

What is an expungement?

An expungement reopens your criminal case, dismisses and sets aside the conviction, and re-closes the case without a conviction. In effect, you are no longer a convicted person. However, the case record itself will still exist, and the expungement will appear on your record.

Why would you want an expungement?

It can be difficult to get a job with a conviction on your record. Many employers must carry insurance on their employees, and insurance companies often refuse to insure employees with convictions.

What types of expungement exist?

There are three types of expungement:

1. The first, governed by Penal Code 1203.4, will expunge cases in which probation was part of the sentence.
2. The second, under Penal Code 1203.4(a), will expunge cases in which there was no probation.
3. The third, under Penal Code 17, will reduce a felony conviction to a misdemeanor. This misdemeanor can then be dismissed. If you received state prison as your sentence, you will need to file paperwork for a Certificate of Rehabilitation, rather than a Petition and Order for Dismissal.

Once my conviction is expunged, can I answer “No” to questions about convictions on job applications?

Legally, you may answer “No” to these types of questions. Keep in mind, though, that background checks typically go back 10 years, and employers can see that you had a conviction dismissed. Answering “No” may look dishonest. A better response may be “Yes, expungement granted.”

If you are applying for a government job, a job that requires security clearance, or a job that requires a government-issued license, certificate or permit, the conviction will be discovered during the standard background check. You should disclose the conviction and expungement in these situations.

If you are applying for a government-issued license, certificate, or permit, you must disclose your conviction and expungement.

How does an expungement affect strikes or other sanctions?

Although your conviction may be dismissed, the sanctions such as firearms prohibitions, exclusions from jury duty, or strikes, cannot be dismissed. These remain intact for life.

An expungement does not:

- Remove the conviction from your criminal history. California and FBI criminal history records will still show the conviction and the subsequent dismissal.
- Reinstate your right to possess firearms.
- Allow you to omit the conviction from applications for government-issued licenses.
- Seal the court case file from public inspection. The court file remains public record.
- Prevent the conviction from being used as a "prior" for sentencing enhancements in subsequent convictions.
- Prevent the conviction from being used to impeach your testimony if you are called as a witness in court.
- Prevent the conviction from being used to refuse or revoke a government license or permit, such as real estate license, teaching credential, security guard certificate, etc.
- Prevent the conviction from being used by US Citizenship and Naturalization Services for removal or exclusion purposes.

Dismissals

If you were convicted of a misdemeanor or a felony and were not sentenced to state prison or under the authority of the Department of Corrections and Rehabilitation you can petition for a dismissal. This means you were given county jail time, probation, a fine, or a combination of those three. If you are petitioning for a dismissal, the court upon proper motion, may withdraw your guilty or nolo contendere (no contest) plea, or verdict of guilty if you went to trial, and enter a not guilty plea. Then the court will set aside and dismiss the conviction. From that point forward, you are considered no longer convicted of the offense. Your record will be changed to show a dismissal rather than a conviction.

Are You Eligible for a Dismissal?

You are eligible for dismissal of a conviction, and the court will dismiss your conviction, if:

- You received probation for that conviction and:
 1. You successfully completed probation or obtained early release,
 2. You also have paid all the fines, restitution, and reimbursements ordered by the court as part of your sentence,
 3. You are not currently serving another sentence or on probation for another offense, AND
 4. You are not currently charged with another offense.

- You never received probation and:
 1. Your conviction was a misdemeanor,
 2. It has been at least one year since the date you were convicted,
 3. You have complied fully with the sentence of the court,
 4. You are not currently serving another sentence,
 5. You are not currently charged with another offense, AND
 6. You have obeyed the law and lived an honest and upright life since the time of your conviction.

You are eligible for a dismissal and the court has the discretion (choice) to grant you that dismissal if:

- You received probation but you did not get an early release, did not fulfill all the conditions of probation, or were convicted of any offense listed in Vehicle Code 12810(a) to (e) BUT:
 1. You have paid all the fines, restitution, and reimbursements ordered by the court as part of your sentence, AND
 2. You are not currently charged with, on probation for, or serving a sentence on any other offense.
- It's up to the court to decide if your conviction should be dismissed, so make sure to give as much helpful information as possible to convince the court that granting you a dismissal is in the interests of justice.

