



## Sacramento Superior Court

Penal Code 17(b), 1203.3, 1203.4a, 1203.41, 1203.43, 1203.49  
Petition Information and Instruction Sheet

### **Information – Felony/Misdemeanor**

If you were convicted of a misdemeanor or a felony and were not sentenced to state prison and you have completed the terms of your sentence, you may petition for a dismissal pursuant to PC § 1203.4 or 1203.4a. Many criminal offenses can be dismissed from your record.

- If your case was originally charged as a misdemeanor, but reduced to an infraction at the time of conviction, follow the instructions for misdemeanor cases.
- If your case was charged and convicted as an infraction (Traffic Cases) 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](#)).

### **Who is Eligible?**

Anyone who has paid all court ordered fees, fines, and victim restitution and meets 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.
- PC 1203.4a, PC 1203.41 – All terms of sentencing have been completed.
- 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.
- PC 1203.49 – Petitioner has completed a term of probation under PC 647(b), and can establish clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking.

### **Who is Not Eligible?**

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

- The person 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.
- The person was arrested and convicted of a crime within one year of the pronouncement of judgment.
- Probation for the current application was revoked and not later reinstated.

- The person has failed to appear or failed to pay fines to the Department of Motor Vehicles., or to the Department of Revenue Recovery.
- 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 § 1203.4 – 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 Placed 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:

- Did not serve a prison term on this case.
- Must have complied with the court sentence
- Must not now be serving a sentence for any offense or be charged with the commission of any offense.

## **What Will Be The Effect of Having The Petition Granted?**

The most common reason for obtaining relief pursuant to PC1203.4/1203.4a is to allow the previously-convicted person to state on non-governmental employment applications that they have not been convicted of a felony. However, the record of conviction continues to exist and continues to have certain effects. 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 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 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 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 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.
- ***Granting of the Petition does not seal your record, destroy or remove any entries from the court, law enforcement, Department of Justice or DMV. The case, including the conviction will remain public record.***

## **Filing Requirements**

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

- 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*.
- An original Petition for Dismissal (Form No. CR-180) and five (5) copies of each
- An original Order for Dismissal (Form No. CR-181) and five (5) copies of each.

Distribution of the copies is as follows:

- Original for the Court
- One copy for Probation
- One copy for the District Attorney

- 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 the appropriate agencies.

***\*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 \$25 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. However the Court will impose a non-refundable administrative processing cost, payable at the time the petition is submitted to the court. This cost is charged per petition, regardless of the outcome of the petition(s).

- If no probation was given at the time of your sentence, the cost is \$60.00.
- If a probation term was given at the time of your sentence, the cost is \$120.00.
- There is no cost when filing a PC 17(B) or a PC 1203.3 petition only.

**If you believe you do not have the ability to pay the cost associated with your petition, you may complete and submit a “Sacramento Court Financial Declaration” form with your petition. Your ability to pay will be determined by a judge, based on the information you provide. Your petition will not be reviewed until any costs ordered by the Judge have been paid.**

## **Is My Appearance Necessary?**

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

- **For misdemeanor cases only, no appearance is necessary.** These hearings are conducted ex parte with a “Rule By Date” on or before 90 days from date of filing.
- **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.

## **Upon Granting the Petition, the Court 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, 1203.49, 1203.41 or 1203.43 ).

## **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).

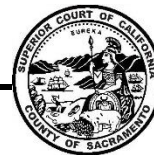
- If your petition is denied, you may refer to the [Local Rules of Court](#) to obtain information about how to request a hearing.
- If you provided a self-addressed stamped envelope at the time the petition was filed, a copy will be mailed to you within seven (7) court days of the court’s decision.

## **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 <http://ag.ca.gov/fingerprints/>.





Attorney or Party Without Attorney		State Bar No:			
NAME:					
FIRM NAME:					
STREET ADDRESS:					
CITY, STATE, ZIP:					
TELEPHONE NO.: (      )			FAX NO.: (      )		
E-MAIL ADDRESS:					
ATTORNEY FOR ( <i>Def. Name</i> ):					
DEFENDANT DRIVER'S LICENSE NUMBER:					
THE PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:				DATE OF BIRTH	
<b>PETITION FOR DISMISSAL</b>					
<b>PENAL CODE SECTION §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49</b>					
CASE NUMBER:					
COURT DATE <i>(For Court Use Only)</i>		TIME		DEPT	

**FOR COURT USE ONLY**

Distribution:

<input type="checkbox"/> Defendant	<input type="checkbox"/> DMV
<input type="checkbox"/> Attorney	<input type="checkbox"/> File
<input type="checkbox"/> CII #	<input type="checkbox"/> FBI #
<input type="checkbox"/> Probation #	<input type="checkbox"/> SPD #
<input type="checkbox"/> SSO #	

1.  I am the attorney for the above named defendant **or**  I am the defendant in the above entitled action.  
 On (*date*): \_\_\_\_\_, the petitioner (*the defendant in the above-entitled criminal action*) was convicted of a violation of the following:

Offense <i>(Specify each offense in the case noted above)</i>	Code	Section	Type of offense: <i>(Felony; Misdemeanor; Infraction)</i>	Eligible for reduction to misdemeanor under Penal Code § 17(b)	Eligible for reduction to infraction under Penal Code 17(d)(2)

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 the charge or 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.*)

4.
- a.  Petitioner has completed a term of probation for a conviction under Penal code section 647(b).
- b.  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, 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).
- (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.*

6.  **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
- has not
- Attached a copy of his or her state summary criminal history information.

