



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov

CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-25-06

Title

Allocations and Reimbursements to Trial
Courts: Proposition 36 Funding

Action Requested

VOTING MEMBERS ONLY: Submit votes
by responding to the transmittal email.

Rules, Forms, Standards, or Statutes Affected

None

Please Respond By

September 2, 2025

Recommended by

Trial Court Budget Advisory Committee
Hon. Jonathan B. Conklin, Chair
Ms. Rebecca Fleming, Vice-Chair

Date of Report

August 25, 2025

Contact

Francine Byrne, 415-865-8069
francine.byrne@jud.ca.gov

Public Comment

Written comments for this Judicial Council
action are accepted by 3:00 p.m., on
August 26, 2025.

California Rules of Court, rules 10.5(h) and 10.13(d) allow the Judicial Council to act on business between meetings, including urgent matters, by circulating order. This memorandum is not a Judicial Council meeting; circulating orders are conducted via electronic communications. Public notice for circulating orders may be provided and public comments may be accepted in writing according to an established time frame at judicialcouncil@jud.ca.gov. Only written comments received by the deadline will be delivered to Judicial Council members.

Executive Summary

The Trial Court Budget Advisory Committee recommends approving the fiscal year 2025–26 allocations to the trial courts for the implementation of Proposition 36. This funding will be distributed to courts to support the increased workload and expanding or establishing collaborative courts for the implementation of Proposition 36.

Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 2, 2025, approve fiscal year (FY) 2025–26 allocations of \$19 million General Fund to the courts to assist in the implementation of Proposition 36 as outlined in Attachment D.

Recommendations were presented to the Judicial Branch Budget Committee on August 18, 2025, and approved for consideration by the Judicial Council.

Relevant Previous Council Action

The Judicial Council has not previously acted on this subject.

Analysis/Rationale

Background

Proposition 36 was on the November 2024 ballot and passed with 68.4 percent of the vote. The law went into effect on December 18, 2024. Proposition 36 raised penalties for certain drug and theft offenses and expanded crimes related to fentanyl. It rolled back some of the theft-specific reforms of Proposition 47, under which petty theft of merchandise worth less than \$950 became a misdemeanor, by enabling prosecutors to charge shoplifting or petty theft as a felony for individuals who have two prior theft convictions. The prior convictions do not need to be felonies, and there is no minimum value to qualify them. Those charged with this offense may be referred to a diversion program, including theft diversion and substance use diversion, on the initiative of the prosecutor.

Prop. 36 also created a new “treatment-mandated felony” offense, section 11395 of the Health and Safety Code. Under section 11395, illegal possession of a hard drug with two or more prior convictions for specified drug offenses is a felony, but individuals who plead guilty or no contest to a violation of this section may opt into a court-approved treatment program. Upon successful completion of the treatment program, the charges may be dismissed.

Following an arrest for a violation of either Penal Code section 666.1 or Health and Safety Code section 11395, Prop. 36 requires “judicial review prior to release to make an individualized determination of risk to public safety and likelihood to return to court.”¹

Prop. 36 did not include any funding to support its implementation. Subsequently, the Budget Act of 2025 appropriated \$20 million to the Judicial Council to support the implementation of Prop. 36.

¹ Pen. Code, § 666.1; Health & Saf. Code, § 11395.

Allocation methodology

The Budget Act of 2025 appropriated \$20 million to the Judicial Council, of which \$19 million will be distributed to the trial courts to support the increased workload and expanding or establishing collaborative courts for the implementation of Prop. 36.²

At least half of the funding is to be allocated to the trial courts based on each trial court's share of nontraffic misdemeanor and felony filings in FY 2023–24. The remaining 50 percent of the funding may be determined by the Judicial Council.³

Staff conducted a survey on May 22, 2025, to gather data on early implementation of Prop. 36 and filings, specifically regarding Penal Code section 666.1(a)(1)⁴ and Health and Safety Code section 11395(b)(1).⁵ The data collected in the survey reflects filings received from December 18, 2024, to April 30, 2025. As of August 12, 2025, 56 courts have submitted data; the remaining 2 courts did not respond to the survey. Attachment B provides a breakdown of the Prop. 36 filings by filing type and county. The number and type of Prop. 36 filings vary substantially from county to county. Some counties are reporting more Penal Code section 666.1(a)(1) filings, while other counties are reporting more Health and Safety Code section 11395(b)(1) filings. Attachment C displays monthly Prop. 36 filings by type beginning in December 2024, when the legislation went into effect. The current available data indicates an upward trend in both types of filings; however, it is too early to determine whether this trend will continue or stabilize once implementation is complete.

