

Instructions For Filling Out Expungement Petitions In Fresno County AND All Forms

Step 1: Determine if you are eligible for expungement.

If you were convicted of crime that is a felony or a misdemeanor and you were not sent to prison, you may be eligible for an expungement. An AB 109 sentence, often called a “local prison commitment,” is not treated as a prison sentence and permits you to seek expungement. If you fulfilled the conditions of probation for the entire period of probation, you are not currently on probation, and you are not currently charged with a crime, the court must grant a properly prepared expungement petition. If you are still on probation, violated probation, or are currently charged with the commission of a crime, the court probably will not expunge the conviction although it is still permitted to do so. If you were not granted probation and not sentenced to prison, the court will grant an expungement if more than one year has passed since you were sentenced and you have obeyed all laws. If you served an AB 109 sentence, the court is not required to grant an expungement although it has discretion to do so.

Some offenses are punishable as either a felony or a misdemeanor. These are called wobblers. If you were convicted of a felony offense which is a wobbler, the court hearing your expungement petition has discretion to also reduce the offense to a misdemeanor prior to dismissing the charge. The court, in deciding whether to reduce the offense to a misdemeanor considers factors which may include whether (1) you owe any money to the court; (2) you have any open cases; and (3) whether you are still on probation.

Step 2: Gather Information To Help You Fill Out The Petition.

Review your court papers or go to the clerk’s office on the fourth floor of the main courthouse. Collect the following information:

| Date of Conviction | Code section (e.g., Penal Code) | Section (e.g., 242) | Type of Offense (Felony or Infraction) |
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Step 3: Fill Out The CR-180 Form

You will need to fill out the CR-180 form.

In section one, for the name of the offense, just use a few words to describe the offense as accurately as you can. When it asks you whether the offense is eligible for reduction to a misdemeanor, simply write a question mark (“?”) if you don’t know the answer. If there is not enough space for all of your convictions, use Judicial Council Form MC-025 and include the same information for additional offenses. However, if you have convictions from multiple cases, you will need to use a separate petition and accompanying paperwork for each case for which you seek relief.

You will check the box for section two if you were placed on probation, including informal or bench probation. Make sure all the information next to the box in section two is correct. If you check that box, review boxes a, b, and c. Check as appropriate. If you did not successfully complete probation, or are currently charged with a crime, you will need to fill out Judicial Council Form MC-031. In the MC-031, you will to explain to the judge why he or she should grant the petition. For instance, you might explain that you graduated from college since the conviction and have not been convicted of a crime for 12 years. If you checked box a, you do not need to fill out Form MC-031 or explain to the judge why the judge should grant your petition.

Only check the box for section three if you were not granted probation. Check A and B if appropriate.

Check the boxes in section 4 as appropriate.

Complete the CR-180 form.

Step 4: Fill Out The CR-181 Form

You will need to fill out the CR-181 form. Fill out the information in the top boxes of the first page of the form. Do not fill out the information where the court makes its orders.

On the top of second page of the form, write your name and the case number.

Step 5: Fill Out The MC-210 Form

You'll need to fill out the MC-210 form. This form is used to determine whether you be required to pay court and probation fees related to your expungement petition. You will not be asked to pay a fee when you file the petition. However, if the court grants the petition, the court may order you to pay fees up to \$ 150 to the court and \$ 120 to the Probation Department.

Step 6: Fill Out The CLETS Form

Fill out the CLETS form.

Step 7: Have Another Adult Serve The Prosecutor

Make at least two copies of the papers you have already prepared.

Begin filling out the attached proof of service yourself. Write your name and the case number. You will need to find an adult other than yourself to serve the District Attorney. That person should serve one copy of your papers on an employee of the Fresno County District Attorney Office located on the 10th floor of that office at 2220 Tulare Street, Fresno, California 93721. That other adult should make sure that the employee of the District Attorney's Office fills out the bottom portion of the proof of service. The person serving the District Attorney does not need to leave a copy of the proof of service with the District Attorney. Although the proof of service allows service to be made by mail, the court will not consider your petition until the prosecutor has acknowledged to the court that it has received the proof of service.

Step 8: Prepare To File The Paperwork

Make a copy of proof of service. Attach the copy of the proof of service to the copy of the papers you intend on filing with the court.

Step 9: File Your Paperwork

Go to the fourth floor of the main courthouse. Go to the clerk's office. Present the original documents to the judicial assistant and your copy of the documents. The judicial assistant will stamp both sets of documents. The judicial assistant will keep the originals for the court. The judicial assistant will return your stamped copy to you. No fees will be required when you file your paperwork, however, the court may charge you up to \$ 270 before the paperwork will be issued, depending on your ability to pay. See Step 12.

Step 10: Wait A Long Time

It takes a long time, currently about six months, for the court to rule on your request or to set a hearing. The court may simply grant or deny your request. Or it may set a hearing.

Step 11: Show Up For Your Court Hearing

If the court sets a hearing, make sure to show up. If you do not show up, the court will likely deny your petition.

Step 12: Pay Any Fees Required

You won't actually receive a certificate of rehabilitation until you have paid any fees imposed by the court. Court fees cannot exceed \$ 150. Probation fees cannot exceed \$ 120. The court may charge you the full amounts, nothing, or something in between.

Congratulations on receiving your expungement. Theoretically, you can tell private employers that you were never convicted of any offenses. However, it's probably best to list any convictions if asked but to state that they were expunged. Otherwise, your employer may believe you lied if the employer finds out about the conviction. The conviction still counts a prior conviction if you are again convicted of any offenses. An expunged

conviction does not permit you to own a firearm. If the court has reduced a felony conviction to a misdemeanor before expunging the conviction, you might be permitted to own a firearm. However, you should check with a licensed firearms dealer to make certain due to the complexity of California and federal laws on this subject.

