SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 2108 (Sharp-Collins) - Diversion: retail theft

Version: July 2, 2026
Urgency: No
Hearing Date: August 3, 2026
Policy Vote: PUB. S. 5 - 1
Mandate: Yes
Consultant: Bob Franzoia

Bill Summary: AB 2108 would require 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.

Fiscal Impact: Estimated $2.7 million to $13.7 million annually in cost pressures on court calendars and court workload. This bill creates a new diversion program where some of the population that will be eligible for this new program may currently be eligible for other diversion programs. It is anticipated this program will take precedence, meaning the eligible population will likely be considered for this program before any existing type of diversion as there are no restraints on how long a person can stay in this program or how many times they may cycle through. For example, if a person successfully completes this program and their misdemeanor is wiped from their record, they could reoffend with another retail-based crime and be eligible for another round of diversion. The courts will need additional hearing time to determine suitability and then additional hearings if granted diversion, which it is anticipated many persons would be approved. Each person in diversion would receive at least one additional check-in hearing and a final hearing to determine whether the defendant successfully completed diversion or if criminal proceedings are to continue. The population will be largely dependent on how district attorneys file cases, but the best estimate is there could be thousands of these cases a year.

An eight-hour court day costs approximately $10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026-27 Budget appropriated $70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

Potentially major costs to district 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. Costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates. (General Fund)

Background: Diversion is an alternative approach to resolving criminal charges against a defendant. Instead of allowing traditional criminal proceedings to move forward, a court may, in specified circumstances, order a defendant to participate in services, treatment, or other protocols for a set period. Generally, county behavioral health and social services agencies are responsible for providing services to a defendant participating in diversion, so the immediate costs for diversion are typically borne by the counties. If the defendant complies with the court's requirements and successfully completes diversion, the criminal charges against the defendant are dismissed, avoiding significant incarceration costs to the county or state. If the defendant does not successfully complete diversion, the criminal proceedings against them resume and the defendant may enter a plea or go to trial.

California has several diversion programs that are specific to a defendant's experience or condition, including diversion for current and former members of the military, for people with serious mental health conditions, for people charged with certain drug offenses, and for certain primary caregivers. California law also permits a judge to order diversion for any defendant facing certain misdemeanor charges, regardless of whether the defendant fits into one of the above-listed categories.

Proposed Law: This bill states 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, and it appears to the prosecuting attorney that:

- The offense charged did not involve a crime of violence or threatened violence; and,

- There is no evidence of a contemporaneous violation related to theft other than a violation of the offenses listed above.

This bill requires the prosecuting attorney to review a defendant's file to determine whether the defendant is eligible for diversion and requires the prosecuting attorney file with the court, or state for the record, a declaration of a determination of defendant's eligibility.

This bill authorizes a court to order a defendant referred to pretrial diversion to comply with terms, conditions, or programs that the court deems appropriate.

This bill states that at the end of the period of diversion, if the defendant has complied with the imposed terms and conditions, the court shall dismiss the action against the defendant.

This bill 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.

This bill prohibits a record pertaining to an arrest resulting in successful completion of diversion from, without the defendant's consent, being 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.