The TCBAC had a robust discussion regarding the use of the Judicial Branch Statistical Information System (JBSIS)⁶ and Prop. 36 survey data and considered both the advantages and disadvantages associated with the different methodologies. Ultimately, the advisory committee felt a 50/50 allocation methodology using both data sources was the most appropriate distribution and most fully supported the workload associated with Prop. 36 implementation. The TCBAC approved an allocation methodology using a combination of 50 percent of the data collected through JBSIS and 50 percent of the data collected through the Prop. 36 survey (see Attachment D).

Policy implications

No policy implications are associated with this report.

² The Budget Act of 2025 authorizes the Judicial Council to retain \$1 million for administrative costs.

³ Assem. Bill 102 (Stats. 2025, ch. 5), § 4, item 0250-101-0001, provision 17.

⁴ Pen. Code, § 666.1 (theft with priors),
[leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=666.1](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=666.1).

⁵ Health & Saf. Code, § 11395 (drug possession with priors),
[leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11395](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11395).

⁶ The number of nontraffic misdemeanor and felony filings in FY 2023–24 by court is provided from JBSIS and reported in the *2025 Court Statistics Report: Statewide Caseload Trends 2014–15 Through 2023–24*, courts.ca.gov/system/files/file/2025-court-statistics-report.pdf.

Comments

Public comments were not solicited for this proposal because the recommendations are within the Judicial Council's purview to approve without circulation.

Alternatives considered

The following allocation methodologies were considered.

- Allocation Methodology 1: 50 percent based on each court's share of nontraffic misdemeanor and felony filings as reported through JBSIS and 50 percent based on Prop. 36 survey. While some members of the committee expressed concern with relying on data collected from only one quarter of implementation, ultimately the committee determined that the proportion of Prop. 36 data proposed in Allocation Methodology 1 was a more appropriate distribution and more fully supported the workload associated with implementation of the legislation.
- Allocation Methodology 2: 100 percent based on nontraffic misdemeanor and felony filings. All of the \$19 million will be allocated based on each court's share of nontraffic misdemeanor and felony filings as reported through JBSIS, and as permitted by statute. Allocation Methodology 2 relies solely on data from a prior fiscal year. This methodology was not selected because the data set does not account for the new felony offenses, Health and Safety Code section 11395 and Penal Code section 666.1, that were created by Prop. 36.
- Allocation Methodology 3: 75 percent based on nontraffic misdemeanor and felony filings and 25 percent based on Prop. 36 survey. Allocation Methodology 3 incorporates the Prop. 36 survey data, similar to selected Allocation Methodology 1, but with a lower weight. This methodology was not selected because it was felt that methodology 1 more accurately captured the true workload associated with Prop. 36.
 - 75 percent of the \$19 million will be allocated based on each court's share of nontraffic misdemeanor and felony filings as reported through JBSIS, and as permitted by statute.
 - 25 percent of the \$19 million will be allocated based on each court's share of Penal Code section 666.1(a)(1) and Health and Safety Code section 11395(b)(1) filings, as reported based on the survey conducted by council staff.

Fiscal and Operational Impacts

The Budget Act of 2025 allows the Judicial Council to retain \$1 million for administrative costs including data collection, reporting, training and technical assistance.

Attachments and Links

1. Attachment A: Provisions Related to Proposition 36 Funding in Assembly Bill 102, Section 4, Item 0250-101-0001
2. Attachment B: Proposition 36 Felony Filings by County

3. Attachment C: Proposition 36 Monthly Felony Filings
4. Attachment D: Allocation Methodology 1: 50 Percent Based on Nontraffic Misdemeanor and Felony Filings/50 Percent Based on Proposition 36 Survey Data
5. Voting instructions, at page 12
6. Vote and signature pages, at pages 13–14

Author

Francine Byrne

Director, Criminal Justice Services

Provisions Related to Proposition 36 Funding in Assembly Bill 102, Section 4, Item 0250-101-0001

- Of the amount appropriated in Schedule (1), \$20,000,000 shall be allocated to the Judicial Council to support the implementation of Proposition 36 (2024). Of this amount, at least \$19,000,000 shall be distributed to the trial courts, with allocations determined by the Judicial Council, but with at least 50 percent of the funding allocated based on each trial court's share of nontraffic misdemeanor and felony filings in the 2023–24 fiscal year.
- 17.