Some Convictions are Not Eligible for Dismissal

If you were convicted of any of the following offenses you are not eligible for a dismissal under Penal code section 1203.4(a):

- Any misdemeanor within the provisions of Vehicle Code section 42001(b).
- Any violation of Penal Code section 286(c), 288, 288a(c), 288.5, or 289(j).
- A felony under Penal Code section 261.5(d).
- Any infraction.

Diversion

If you were referred to a "diversion" program, your record will already be changed in one of two ways. If you successfully completed the entire diversion program requirements, your record should already be changed to show a dismissal. If you didn't complete your requirements or were not actually given diversion, then the conviction will be on your record.

Marijuana Possession Offenses

If you were convicted of possession of marijuana for personal use then you do not necessarily need to get a dismissal for the offense. Under California Health and Safety Code Sections 11361.5 and 11361.7 all possession of marijuana for personal use convictions, after January 1, 1976, are erased from your record after two years. The conviction cannot be for cultivation, sales or transportation. If it is, it will be on your record.

Juvenile Records

Your Juvenile records *do* appear on your criminal record. Upon your 18th birthday, you are eligible to petition to have your juvenile records sealed. Once sealed, no one can gain access to them and they will be completely destroyed five years from the date of sealing.

Juvenile records are *not* automatically sealed upon your 18th birthday. You must affirmatively petition the juvenile court to have them sealed.

If you graduated from the Department of Corrections and Rehabilitation, Division of Juvenile Justice, your juvenile conviction(s) will have been dismissed as part of your graduation. If you do not petition to have your juvenile records sealed and destroyed, they will remain on your record until your 38th birthday, then they will be destroyed.

Certificate of Rehabilitation

If you were sentenced to state prison or sentenced under the authority of the Department of Corrections and Rehabilitation you are not eligible for a dismissal under Penal Code Section 1203.4 or 1203.4a. You may, however, be eligible for a Certificate of Rehabilitation. For eligibility and application requirements contact the Board of Parole Hearings, Post Office Box 4036, Sacramento, CA 95812-4036.

How do I get started?

In order to begin cleaning up your criminal record, you first need to know what is on your criminal record. The court will require you to fill out forms. Whether you are requesting a dismissal or a Certificate of Rehabilitation, you will need to know the details of your convictions(s) in order to complete the forms. Also, certain details will affect whether you are eligible. There are several details you will need to know in order to accomplish your goals:

1. Your Case Number(s) [Sometimes called docket number.]
2. Your Date(s) of Conviction(s) [The date of your plea or verdict.]
3. The Code Name(s) and Section Number(s) you were convicted of violating.

4. Was there a "Verdict" or did you "Enter a Plea"? If you entered a Plea, was it "Guilty" or "Nolo Contendere" (No Contest)?
5. Were you ordered to serve any time on "Probation"? If so, how long? [Formal and informal probation are treated the same.]
6. Were you ordered to pay any "Fines," "Restitution," or "Reimbursement"?
7. If you were sentenced to state prison, which one?
8. If you were sentenced to state prison, what dates were you released?
9. If you were released on "Parole," what date did your parole end?

Where do I find my criminal records information?

Your criminal records information can be obtained from a variety of sources. Below is a list of the sources most commonly used:

1. Your court papers received at the time of conviction.
2. Your attorney, parole officer, probation officer, or contacts within the courts or law enforcement community.
3. The Superior Court where you were convicted. They will only have information for convictions from that county and not other counties. You will need to make a copy of your order(s) of judgment.
4. The California State Department of Justice, Criminal Records Division. They will have your criminal records information for the entire State of California. They are located at 4949 Broadway, First Floor Fingerprinting Office, Sacramento, California. Their phone number is (916) 227-3400. There is a fee, but you may be eligible for a fee waiver. You must provide written proof of your income. It may take several weeks for the record to arrive in the mail.

What paperwork do I need to file?

