



Sacramento Superior Court
Petition Information and Instruction Packet
Related to:
Penal Code §§17(b), 1203.3, 1203.4,
1203.4a, 1203.4b,
1203.41, 1203.42, 1203.43

Revision Date: July 2023

Information – Felony/Misdemeanor

If you were convicted of a misdemeanor or a felony and you have completed the terms of your sentence (excluding restitution payments), you may petition for a dismissal pursuant to PC § 1203.4 or 1203.4a. Many criminal offenses can be dismissed from your record.

- For cases originally charged as a misdemeanor, but reduced to an infraction at the time of conviction, follow the instructions in this packet for misdemeanor cases.
- For Traffic cases (charged and convicted as an infraction) you cannot use this process or file your petition at the Criminal Division of the Court. Please contact the Traffic Division of the Superior Court ([Carol Miller Justice Center](#)).
- If you were sentenced for a crime committed prior to implementation of the 2011 Criminal Justice Realignment legislation, you may petition the court for dismissal or relief as if the crime were sentenced under CA PC 1170(h). The court, in its discretion and in the interests of justice, may order relief if all conditions of PC 1203.42(b) are met.

Who is Eligible? (see next page for PC 1203.4b eligibility)

A person may be eligible if you meet the following criteria:

- PC 1203.3 – Probation should be granted relief in the interests of justice.
- PC 1203.4 – All conditions of probation have been completed (excluding restitution).
- PC 1203.4a, PC 1203.41 – All terms of sentencing have been completed.
- PC 1203.42 – Effective 1/1/2018 the court may order relief if all conditions of PC 1203.42 are met. [Click here for more information.](#)
- PC 1203.43 - Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted, and can establish that criminal charge(s) were dismissed under PC 1000.3.

Who is Not Eligible? (see next page for PC 1203.4b eligibility)

A person is not eligible for a record clearance of this type if any of the following conditions exist:

- A person who is serving a sentence for any offense, is still on formal or informal probation for any offense, or is charged with the commission of any offense.
- A person who was arrested and convicted of a crime within one year of the pronouncement of judgment.
- A person who is on probation for the current application and had their probation revoked and not later reinstated.
- The person has failed to appear or failed to pay fines due (excluding restitution).
- Violation of Sections 2800, 2801, or 2803 of the California Vehicle Code.
- Certain convictions are not eligible for dismissal. This includes any misdemeanor that is within the provisions of VC 42001(b); or any violation of the following: PC 286(c); PC 288; PC 288a(c); PC 288.5; PC 289(j).

Penal Code § 1203.4b – Eligibility and Non-Eligibility

Who is eligible?

- Any person who has successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority. Successful participation is defined as having adequately performed their duties without any conduct that warranted removal from the program.
- The petitioner has been released from custody.
- Completion of the term of probation, parole, or supervised release is not required.

Who is not eligible?

- Incarcerated persons who have been convicted of any of the following crimes are automatically ineligible for relief pursuant to PC 1203.4b(a)(1):
 - (A) Murder
 - (B) Kidnapping
 - (C) Ape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
 - (D) Lewd acts on a child under 14 years of age, as defined in Section 288.
 - (E) Any felony punishable by death or imprisonment in the state prison for life.
 - (F) Any sex offense requiring registration pursuant to Section 290.
 - (G) Escape from a secure perimeter within the previous 10 years.
 - (H) Arson.
- Currently charged with the commission of any other offense.

Please click on [AB 2147](#) and [PC 1203.4b](#) for additional information.

Penal Code § 1203.4 – Successful Completion of Probation

After successful completion or early termination of probation, you may petition the court to dismiss the charges under Penal Code §1203.4. To be eligible for consideration pursuant to PC § 1203.4, you must not be:

- Serving a sentence for any offense.
- Be on probation for any offense.
- Be charged with the commission of any offense.
- You may petition the court for an early termination of probation by filing a Petition for Modification of Sentence. The judge, in the interest of justice, may grant an early termination of probation.

Penal Code § 1203.4a, Penal Code § 1203.41 - Not on Probation

If you were not placed on probation and more than one year has elapsed since the date of pronouncement of judgment, you may petition the court to dismiss the charges under Penal Code §1203.4a. To be eligible for consideration pursuant to PC §1203.4a:

- Must have complied with the court sentence (excluding restitution payments)
- Must not now be serving a sentence for any offense or be charged with the commission of any offense.

