

MARIN COUNTY SUPERIOR COURT

3501 Civic Center Drive
P.O. Box 4988
San Rafael, CA 94913-4988
(415) 444-7070

PETITION FOR DISMISSAL (Penal Code Sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49) INSTRUCTIONS

Am I eligible?

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 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 or an infraction;
 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; AND
 5. You are not currently charged with another offense.
- You served a felony sentence in county jail and:
 1. You are not currently under mandatory supervision;
 2. You are not currently serving another sentence or on probation for another offense;
 3. You are not currently charged with another offense; AND
 4. It has been at least one year since you completed the county jail sentence with mandatory supervision; OR it has been at least two years since you completed the county jail sentence without mandatory supervision.

You are eligible for a dismissal and the Court may 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 section 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 for any other offense.
- It is 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 interest of justice.

Convictions 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:

- Any misdemeanor within the provisions of Vehicle Code section 42002.1;
- Any infraction within the provisions of Vehicle Code section 42001;
- Any violation of Penal Code section 286(c), 288, 288.5, 288a(c), 289(j), 311.1, 311.2, 311.3, 311.11; OR
- A felony under Penal Code section 261.5(d).

What will a dismissal do?

Once all your convictions have been dismissed, this is what you can expect:

1. **Applying for private employment:** Under most circumstances, private employers cannot ask you about any convictions dismissed under Penal Code section 1203.4. So, when applying for a job in the private sector, you generally do not have to disclose a conviction if it was dismissed or expunged. But it is a good idea to read Penal Code section 1203.4, or California Code of Regulations section 7287.4(d), or to talk to the public defender in your county if you have questions about your rights and obligations regarding past convictions when applying for a job.
2. **Applying for government employment or a government license:** For questions by government employers or on government licensing applications, if you are asked if you have ever been convicted of a crime, you **MUST** respond with “YES -- CONVICTION DISMISSED.” In California, government employers and licensing agencies (except for police agencies and concessionaire licensing boards) will treat you the same as if you had never been convicted of any crime.
3. You will not be allowed to own or possess a firearm until you would otherwise be able to do so.
4. Your dismissed convictions can still be used to increase your punishment in future criminal cases.
5. Your prior convictions can still affect your driving privileges.
6. If you have been required to register as a sex offender as a result of a conviction, you have to make a different motion to the Court in order to be relieved of this requirement. A dismissal will not relieve you of your duty to register as a sex offender. Your status as a registered sex offender will continue to be available to the public on the Internet under Megan’s Law.
7. If your conviction prohibited you from holding public office, you still cannot hold public office after that conviction is dismissed.

PROCEDURE

Step 1: Obtain a copy of your criminal record.

You will need a copy of your criminal record or case information for each conviction you wish to expunge. Your criminal record or case history includes information essential to filling out the expungement papers. You can obtain a copy of your case information from the Records Division website at [Court Records & Exhibits | Superior Court of California | County of Marin](#) or call them at (415) 444-7080.

For a copy of your state-wide criminal record, visit the California Department of Justice website at <https://oag.ca.gov> or call the Attorney General’s Records Review unit at (916) 227-3849.

Step 2: Complete the required forms.

There are two forms you will need to expunge your conviction.

- [Petition for Dismissal \(CR-180\)](#)
- [Order for Dismissal \(CR-181\)](#)

These forms can be downloaded from the Judicial Council of California's website at <http://www.courts.ca.gov/>.

It is often a good idea to attach a declaration stating why you want the expungement and explaining your situation in life. You may use Judicial Council Form [MC-031, Declaration](#), if you wish.

Letters from employers, clergy or other community members can be convincing and may be provided with your documentation.

If you have changed your name since your conviction, fill out the forms with the name under which you were convicted. Sign the forms with your current name.

Step 3: File your forms.

1. Complete the *Petition for Dismissal, Order for Dismissal and Declaration (if applicable)*.
2. File the original *Petition* and submit the *Order* to the Criminal Division of the Marin County Superior Court in Room C-10.
 - a. If you wish to receive a file-endorsed copy of your *Petition/Application*, you must provide a copy of your *Petition* and a self-addressed stamped envelope with the original *Petition*.
3. Upon filing of the *Petition*, the petitioner is required to immediately serve the office of the prosecuting agency (the Marin County District Attorney's Office in Room 130 of the Civic Center) with a copy of the *Petition*. It may be served personally or by mail. The signed *Proof of Service* must then be filed with the court.
 - a. The person performing the service must complete the *Proof of Service*.

The Court cannot charge a fee to file the *Petition*, but the Court may order the petitioner to reimburse the Court, the City, and the County up to \$150 each after deciding the *Petition*, whether or not the *Petition* was granted. However, the Court will not order the petitioner to pay unless it finds that the petitioner is able to pay all or part of the costs of the *Petition* without undue hardship. *Please note: The Court will not notify the California Department of Justice of a dismissal until reimbursement has been received.*