There are three forms you will need to complete and file to expunge your conviction:

Judicial Council forms found at www.courts.ca.gov/forms.htm :

- Petition for Dismissal (CR-180)
- Order for Dismissal (CR-181)

Local Court form found the Courts website at www.stanct.org under the criminal forms tab:

- Criminal Proceeding Notice of Hearing (CR-001)

Can I attach letters explaining my situation or my improved life?

It is often a good idea to attach a declaration stating why you want the expungement and explaining your situation in life.

In this declaration, you may want to discuss:

- Your plans for the future
- The reasons you offended, and how your life is different today than it was when you offended.
- How the conviction has hurt your employment chances
- If you have received any training or education
- Any occurrence in your life that changed how you interact with your community
- Any 12-step or religious affiliations you have
- All declarations submitted to the court must be true and accurate. Declarations are one page long, and may be typed or handwritten.
- Letters from employers, clergy, or other community members can be convincing, but should not be attached to your petition. You may provide these to the judge at your hearing.

What is a Proof of Service, and how is it used in an expungement case?

After you complete your Petition and Order for Dismissal forms, you will file them with the court. The court will give you file marked copies of your papers, which must be served on the District Attorney and the Probation Department (if probation was included in your sentence) at least 15 days (plus 5, if by mail) **prior** to the hearing. "Serving" merely means delivering a copy of the documents to these agencies. Service can be by personal delivery or by mail and must be done by someone over 18 years old AND CANNOT BE YOU. The person who serves the documents, then completes, dates and signs the Proof of Service. You will then file it in to the court. The Proof of Service tells the courts the specifics of how and when the DA and Probation Department were served.

Where do I file my expungement forms?

You will need to file your petition in the Superior Court for the county where you were convicted. In Stanislaus County the Criminal Clerks Office is located inside the main courthouse at 800 -11th Street, Room 140, Modesto, California.

Can I expunge multiple convictions at the same time?

Yes, you can file several petitions for expungement simultaneously. You will need to file a separate Petitions and Orders for each conviction.

What if I have changed my name since my conviction?

Fill out the forms with the name under which you were convicted. Sign the forms with your current name.

What happens if the court denies my expungement?

If you attend the hearing, you may ask the judge what you can do to get your conviction expunged. You may re-file your petition for expungement in 3-6 months, after you've made the changes recommended by the judge.

What happens if I am arrested while trying to get a previous conviction expunged?

You cannot apply for expungement if you have any ongoing criminal proceeding, or are on probation for any criminal offense. If you are arrested after you apply for expungement, your petition will be denied.

How long will the expungement process take?

It will take anywhere from 3 weeks to 2 months, depending on how busy the court's calendar is.

Instructions:

- 1) Get a copy of the following from the Clerk's office to help complete the forms:
 - a) Criminal Complaint
 - b) Sentencing Minute Order
 - c) Probation Terms (if applicable)
- 2) Fill out the forms using the sample instruction that follow. Be sure to print neatly using BLUE or BLACK ink.
- 3) Visit the Criminal Clerk's Office to reserve a hearing date and time, then write it in on the Notice of Hearing – Criminal Proceeding.
- 4) Have the person you have chosen to serve the documents complete the Proof of Service, and date, print and sign it. Make 3 copies of all the documents and have the SERVER put a copy in the mail to the District Attorney and the Probation Dept.
- 5) File the original and remaining copy with the Criminal Clerk's office at 800 – 11th Street, Room 140, Modesto, California.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ DATE OF BIRTH: _____	CASE NUMBER: _____
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.49)	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

1. On (date): _____, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses:

Code	Section	Type of offense: (Felony; Misdemeanor; Infraction)	Eligible for reduction to misdemeanor under Penal Code § 17(b) (Yes or No)	Eligible for reduction to infraction under Penal Code § 17(d)(2) (Yes or No)

If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).