7.  The Petitioner requests that eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b).
8.  The Petitioner requests that eligible misdemeanor offenses be reduced to infraction under Penal Code section 17(d)(2).
9.  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,  1203.43, 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)

**HEARING – FOR COURT USE ONLY**

Petition will be submitted on \_\_\_\_\_ at \_\_\_\_\_  A.M. /  P.M. in Dept. \_\_\_\_\_

(Month / Day / Year) (Time)

The District Attorney has been notified of this hearing.  Probation has been notified of this hearing.





<p>Attorney or Party Without Attorney State Bar No:</p> <p>NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: (     ) FAX NO.: (     ) E-MAIL ADDRESS ATTORNEY FOR (<i>Name</i>)</p>	<p><b>FOR COURT USE ONLY</b></p>
<p>THE PEOPLE OF THE STATE OF CALIFORNIA DATE OF BIRTH vs. DEFENDANT:</p>	
<p><b>ORDER FOR DISMISSAL</b> <b>PENAL CODE SECTION §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49</b></p>	<p>CASE NUMBER</p>

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.
  - 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 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.
  - 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,  1203.41,  1203.43,  1203.49 and it is ordered that pleas of guilty or nolo contendere, or verdicts or findings of guilty be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (*check one*)
  - ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
  - 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,  1203.41,  1203.43,  1203.49 for (*check one*):  
 ALL CONVICTIONS in the above-entitled action.  
 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*):
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 or 1203.41:  
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.  
b. 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 Petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.
8. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, or 1203.41, 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.
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).
10. 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 Penal code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment.

**FOR COURT USE ONLY**

\_\_\_\_\_  
(DATE) (JUDICIAL OFFICER) 2 of 2



# CONFIDENTIAL FINANCIAL DECLARATION

**You must completely fill in all the information or your request will not be considered.**

**NAME**  
**(please type or print):**

**CASE NUMBER:**

**HOUSEHOLD** List the people living with you and their current ages:

Name	Age	Relationship	If person is a child, do you have legal custody per court order? If so, attach a copy of the court order.
1.			
2.			
3.			
4.			
5.			
6.			
<input type="checkbox"/> Check here if more than six (6) people live in your household. You must attach a list with the names, ages, relationship and any court order regarding legal custody.			

**Please check all that you receive:**

- Food Stamps – California Food Assistance Program, CalFresh Program
- Supplemental Security Income
- SSP – State Supplemental Payment
- County Relief/General Assistance – County Relief, General Relief (GR) or General Assistance (GA)
- IHSS – In-Home Supportive Services
- Medi-Cal
- CalWORKS – California Work Opportunity and Responsibility to Kids Act
- Tribal TANF - Tribal Temporary Assistance for Needy Families
- CAPI - Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants

**MONTHLY INCOME**

List the monthly income and source plus proof of income for yourself and all the people over the age of 18 that you are living with. Proof must be attached.

Name	Wage/ Salary Income	Child Support Received from another	Spousal Support Received from another	Social Security Income	Retirement Income	Un- employment	Disability	Child Support Paid by you	Spousal Support Paid by you to another
1. Yourself	\$	\$	\$	\$	\$	\$	\$	\$	\$
2.	\$	\$	\$	\$	\$	\$	\$	\$	\$
3.	\$	\$	\$	\$	\$	\$	\$	\$	\$
4.	\$	\$	\$	\$	\$	\$	\$	\$	\$
5.	\$	\$	\$	\$	\$	\$	\$	\$	\$
6.	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Totals</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$

**How much do you pay for Housing?**

Renting      Buying      Amount of monthly payment: \$

Amount of monthly payment that you contribute: \$

**MOTOR VEHICLES**

(include motorcycles, boats, motor homes, trailers, etc. of all people living with you)

Make/Year	Monthly payment (if applicable)
1.	\$
2.	\$
3.	\$

**OTHER EXPENSES**

If there are other expenses you want the court to consider, please list and **attach proof**.

1.
2.
3.
4.

**ASSETS**

<b>IMPORTANT:</b> Each of the questions about assets must be answered. If the answer is \$0.00 then indicate as such. Do not leave any of the lines blank.	Checking Account Balance	\$	Equity in property you own	\$
	Savings Account Balance	\$	Other Assets	\$
	Money owed to you	\$	Trust	\$
	<b>Totals</b>	<b>\$</b>		

**FUTURE FINANCIAL POSITION**

If you are unemployed, what is the likelihood that you shall be able to obtain employment within the next six-month period? Please provide all information regarding your efforts to obtain employment, and any pending job applications including potential wage or salary.

Do you expect to receive any money or assets within the next six months? If so, please explain, including any bequests or inheritance that you may receive.

I declare under the penalty of perjury under the laws of the State of California that the information I have provided on this form, and in all attachments, is true and correct.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Type or Print name: \_\_\_\_\_