

Prop. 36: The Substance Abuse and Crime Prevention Act of 2000

Solutions for Treatment Expansion (STEP) • March, 2002

In November, 2000, sixty-one percent of California voters approved Proposition 36, the “Substance Abuse and Crime Prevention Act of 2000.” The law significantly changed the state’s criminal justice and drug treatment systems, routing thousands of nonviolent drug offenders into treatment instead of prison.

Proposition 36 requires that adults convicted of specified nonviolent drug related offenses will receive probation, unless some other provision of the law applies which would preclude participation. Alcohol-related crimes are excluded from Proposition 36, unless the offense is also drug related. Conditions of that probation include that the offender is to participate in and successfully complete drug treatment services in lieu of incarceration. Additional services such as training, education or family counseling may be offered or imposed. Previously, these offenders were sentenced to jail or prison terms, or released on probation into the community, often without treatment.

Background

The premise of Proposition 36 is that by diverting offenders to appropriate treatment instead of incarceration, public health and safety will be improved, and taxpayer dollars thereby saved.

Research has shown that combining criminal justice sanctions with drug treatment can be effective in decreasing drug use and related crime. Individuals under legal coercion tend to stay in treatment longer and do as well as or better than others not under legal pressure. Often, abusers of alcohol and other drugs come into contact with the justice system earlier than other health or social systems. Intervention by the justice system ordering the individual into treatment may help interrupt and shorten a career of drug use. Recognizing that relapse is part of the disease of addiction, Proposition 36 provides for more than one episode of treatment if warranted.

Two components that contribute to the success of criminal justice diversion programs to treatment – drug testing and incarceration as a sanction for non-compliance – are not included as part of Proposition 36. Proposals to the California legislature to provide funding for drug testing have not yet been acted upon.

Major Provisions of Proposition 36

- **Sentencing laws** state that offenders convicted of non-violent drug possession shall be sentenced to probation and drug treatment instead of incarceration or probation without treatment. Those offenders who refuse treatment are excluded and can be sentenced to prison or jail.
- **Violation of probation** could result in revocation of probation, in which case the defendant may be incarcerated according to an otherwise applicable law without regard to the provisions of Proposition 36.
- **Parole violation laws** now require that certain parole violators must complete drug treatment within the community, rather than being returned to prison. This includes violators who commit nonviolent drug possession offenses and those who violate drug-related conditions of their parole.
- Up to **one year of drug treatment** within the community is available for certain offenders. Up to six months of additional follow-up care can be required.

- **Drug treatment program** means a treatment program that is licensed and/or certified by the California Department of Alcohol and Drug Programs (DADP), having services ranging from outpatient treatment through residential care.
- Treatment providers working with Proposition 36 clients must be **licensed or certified** by the California Department of Alcohol and Drug Programs (DADP). (For licensing and certification standards, see DADP website: www.adp.cahwnet.gov/)
- **Program services** may include drug education, group and individual counseling, family counseling, or vocational or educational services. Proposition 36 funds may not be used for drug testing.
- **Referral and case management** is performed by the Probation Department. Clients are screened and referred to an appropriate treatment program, based on the individual's needs. The treatment program assesses the client for appropriateness and either admits the client or notifies Probation that he/she is not appropriate. Follow-up and case management is performed by Probation staff.
- **Successful completion of treatment** means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of treatment, and, as a result there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.
- **Offenders must pay for their treatment**, if they are reasonably able to do so. Determining a person's ability to pay is part of the assessment process.
- **Dismissal of charges** occurs upon successful completion of treatment and all probation requirements. Although the charges will be

dismissed once the treatment program is completed and probation requirements are met, the conviction may be disclosed by the Department of Justice in response to any peace office application request or any law enforcement inquiry.

- **State funds** are appropriated to counties for administration, coordination and treatment operations and related services. San Diego County's annual allocation is \$9 million, of which 22% is allocated to Probation, and 78% is allocated for treatment services. Services specifically excluded from Proposition 36 are drug testing and construction of new treatment facilities.
- **Differences between Proposition 36 and Drug Court:** In Prop. 36, all defendants charged with offenses defined in the statute are automatically considered part of Prop. 36 unless they opt not to go for treatment or are considered non-amenable. In contrast, people are not automatically eligible for Drug Court. Their attorneys must present clients with the option and those clients must agree to participate. In Drug Court, judges may use brief periods of incarceration as sanctions for individual defendants as needed. In Prop. 36, incarceration may not be used as a sanction. In Prop. 36, upon successful completion of the program, the record may be disclosed for inquiries from law enforcement. Upon successful completion of Drug Court, the record of the arrest and conviction is completely expunged.



For more information about Proposition 36 and related topics, contact the Institute for Public Strategies at (619) 474-8844 or e-mail info@publicstrategies.org. A copy of this fact sheet can be downloaded online at www.publicstrategies.org.

Institute for Public Strategies

148 E 30th St., Suite B, National City, CA 91950
Phone: (619) 474-8844 / Fax: (619) 474-8838

www.publicstrategies.org