- The funding allocated in Provision 17 shall be used to address increased workload and expanding or establishing collaborative courts for the implementation of Proposition 36 (2024).
- 18.

- The funding allocated in Provision 17 shall be available for both state operations and local assistance and shall be available for expenditure or encumbrance until June 30, 2028. Any unspent funds shall revert to the General Fund.
- 21.

Proposition 36 Felony Filings by County

County	Pen. Code, § 666.1(a)(1)	Health & Saf. Code, § 11395(b)(1)	Total
Alameda	112	4	116
Alpine	0	0	0
Amador	12	18	30
Butte	17	15	32
Calaveras	0	3	3
Colusa	0	5	5
Contra Costa	93	26	119
Del Norte	did not report	did not report	did not report
El Dorado	30	44	74
Fresno	141	22	163
Glenn	0	4	4
Humboldt	12	33	45
Imperial	11	14	25
Inyo	0	0	0
Kern	152	344	496
Kings	11	26	37
Lake	16	61	77
Lassen	2	6	8
Los Angeles	966	833	1,799
Madera	7	44	51
Marin	did not report	did not report	did not report
Mariposa	0	3	3
Mendocino	17	44	61
Merced	24	4	28
Modoc	0	6	6
Mono	1	4	5
Monterey	30	51	81
Napa	21	16	37
Nevada	2	15	17
Orange	335	1,697	2,032
Placer	0	103	103
Plumas*	0	0	0
Riverside	410	615	1,025
Sacramento	199	36	235
San Benito	2	16	18
San Bernardino	181	66	247

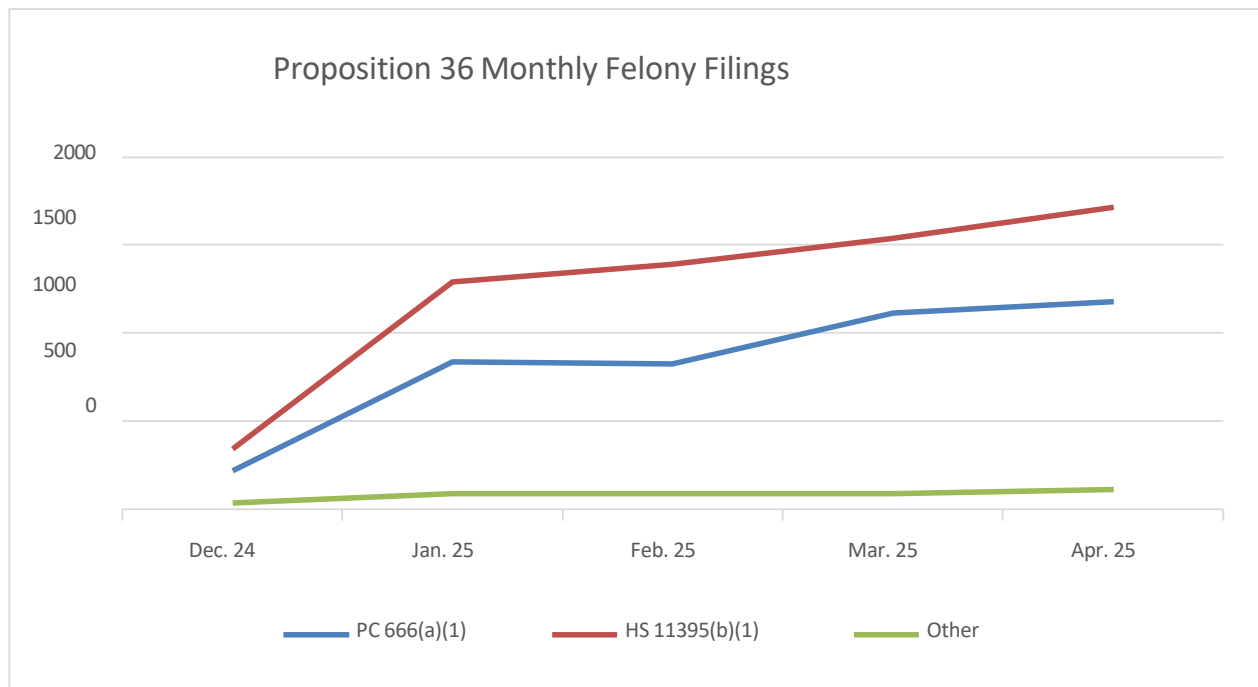
County	Pen. Code, § 666.1(a)(1)	Health & Saf. Code, § 11395(b)(1)	Total
San Diego	326	649	975
San Francisco	45	1	46
San Joaquin	71	57	128
San Luis Obispo	32	105	137
San Mateo	80	130	210
Santa Barbara	44	36	80
Santa Clara	94	35	129
Santa Cruz	70	54	124
Shasta	48	94	142
Sierra	0	2	2
Siskiyou	7	23	30
Solano	54	39	93
Sonoma	54	74	128
Stanislaus	143	312	455
Sutter	46	75	121
Tehama	3	20	23
Trinity	0	6	6
Tulare	90	88	178
Tuolumne	0	28	28
Ventura	79	141	220
Yolo	57	67	124
Yuba	14	57	71
Total	4,161	6,271	10,432