Penal Code § 1203.4b – Incarcerated Individual Hand Crews

If you successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, you may petition the court to dismiss the charges under Penal Code § 1203.4b. To be eligible for consideration pursuant to PC § 1203.4b:

- Must be released from custody.
- Successful participation in the program. Successful participation means the incarcerated individual adequately performed their duties without any conduct that warranted removal from the program.
- Not have been convicted of any crimes outlined in Penal Code § 1203.4b(a)(1).

What Will Be the Effect of Having the Petition Granted?

The most common reason for obtaining relief pursuant to PC1203.4/1203.4a/1203.4b is to allow the previously-convicted person to state on non-governmental employment applications that they have not been convicted of a felony. A clearance of this type does not eliminate all possible adverse consequences or release a person from all “penalties and disabilities” resulting from the charges in the case:

- Information relating to the case may be available to others when the release of such information is authorized by law.

- A dismissal pursuant to PC 1203.4/1203.4a/1203.4b does **not** relieve you from the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery, but allows you to indicate “no” on most employment applications that ask whether you have been convicted of a crime.
- A dismissal pursuant to PC 1203.4/1203.4a/1203.4b will **not** keep the conviction from being used against a person as a prior conviction in any future criminal proceedings, such as for enhancing a prison sentence.
- A dismissal pursuant to PC 1203.4/1203.4a/1203.4b will **not** avoid suspension of one’s driving privilege as set forth in Section 13555 of the Vehicle Code. Granting of the Petition does **not** affect Department of Motor Vehicles (DMV) actions or future consequences for crimes involving operation of a motor vehicle.
- A dismissal pursuant to PC 1203.4/1203.4a/1203.4b will **not** permit the person convicted to own, possess, or have in their custody or control a firearm, and will not prevent a person from being convicted under Section 12021 of the Penal Code (person prohibited from possessing a firearm) in the future.
- Granting of the Petition does **not** relieve you from any obligation to register under Penal Code §290.

Filing Requirements

At the time of filing the petition, you must provide the Court with:

- An original Petition for Dismissal (Form No. CR-180) and five (5) copies of each. Original and six (6) copies of each if seeking relief under PC 1203.4b.
- An original Order for Dismissal (Form No. CR-181) and five (5) copies of each. Original and six (6) copies of each if seeking relief under PC 1203.4b.
- An original Petition (Form No. CR-9), if applicable and five (5) copies of each. The CR-9 is only used for 1203.3/17PC requests, or for 1203.4 PC requests ***if the case is still on probation.***

Distribution of the copies is as follows:

- Original for the Court
- One copy for Probation
- One copy for the District Attorney
- One copy for the Secretary of the Department of Corrections and Rehabilitation or appropriate county authority if seeking relief under PC 1203.4b.
- One copy for petitioner/filer
- One copy for petitioner with a ***self-addressed stamped envelope**** for return by U.S. mail
- One copy for file
- **All documents must be two-hole punched at the top.**

The Court will forward the copies of documents to Probation and the District Attorney (and Secretary of the Department of Corrections and Rehabilitation or appropriate county authority if seeking relief under PC 1203.4b).

****To receive a copy of the petition by U.S. Mail after it has been ruled upon, you must submit a self-addressed stamped envelope. Failure to do so will equate to a \$40.00 certification charge plus a copy fee of \$.50 per page if a copy is requested at a later date.***

Is There a Filing Fee?

There is no filing fee.

Is My Appearance Necessary?

Your appearance at the hearing depends on the type of hearing:

- ***For misdemeanor cases still on probation***, you will be required to appear.
- ***For misdemeanor cases not on probation, hearings are conducted ex parte (in your absence) with a “Rule by Date.”***
- ***For felony cases, you must appear.*** The hearing will be on a date ninety (90) days from the date of filing.
 - If filing both felony and misdemeanor cases simultaneously, all cases follow the felony path.

Granting of the Petition:

Upon granting of the petition, the will order that:

- The conviction be set aside;
- A plea of not guilty be entered; and
- The case be dismissed pursuant to the applicable Penal Code (1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, or 1203.43).
- The applicable charges are sealed to the public.

Checking the Status of Your Petition

You may [Check the Status of Your Petition](#) on the web seven (7) court days after the “Rule By Date” noted on the petition (or the Hearing Date for felony cases).

- If your petition is denied, you may refer to the [Local Rules of Court](#) to obtain information about how to request a hearing.
- For misdemeanor cases with a “Rule by Date”, if you provided a self-addressed stamped envelope at the time the petition was filed, a copy will be mailed to you within seven (7) court days of the court’s decision.

