



Brooke Jenkins
District Attorney

CHARGING POLICY ADDENDUM

IMPLEMENTATION OF PROP 36

Introduction

This is an addendum to the San Francisco District Attorney's Charging Policy to ensure implementation of newly enacted Proposition 36 is consistently applied. The same charging standards remain in place and apply to these new offenses. The anticipated effective date of this proposition is December 18, 2024 (effective on fifth day after Secretary of State certifies results of the election).

New Laws

Narcotics Cases

- Health & Saf. Code, § 11370.1 – Possession of Drugs While Armed: This will be charged prospectively only for incidents occurring after the effective date.
- Health & Saf. Code, § 11370.4 – Weight Enhancement for Fentanyl: This will be charged prospectively only for incidents occurring after the effective date.
- Health & Saf. Code, § 11395 – Treatment Mandated Felony – possession of “hard drug” as defined by statute with two prior drug-related convictions: The law as drafted did not impose any age limitations on the prior convictions, just that they must occur before the commission of the new offense. Consistent with our discretion to create guidelines to generate fair and equitable treatment of individuals, we will only charge this section if the current offense has occurred within five (5) years of the prior conviction.

Theft Cases

- Pen. Code, § 490.3 – Aggregation of Value: The law as drafted did not specify if the aggregation would apply to any pending cases that currently exist. Consistent with our discretion to create guidelines to generate fair and equitable treatment of individuals, we will only aggregate cases occurring after the effective date of the law.
- Pen. Code, § 666.1 – Petty Theft with Two Priors: The law as drafted did not impose any age limitations on the prior convictions, just that they must occur before the commission of the new offense. Consistent with our discretion to create guidelines to generate fair and equitable treatment of individuals, we will not charge this violation unless the prior convictions for any non-strike conviction that occurred before a period of ten (10) years. The calculation of the ten year “wash out” period means a period of time in which the defendant remained free of both custody or the commission of any offense that resulted in a criminal conviction.

Effective December 18, 2024