Note: This data report was produced on August 12, 2025, and displays felony Prop. 36 filings from December 18, 2024, to April 30, 2025, reported by courts to the Judicial Council. Contact CrimJusticeOffice@jud.ca.gov for more information.

* Felony Prop. 36 filings from December 18, 2024, to February 18, 2025, reported by courts to the Judicial Council.

Proposition 36 Monthly Felony Filings

Month	Pen. Code, § 666.1(a)(1)	Health & Saf. Code, § 11395(b)(1)	Other
Dec. 24	220	343	35
Jan. 25	831	1,290	82
Feb. 25	820	1,385	86
Mar. 25	1,113	1,538	83
Apr. 25	1,177	1,715	114



Statewide monthly filings for Prop. 36 petitions received by reporting courts between December 18, 2024, and April 30, 2025. For additional information, contact the Judicial Council Criminal Justice Services at CrimJusticeOffice@jud.ca.gov. This report was produced on August 12, 2025.

Allocation Methodology 1:
50 Percent Based on Nontraffic Misdemeanor and Felony Filings/
50 Percent Based on Proposition 36 Survey Data

County	Nontraffic Misdemeanor + Felony Filings	% Nontraffic Mis. + Felony Filings	Allocation of \$9.5M Based on % Nontraffic Mis. + Felony filings	Prop.36 filings	% Prop. 36 filings	Allocation of \$9.5M Based on %Prop. 36 filings	Total Allocation
Alameda	9,516	2.04	\$193,536	116	1.11	\$105,636.50	\$299,173
Alpine	12	0	244	0	0	-	244
Amador	960	0.21	19,524	30	0.29	27,319.79	46,844
Butte	2,846	0.61	57,882	32	0.31	29,141.10	87,023
Calaveras	507	0.11	10,311	3	0.03	2,731.98	13,043
Colusa	546	0.12	11,105	5	0.05	4,553.30	15,658
Contra Costa	5,148	1.10	104,700	119	1.14	108,368.48	213,068
Del Norte	707	0.15	14,379	-	-	-	14,379
El Dorado	1,632	0.35	33,192	74	0.71	67,388.80	100,580
Fresno	17,413	3.73	354,146	163	1.56	148,437.50	502,583
Glenn	530	0.11	10,779	4	0.04	3,642.64	14,422
Humboldt	2,661	0.57	54,119	45	0.43	40,979.68	95,099
Imperial	2,154	0.46	43,808	25	0.24	22,766.49	66,575
Inyo	605	0.13	12,304	0	0	-	12,304
Kern	18,617	3.99	378,632	496	4.75	451,687.12	830,320
Kings	2,489	0.53	50,621	37	0.35	33,694.40	84,316
Lake	2,295	0.49	46,676	77	0.74	70,120.78	116,796
Lassen	635	0.14	12,915	8	0.08	7,285.28	20,200
Los Angeles	77,260	16.54	1,571,314	1,799	17.25	1,638,276.46	3,209,590
Madera	3,307	0.71	67,258	51	0.49	46,443.63	113,701
Marin	1,699	0.36	34,554	-	-	-	34,554
Mariposa	418	0.09	8,501	3	0.03	2,731.98	11,233
Mendocino	1,963	0.42	39,923	61	0.58	55,550.23	95,474
Merced	4,306	0.92	87,575	28	0.27	25,498.47	113,074
Modoc	306	0.07	6,223	6	0.06	5,463.96	11,687
Mono	208	0.04	4,230	5	0.05	4,553.30	8,784
Monterey	6,717	1.44	136,610	81	0.78	73,763.42	210,374
Napa	1,696	0.36	34,493	37	0.35	33,694.40	68,188
Nevada	1,153	0.25	23,450	17	0.16	15,481.21	38,931
Orange	50,487	10.81	1,026,804	2,032	19.48	1,850,460.12	2,877,265
Placer	6,053	1.30	123,106	103	0.99	93,797.93	216,904
Plumas	245	0.05	4,983	-	-	-	4,983