2. **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**
 Probation was granted on the terms and conditions set forth in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply):
- a. has fulfilled the conditions of probation for the entire period thereof;
 - b. has been discharged from probation prior to the termination of the period thereof;
 - c. should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)
3. **Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)**
 Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. The petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of any crime; and the petitioner (check one):
- a. has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land; **or**
 - b. should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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4. **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**
 The petitioner has completed a term of probation for a conviction under Penal Code section 647(b).
 The petitioner should be granted relief because the petitioner can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking. *(Please note: You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents to establish that the conviction was the result of your status as a victim of human trafficking.)*
5. **Felony county jail sentence under Penal Code section 1170(h)(5) (Pen. Code, § 1203.41)**
 The petitioner is not under supervision under Penal Code section 1170(h)(5)(B) and is not serving a sentence for, on probation for, or charged with the commission of any offense, should be granted relief in the interests of justice, and *(check one)*:
- a. more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B); **or**
 - b. more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).
- (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)*

Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).

Petitioner requests that he/she be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section:

1203.4, 1203.4a, 1203.41, or 1203.49 of the Penal Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: _____
 (DATE)

▶ _____
 (SIGNATURE OF PETITIONER OR ATTORNEY)

 (ADDRESS, PETITIONER)

 (CITY) (STATE) (ZIP CODE)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ DATE OF BIRTH: _____	
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.49)	CASE NUMBER: _____

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

1. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces the following convictions:
 - ALL FELONY CONVICTIONS in the above-entitled action;
 - ALL MISDEMEANOR CONVICTIONS in the above-entitled action; OR
 - Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):

2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for:
 - ALL FELONY CONVICTIONS in the above-entitled action;
 - ALL MISDEMEANOR CONVICTIONS in the above-entitled action; OR
 - Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):

3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code § 1203.4, or § 1203.4a, or § 1203.41, or § 1203.49, and it is ordered that the pleas, verdicts, or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed for:
 - ALL CONVICTIONS in the above-entitled action; or
 - Only the following convictions in the above-entitled action (*specify charges and date of conviction*):

4. The court **DENIES** the petition for dismissal regarding the following convictions under Penal Code § 1203.4, or § 1203.4a, or § 1203.41, or § 1203.49 for:
 - ALL CONVICTIONS in the above-entitled action; or
 - Only the following convictions in the above-entitled action (*specify charges and date of conviction*):

5. In granting this order under the provisions of Penal Code section 1203.49:
 - a. The court finds that the petitioner was a victim of human trafficking when he or she committed the crime.
 - b. The court orders the relief described in section 1203.4, or
 - The court orders the relief described in section 1203.4, with the following exceptions (*specify*):

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:	CASE NUMBER:
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6. If this order is granted under the provisions of Penal Code section 1203.4 or 1203.41:
- The petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
 - Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)
7. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that the petitioner was a victim of human trafficking when he or she committed the crime, and the relief ordered.
8. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

FOR COURT USE ONLY

Date:

(JUDICIAL OFFICER)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO: E-MAIL ADDRESS(optional): ATTORNEY FOR (Name):	<i>FOR COURT USE ONLY</i>
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

STREET ADDRESS: 800 11 TH Street MAILING ADDRESS: P.O. Box 1098 CITY AND ZIP CODE: Modesto, CA 95354 BRANCH NAME: Criminal Courts Division	CASE NUMBER: (RELATED #):
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**The People of the State of California
VS.**

(name): _____

NOTICE OF HEARING - CRIMINAL PROCEEDING

- Penal Code §§1203.4 / 1203.4(A)
- Penal Code § 17

Attention *(mark all that apply)*:

- Stanislaus County District Attorney (832 12th Street, Suite # 300, Modesto, CA 95354)
- Stanislaus County Chief Probation Office (801 11th Street, Suite #B100, Modesto, CA 95354)

NOTICE is given that the undersigned declarant/defendant in this matter hereby requests a hearing and order for the following:

- Penal Code §§1203.4 / 1203.4(A); permitting the defendant to withdraw his/her criminal conviction and seek relief for any and all penalties.
- Penal Code § 17; permitting the defendant to reduce his/her felony criminal conviction to a misdemeanor.

A hearing on this motion for the relief requested will be held as follows:

DATE:		TIME:		DEPARTMENT:	
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The hearing will be based upon this notice, to include the petition for expungement of the defendant. Any & all documents, records, exhibits, & declarations on file herein and such may be presented at the time of the hearing.

DATE: _____

(TYPE OR PRINT NAME)

(SIGNATURE)

