



# CITY OF SANTA ANA

## Councilmember-Requested Item Report

### DATE

April 15, 2025

### TOPIC

Resolution in support of Senate Bills 28-The Proposition 36 Treatment Court Implementation Act and Senate Bill 38-Funding for Diversion Treatment

### COUNCILMEMBER-REQUESTED ITEM TITLE

Discuss and Consider Directing the City Manager to Prepare a Resolution in Support of Senate Bill 28 – The Proposition 36 Treatment Court Implementation Act and Senate Bill 38 – Funding for Diversion Treatment

### DISCUSSION

On September 17, 2024, the Santa Ana City Council adopted a resolution in support of Proposition 36. On November 5<sup>th</sup>, 2024, California voters and Santa Ana voters overwhelmingly voted in favor of Proposition 36-Drug and Theft Crime Penalties and Treatment-Mandated Felonies Initiative. The initiative passed with 74.54% of Orange County voters and 66% of Santa Ana voters in favor.

A key aspect of Proposition 36 is that certain drug offenses are now classified as treatment mandated felonies. This classification applies when an individual has two or more prior convictions for certain drug crimes such as possession or distribution of fentanyl, heroin, cocaine, or methamphetamine. If the to-be-charged individual agrees not to contest the charge, they then receive a substance use and mental health treatment evaluation and are subsequently referred to treatment. Once treatment is successfully completed, the felony charges are dismissed. Failure to complete treatment can result in punishment of up to three years in state prison

To help facilitate the implementation of Proposition 36, Senator Tom Umberg has introduced Senate Bill 28 (SB 28) - The Proposition 36 Treatment Court Implementation Act – which would require all Counties in the State of California to have courts facilitate the treatment mandated by Proposition 36 and specifies that those Courts programs are consistent with best practices. Not every county and court currently has treatment court programs available for qualifying defendants<sup>1</sup>. SB 28 will ensure that all eligible California defendants have treatment court programs available by removing the “opt to have” language of H&S Code § 11972 which will ensure that courts comply with

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<sup>1</sup>[H&S Code § 11972\(a\)](#): Counties and courts that *opt to have* treatment shall ensure the programs are designed and operated in accordance with state and national guidelines incorporating the “Adult Treatment Court Best Practice Standards” and “family Treatment Court Best Practice Standards” . . .

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Proposition 36. Counties will be allowed to use existing collaborative courts to satisfy the Prop 36 requirement.

Under Proposition 47, sixty-five percent of the financial savings generated are required to be set aside annually for the Board of State and Community Corrections (BSCC) to administer a competitive grant program. These grants are awarded to public agencies to provide mental health services, substance use disorder treatment, and/or diversion programs to those in the criminal justice system.

Senator Umberg has introduced SB 38 to update the existing competitive grant program administered and expressly add drug court programs, collaborative court programs, and Treatment Mandated felony programs under Health and Safety Code §11935<sup>2</sup>. This will allow programs that meet the requirements of Proposition 36 to access grant monies while remaining consistent with the program's goals.

Together these Senate Bills will ensure that every eligible Californian who chooses treatment over incarceration will have that choice regardless of the jurisdiction where they are being charged while expanding opportunities for more treatment programs to qualify for competitive grant funding.

Our City Council formally supported the passage of Proposition 36, so we respectfully request that the City Council direct the City Manager to direct City staff to draft and bring back a resolution stating our City Council's support of the passage of Senate Bill 28 and Senate Bill 38 by Senator Tom Umberg.

**SUBMITTED BY**

Councilmember Phil Bacerra, Mayor Valerie Amezcuca, and Councilmember David Penalosa

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<sup>2</sup> [H&S Code § 11935\(d\)\(2\)](#): A treatment program may include, but is not limited to, drug treatment, mental health treatment, job training, and any other conditions related to treatment or a successful outcome for the defendant that the court finds appropriate. The court must hold regular hearings to review the progress of the defendant. The court shall make referrals to programs that provide services at no cost to the participant and have been deemed by the court, the drug addiction expert, and the parties to be credible and effective. A defendant may also choose to pay for a program that is approved by the court.

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