

ASSEMBLY THIRD READING  
AB 2108 (Sharp-Collins)  
As Amended April 20, 2026  
Majority vote

## SUMMARY

Requires a prosecuting attorney, whenever a defendant is charged with specified theft-related offenses, to review a defendant's file to determine whether they are eligible for the theft diversion program established by this bill.

### Major Provisions

- 1) Provides that consideration for theft diversion shall apply whenever a case is before any court where the defendant is charged with shoplifting, forgery, grand theft, petty theft, petty theft under \$50, receiving stolen property, or vandalism.
- 2) Makes a defendant eligible for diversion if both of the following apply to the defendant:
  - a) The offense charged did not involve a crime of violence or threatened violence; and,
  - b) There is no evidence of a contemporaneous violation related to theft other than a violation of the offenses listed above.
- 3) States that a declaration of a determination of defendant's eligibility pursuant to the above factors shall be filed with the court, or stated for the record providing the grounds for whether the defendant is eligible and that information shall be made available to the defendant and their attorney.
- 4) Specifies that this procedure is intended to allow the court to set the hearing for pretrial diversion at the arraignment.
- 5) Provides that the only remedy for a defendant who is found ineligible for pretrial diversion pursuant to this bill's provisions is a postconviction appeal.
- 6) Authorizes a court to order a defendant referred to pretrial diversion to comply with terms conditions, or programs that the court deems appropriate.
- 7) Specifies the court may consider all available workforce programs, as provided.
- 8) States that if the defendant has complied with the imposed terms and conditions, at the end of the period of diversion, the court shall dismiss the action against the defendant.
- 9) Provides that upon successful completion, the arrest upon which diversion was imposed shall be deemed to have never occurred and the defendant may indicate in response to any question concerning their prior record that they were not arrested.
- 10) Prohibits a record pertaining to an arrest resulting in successful completion of diversion shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate, except for an application for a position as a peace officer.

- 11) Prohibits diversion for persons who have been charged with petty theft or shoplifting with a prior offense.
- 12) Provides that this bill does not limit diversion eligibility under any other law.
- 13) Makes conforming changes.

## COMMENTS

### According to the Author

"Voters passed Proposition 36 to address individuals caught in cycles of repeat theft and more serious criminal activity by increasing penalties, including the possibility of state prison sentences. That measure was aimed at chronic and organized offenders. However, Proposition 36 did not establish a tailored approach for people accused of less serious, non-recurrent shoplifting. This bill fills that gap by ensuring the justice system can identify who would be better served by early intervention and targeted programming."

### Arguments in Support

According to *Californians for Safety and Justice*, the sponsor of this bill, "Under current law, there is not a consistent framework across all 58 counties for theft diversion. This inconsistency allows for an inequitable diversion consideration process that lacks equal opportunity for defendants to be considered for diversion on a case-by-case basis. AB 2108 mirrors and builds upon the success seen with drug diversion through Penal Code Section 1000 and brings a familiar structure and needed uniformity to the use of diversion in appropriate theft cases. This bill provides more access for defendants to be connected with appropriate resources or programs to help foster their success in the community.

"AB 2108 is a smart public safety solution that builds upon existing successful diversion infrastructure, while establishing appropriate guardrails and maintaining the discretion of the court."

### Arguments in Opposition

According to *California District Attorneys' Association*, "Proposition 36 passed statewide with approximately 67% of the vote and received majority approval in every California county (with 65% in San Diego County). Voters were clear: repeat theft offenders should face meaningful consequences, and the cycle of endless, consequence-free theft needed to end. AB 2108 moves in the opposite direction.

"The bill creates a sweeping and overly broad diversion eligibility scheme for theft-related offenses, including petty theft, shoplifting, grand theft, receiving stolen property, and vandalism, while conspicuously failing to disqualify individuals with prior theft convictions. This omission is not incidental. It directly conflicts with the core purpose of Proposition 36, which specifically targets repeat offenders. By ignoring prior theft history, AB 2108 reopens the very loopholes voters sought to close.

"While the bill attempts to preserve Proposition 36 by excluding individuals "charged pursuant to Section 666.1," this protection is illusory. AB 2108 does not exclude individuals who qualify

as repeat offenders under Proposition 36—it only excludes those actually charged under that section. This creates a clear pathway to avoid Proposition 36 entirely through charging decisions, thereby diverting repeat offenders rather than holding them accountable. In practice, this bill invites the erosion of Proposition 36 on a case-by-case basis across the state.”

## FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs (local funds, General Fund) of an unknown but potentially significant amount to county prosecuting attorneys’ offices to review defendant files for diversion eligibility and file written declarations or make oral records of those determinations in every case involving the listed theft and vandalism offenses. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.
- 2) Cost pressures (Trial Court Trust Fund) of \$2.7 million to \$13.7 million annually to the trial courts, per the Judicial Council, for additional hearings generated by this bill, including a suitability hearing at arraignment, at least one check-in hearing during the diversion period, and a final hearing to determine successful completion or termination. The wide range reflects significant uncertainty about the volume of cases referred to diversion, which depends on charging practices by district attorneys statewide; per the Judicial Council, thousands of cases per year could enter the program. The bill does not cap the duration of diversion or restrict the number of times a person may be granted diversion, which the Judicial Council notes could result in repeat participation that compounds court workload over time. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26. The Judicial Council’s estimate does not include the workload to adjudicate postconviction appeals from defendants found ineligible, which would represent additional cost pressure of an unknown amount.
- 3) Potential offsetting cost savings (Trial Court Trust Fund, local funds, General Fund). Diversion is generally understood to produce cost savings that partially or fully offset the new workload imposed by the bill, by removing cases from traditional prosecution before formal plea and reducing associated trial, hearing, and custody costs. The Senate and Assembly Appropriations analyses of AB 1231 (Elhawary), of this legislative session, a recent felony-diversion bill, identified analogous savings to trial courts, county jails, and potentially CDCR. Those analyses cited San Francisco data showing average per-case savings of approximately \$4,000 when cases were resolved through behavioral health court (\$12,101) or drug court (\$9,757) rather than traditional prosecution (\$16,379), and projected that diverting 10% of felony filings could save the courts over \$70 million annually. The savings analogy is directional rather than precise here because AB 2108 covers a different (and largely lower-cost) offense set: most theft and vandalism filings under this bill are misdemeanors or low-level wobblers rather than felonies, and the bill expressly excludes petty theft with a prior under Penal Code Section 666.1, further limiting prison-track cases. CDCR savings, if any, would therefore be modest and limited to the subset of grand theft and

receiving stolen property cases that would otherwise have resulted in a prison commitment. The net fiscal effect on the courts and counties depends on the diversion success rate and the offset between new eligibility-review workload and reduced trial/hearing/custody costs.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

**VOTES****ASM PUBLIC SAFETY: 5-2-2**

**YES:** Schultz, Mark González, Haney, Harabedian, Sharp-Collins

**NO:** Alanis, Lackey

**ABS, ABST OR NV:** Nguyen, Ramos

**ASM APPROPRIATIONS: 10-4-1**

**YES:** Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pellerin, Sharp-Collins, Solache

**NO:** Hoover, Dixon, Ta, Tangipa

**ABS, ABST OR NV:** Pacheco

**UPDATED**

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