County	Nontraffic Misdemeanor + Felony Filings	% Nontraffic Mis. + Felony Filings	Allocation of \$9.5M Based on % Nontraffic Mis. + Felony filings	Prop.36 filings	% Prop. 36 filings	Allocation of \$9.5M Based on %Prop. 36 filings	Total Allocation
Riverside	34,147	7.31	694,482	1,025	9.83	933,426	1,627,908
Sacramento	20,273	4.34	412,312	235	2.25	214,004.98	626,317
San Benito	1,091	0.23	22,189	18	0.17	16,391.87	38,581
San Bernardino	31,991	6.85	650,633	247	2.37	224,932.90	875,566
San Diego	28,474	6.10	579,104	975	9.35	887,893.02	1,466,997
San Francisco	6,451	1.38	131,200	46	0.44	41,890.34	173,091
San Joaquin	11,951	2.56	243,059	128	1.23	116,564.42	359,624
San Luis Obispo	5,740	1.23	116,740	137	1.31	124,760.35	241,500
San Mateo	9,878	2.11	200,899	210	2.01	191,238.50	392,137
Santa Barbara	7,020	1.50	142,773	80	0.77	72,852.76	215,625
Santa Clara	17,090	3.66	347,576	129	1.24	117,475.08	465,051
Santa Cruz	3,921	0.84	79,745	124	1.19	112,921.78	192,667
Shasta	6,535	1.40	132,909	142	1.36	129,313.65	262,222
Sierra	58	0.01	1,180	2	0.02	1,821.32	3,001
Siskiyou	1,124	0.24	22,860	30	0.29	27,319.79	50,180
Solano	4,030	0.86	81,962	93	0.89	84,691.33	166,653
Sonoma	7,298	1.56	148,427	128	1.23	116,564.42	264,991
Stanislaus	11,786	2.52	239,704	455	4.36	414,350.08	654,054
Sutter	2,455	0.53	49,930	121	1.16	110,189.80	160,120
Tehama	1,842	0.39	37,463	23	0.22	20,945.17	58,408
Trinity	409	0.09	8,318	6	0.06	5,463.96	13,782
Tulare	9,143	1.96	185,950	178	1.71	162,097.39	348,048
Tuolumne	1,428	0.31	29,043	28	0.27	25,498.47	54,541
Ventura	11,629	2.49	236,511	220	2.11	200,345.09	436,856
Yolo	3,546	0.76	72,119	124	1.19	112,921.78	185,040
Yuba	2,705	0.58	55,014	71	0.68	64,656.83	119,671
Total	467,106	100	\$9,500,000	10,432	100	\$9,500,000	\$19,000,000

Notes: Assem. Bill 102, section 4, item 0250-101-0001, provision 17, sets forth the allocation requirements. See Attachment A.

Nontraffic = Nontraffic misdemeanor and felony filings

Instructions for Review and Action by Circulating Order

Voting members

- Please reply to the email message with “I approve,” “I disapprove,” or “I abstain,” by 3:00 p.m. on **September 2, 2025**.
- If you are unable to reply by 3:00 p.m. on **September 2, 2025**, please do so as soon as possible thereafter.

Advisory members

The circulating order is being emailed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

Effective immediately, the Judicial Council approves the Trial Court Budget Advisory Committee recommendation that the Judicial Council approve fiscal year 2025–26 allocations of \$19 million General Fund to the courts to assist in the implementation of Proposition 36 as outlined in Attachment D.

My vote is as follows:

☐ Approve

☐ Disapprove

☐ Abstain

 Patricia Guerrero, Chair

 Maria Lucy Armendariz

 Bunmi O. Awoniyi

 C. Todd Bottke

 Stacy Boulware Eurie

 Carol A. Corrigan

 Charles S. Crompton

 Judith K. Dulcich

 Carin T. Fujisaki

 Maureen F. Hallahan

 Maria D. Hernandez

 Brad R. Hill

 Rachel W. Hill

 Ash Kalra

My vote is as follows:

☐ Approve

☐ Disapprove

☐ Abstain

Ann C. Moorman

Gretchen Nelson

Ricardo R. Ocampo

Craig M. Peters

Maxwell V. Pritt

Thomas J. Umberg

Tamara L. Wood

Date: _____

Attest:

Administrative Director and
Secretary of the Judicial Council