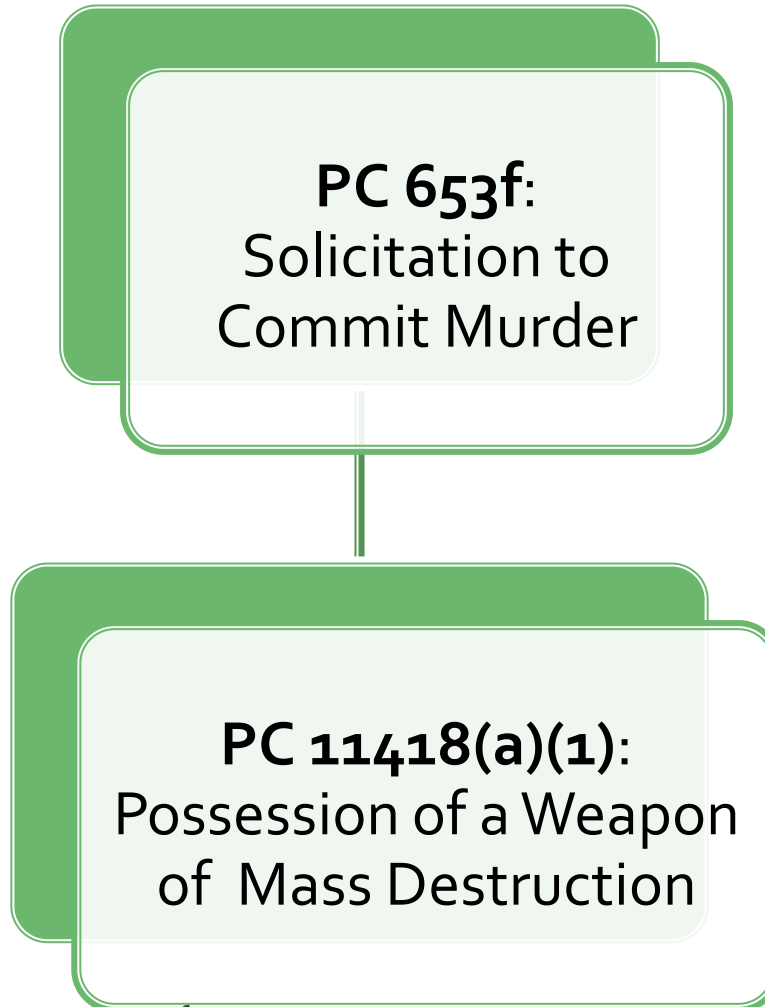
Sexually Violent per WI 6600(b)

Oral copulation per PC 288a with child under 14 and more than 10 years younger  
Sodomy per PC 286 with another person under 14 and more than 10 years younger  
Sexual penetration per PC 289 with person under 14 and more than 10 years younger

Lewd or lascivious act involving and child under 14 per PC 288

Any serious and/or violent offense punishable in California by life imprisonment or death

## 2 Offenses that are not True Violent Strike Priors, but still Disqualifying Convictions per PC 667(e)(2)(C)(iv)/1170.12(c)(2)(C)(iv)



# New Crime of Shoplifting

- **PC 459.5**
  - Entering commercial establishment with intent to commit larceny
  - During regular business hours
  - Amount of intended item to be stolen is under \$950
- Misdemeanor (up to 6 months) **unless**
  - 290 Registrant
  - Prior Conviction for Super Strike
- ***Cannot be charged with petty theft and shoplifting***

# Still 2<sup>nd</sup> degree Burglary

- Amount stolen or intended to be stolen is greater than \$950
- Non-retail establishment
  - Dentist Office
  - Bank
- After Business Hours
  - Break into liquor store through the ceiling tiles
- Vehicle Burglary

# Petty Theft with a Prior

- PC 666
  - Always a 484 misdemeanor (6 months) **unless**
    - Prior theft related offense ***plus***
    - 290 Registrant, or
    - Prior Conviction for Super Strike, or
    - Prior conviction for PC 368(d) or 368(e)
  - Cannot also charge with Shoplifting



# New Definition of Grand Theft

- PC 490.2
  - Always a petty theft unless value of property is over \$950
  - Or, super strike prior or 290 registration
- Applies to:
  - Grand Theft Person – PC 487(c)
  - Automobiles – PC 487(d)(1)
  - Firearms – PC 487(d)(2)
  - Avocados/Fruit
  - Animals – PC 487a
  - Theft of an access card – PC 484e

# Receiving Stolen Property

- PC 496
  - Always a misdemeanor (up to 1 year) unless
    - Value of property is over \$950, or
    - Super strike prior or 290 registration

# Forgery/Check Fraud

- PC 473
  - Check, bond, bank bill, note, cashier's check, money order or traveler's check under \$950
  - Cannot aggregate total
  - Not a misdemeanor if also convicted of ID theft per PC 530.5
  - Always a misdemeanor (up to 1 year) unless Prior Super strike prior or 290 registration
- PC 476a
  - Check fraud under \$950 for total amount of bad checks
  - Can aggregate the total
  - Always a misdemeanor (up to 1 year) unless Prior Super strike prior or 290 registration
  - Can charge as a felony if **Three (3) Priors**

# Charges affected by 473/476a/490.2

## CAN BE FELONY IF >\$950 WITH SUPER STRIKE/290 REG

- PC 470(d)
- PC 475(a)
- PC 475(b)
- PC 476

## CAN ONLY BE FELONY IF SUPER STRIKE OR 290

- PC 484e(a) \*
- PC 484e(b) \*
- PC 484e(d)\*

# Resentencings per PC 1170.18

- Anyone “sentenced” who would have been guilty of a misdemeanor under Act shall be “resentenced”
  - Unless court finds Defendant would pose *an unreasonable risk of danger to public safety*
- Ineligible to petition if previously convicted of a Super Strike or a 290(c) Registrant
- Can petition or apply for up 3 years
  - Defendants currently serving sentence with a hearing: petition
  - Applies to defendants who completed their sentence: application
    - No hearing necessary
- If still serving term when resentenced, will be on parole for up to 1 year

# Definition of “Dangerousness”

- Standard: Defendant would pose an unreasonable risk of danger to public safety
  - Unreasonable risk that the petitioner **will** commit a **new violent felony** listed in PC 667(e)(2)(C)(iv), or Super Strike
  - Would not include PC 653f or PC 11418
- Does not apply to offenders who have completed their sentence.

# Impacts

- Determining number of resentencings
  - CDCR/Local Prison/Probationers
  - PRCS/Parole
  - Probationers
  - Post-sentence
- Work with Public Defender's Office/District Attorney's Office and Superior Court to plan for resentencings
- Reallocation of workload between felonies and misdemeanors