

The Impact of AB 109, Proposition 47 and Proposition 57 on Victims and Their Rights

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| AB 109 | AB 109 shifted certain portions of the prison population to the counties. At the time the bill was passed, the Legislature failed to give counties the authority to collect restitution from individuals on post-release community supervision, sentenced to county jail pursuant to Penal Code 1170(h), and on mandatory supervision who are released on a “split sentence”. A series of legislative fixes has created the ability of the county to collect from these inmate classes. Currently, Los Angeles County collects from individuals on post-release community supervision and mandatory supervision. Implementation of collection from county jail inmates sentenced pursuant to Penal Code 1170(h) is still in progress. In 2015, the Board of Supervisors authorized this collection. It is estimated that since 2011, we have failed to collect \$1,330,000 on behalf of victims in restitution monies that would have otherwise have been collected. This is a conservative estimate. |
| Proposition 47 | Proposition 47 reduced certain felonies to misdemeanors. Proposition 47 impacted victims because there is restitution collection on behalf of victims of felonies, but not on misdemeanors. Many of the felonies that were reduced to misdemeanors were monetary crimes that resulted in a loss of less than \$950. If a victim of a misdemeanor wants their restitution, they must institute civil collection procedures pursuant to Penal Code 1241. It is not that easy for victims to obtain their restitution civilly. There are only two civil courts in Los Angeles County that accept limited civil jurisdiction filings (meaning less than \$25,000) and only one that will enforce the writ of execution that allows for collection using civil remedies. The paperwork is complicated. There are fees to pay and victims are not familiar with the daunting court process. Most victims do not try to get their restitution civilly because they have no idea how to even begin. |
| Proposition 57 | Proposition 57 has resulted in defendants being released into the community at an expedited rate and has brought some unforeseen consequences that impact victims and their rights. Victims expected that defendants would spend a longer period of time incarcerated in state prison based upon sentences imposed. Instead, they received letters from the CDCR, if they had asked for that type of notification, telling them that the defendant might be eligible for release. This has resulted in the need for additional victim services to assist victims in lodging their opposition to the release and to assist them with managing their very real fear through crisis intervention related to the potential release of a defendant. Additionally, the Proposition 57 process is an administrative process involving a review of documentary information about the defendant/inmate. Victims cannot be present in the same manner as they are in a regular parole hearing. Marsy’s Law, as expressed in California Constitution Article 1, Section 28, gives a victim the right to be present and to be heard at hearings that involve release of a defendant. While this is a right that must be requested, the nature of the procedures involving the release of a state prisoner under Proposition 57 unfairly deprives victims of their right in the instance where they believed that the defendant would serve a longer sentence and therefore did not request release notification. |