Forms

You may obtain forms at the end of this document. Other General Judicial Council forms are available on the web at <http://www.courts.ca.gov/forms.htm>

For Department of Justice Information, contact the Records Review section at (916) 227-3849 or on the web at <https://oag.ca.gov/fingerprints/record-review>.

4. **Successful participation in the California Conservation Camp Program or county incarcerated individual hand crew (Pen. Code, § 1203.4b)**

The petitioner has been released from custody, has not been convicted of any crimes outlined in Penal code section 1203.4b(a)(1), and has successfully participated in (check all that apply):

Successful participation means the incarcerated individual adequately performed their duties without any conduct that warranted removal from the program.

- a. the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation.
- b. as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority.
- 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.)

Please provide the following information to assist in certifying successful participation in fire camp as a hand crew member:

CDCR NUMBER:	NAME OF FIRE CAMP:
FIRE CAMP PARTICIPATION DATES:	

5. **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) and 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 provide evidence that the conviction was the result of your status as a victim of human trafficking. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.

6. **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, and 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).
- 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.)

7. **Felony Conviction sentenced prior to the implementation of the 2011 Realignment Legislation for a crime which he/she would otherwise be eligible for sentencing pursuant to subdivision (h) of Sect. 1170 (Pen. Code, § 1203.42).**

- a. More than two years have elapsed since the completion of the sentence
- b. Not under supervised release, and not serving a sentence for, or probation for, or charged with the commission of any offense.

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8. **Deferred entry of judgment (*Pen. Code, § 1203.43*)**
 Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under Penal Code section 1000.3 on (date): _____. Furthermore (check one):
- a. court records are available showing the case resolution.
- b. petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment. Petitioner (check one):
 has **or** has not attached a copy of his or her state summary criminal history information.
9. The Petitioner requests that eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b).
10. The Petitioner requests that eligible misdemeanor offenses be reduced to infraction under Penal Code section 17(d)(2).
11. 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, *1203.4b, 1203.41, 1203.42, 1203.43, 1203.49 of the Penal Code.
**Please note: upon granting relief under Penal Code section 1203.4b, the court shall order early termination of probation, parole, or supervised release if the court determines that the defendant has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief pursuant to Penal Code section 1203.4b.*

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)

HEARING – FOR COURT USE ONLY	
<input type="checkbox"/> Petition will be submitted on _____ at _____	<input type="checkbox"/> A.M. / <input type="checkbox"/> P.M. in Dept. _____
(Month / Day / Year)	(Time)
<input type="checkbox"/> The District Attorney has been notified of this hearing.	<input type="checkbox"/> Probation has been notified of this hearing.



Sacramento Superior Court

720 Ninth Street, Sacramento, California 95814

CR-181

<u>Attorney or Party Without Attorney</u> NAME: FIRM NAME: STREET ADDRESS: CITY, STATE, ZIP: TELEPHONE NO.: () FAX NO.: () E-MAIL ADDRESS ATTORNEY FOR (<i>Name</i>)	State Bar No:	FOR COURT USE ONLY
ORDER FOR DISMISSAL PENAL CODE SECTION §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, 1203.49		
THE PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: _____		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 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 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, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, or 1203.49 and it is ordered that 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 (and sealed if applicable) for:
 - ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action; **OR**;
 - Only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

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4. The court **DENIES** the petition for dismissal regarding the following convictions under Penal Code 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, or 1203.49 for:
- ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action; **OR**;
- Only the following convictions or pleas for deferred entry of judgment 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, the court finds that the petitioner was a victim of human trafficking when he or she committed the crime. The court orders (*check one*):
- a. the relief described in section 1203.4.
- b. the relief described in section 1203.4, with the following exceptions (*specify*):
6. If this order is granted under the provisions of Penal code section 1203.4, 1203.4b, 1203.41, 1203.42:
- a. 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 (for relief granted under Penal Code sections 1203.4, 1203.41, or 1203.42).
- b. The petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for licensure by the Commission on Teacher Credentialing, a position as a peace officer, public office, or for contracting with the California State Lottery Commission (for relief granted under Penal Code section 1203.4b).
- c. 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 either Penal Code section 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 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 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.
8. In addition, as required by Penal code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 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 reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

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9. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in former Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

<i>FOR COURT USE ONLY</i>

(DATE)

(JUDICIAL OFFICER)