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| 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, 1203.43, 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 or was granted deferred entry or judgment for the following offenses:

| Code | Section | Type of offense (felony, misdemeanor, or 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) |
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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 stated 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. 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.
- 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.)

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| 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)**
- 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)**
- 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. 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).
8. Petitioner requests that he or she be permitted to withdraw the plea of guilty or nolo contendere, 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 *(check one)*
- 1203.4 1203.4a 1203.41 1203.43 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.

Date: _____  _____
 (SIGNATURE OF PETITIONER OR ATTORNEY)

 (ADDRESS OF PETITIONER) (CITY) (STATE) (ZIP CODE)

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| 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, 1203.43, 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 (*check one*)
 - 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 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 (*check one*)
 - 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 the pleas of guilty or nolo contendere, or verdicts or findings of guilt 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*):

4. The court **DENIES** the petition for dismissal 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 judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

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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; and
- 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, 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).

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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 program.

Date: _____
(JUDICIAL OFFICER)

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| SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | FOR COURT USE ONLY |
| PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: | |
| DEFENDANT'S FINANCIAL STATEMENT AND NOTICE TO DEFENDANT <i>(check all that apply)</i> <input type="checkbox"/> ELIGIBILITY FOR APPOINTMENT OF COUNSEL <input type="checkbox"/> REIMBURSEMENT FOR COST OF COURT-APPOINTED COUNSEL <input type="checkbox"/> ELIGIBILITY FOR RECORD ON APPEAL AT PUBLIC EXPENSE | CASE NUMBER: _____ |

1. a. Defendant's name: _____ d. Date of birth: _____
 b. Other names used: _____ e. Telephone number: _____
 f. Driver's license number: _____
 c. Address: _____

2. Defendant's present employment:
 a. Occupation: _____
 b. Name of employer: _____
 c. Address: _____
 d. Gross pay per month: \$ _____ week: \$ _____ day: \$ _____
 e. Take-home pay per month: \$ _____ week: \$ _____ day: \$ _____
 f. Name of union: _____
 g. Name of credit union: _____

3. *If defendant is not now working, state the name and address of defendant's last employer and the last date defendant was employed.*
 a. Name: _____
 b. Address: _____
 c. Last date of employment: _____

4. Defendant is is not married.

5. a. Spouse's name: _____ d. Date of birth: _____
 b. Other names used: _____ e. Telephone number: _____
 f. Driver's license number: _____
 c. Address: _____

6. Spouse's present employment
 a. Occupation: _____
 b. Name of employer: _____
 c. Address: _____
 d. Gross pay per month: \$ _____ week: \$ _____ day: \$ _____
 e. Take-home pay per month: \$ _____ week: \$ _____ day: \$ _____
 f. Name of union: _____
 g. Name of credit union: _____

7. *If spouse is not now working, state the name and address of spouse's last employer and the last date spouse was employed.*
 a. Name: _____
 b. Address: _____
 c. Last date of employment: _____

8. Dependents

| Name | Address | Relationship | Age |
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CASE NUMBER:

9. OTHER MONTHLY INCOME. Defendant and Spouse. Unemployment and disability, Social Security, Welfare, TANF, Veteran's benefits, Worker's compensation, Child support payments, Spousal support payments, All other income not elsewhere listed. Total: \$

10. EXPENSES. Monthly expenses being paid by defendant alone or by defendant and spouse. Rent or house payments, Car payments, Transportation payments, Medical and dental payments, Loan payments, Clothing and laundry, Food, Support payments, Insurance payments, Other payments (union, taxes, utilities). Total (a-j): \$

11. Installment payments other than those listed in item 10. Name of Creditor, Monthly Payment, Balance Owed. Total: \$

12. ASSETS. What do you own? (State value): Cash, House equity, Cars, other vehicles and boat equity, Checking, savings, and credit union accounts, Other real estate equity, Income tax refunds due, Life insurance policies, Other personal property. Total: \$

13. ELIGIBILITY FOR APPOINTMENT OF COUNSEL AND NOTICE TO DEFENDANT: If an attorney is appointed to represent you, the court will, at the conclusion of the criminal proceedings, after a hearing, make a determination of your ability to pay all or a portion of the cost of the attorney.

Declaration of Defendant

I declare under penalty of perjury that the foregoing is true and correct, and that I understand the notice contained in item 13, under the laws of the state of California.

Date:

(Signature of Defendant)

FRESNO SUPERIOR COURT
REQUEST FOR RECORD VIA CLETS

TO BE COMPLETED BY ATTORNEY/DEFENDANT. PLEASE COMPLETE THE FOLLOWING, PROVIDE AS MUCH IDENTIFYING INFORMATION IN REGARD TO THE SUBJECT OF THE RECORD, AS POSSIBLE:

Last Name: _____ First Name: _____ Middle Initial: _____

Alias(es): _____

Address: _____

Sex: _____ DOB: _____ POB: _____ Race: _____

Hair: _____ Eyes: _____ Height: _____ Weight: _____

SS#: _____ CII#: _____ FBI#: _____ CDL#: _____

Other information which might aid in identifying individual (such as I.D. #): _____

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CII FBI DMV

Requested by: _____ Date: _____

Court Case #: _____

Charge(s): _____

THIS REQUEST IS FOR THE PURPOSE INDICATED BELOW:

Special report to the court

(Sections below are reserved for use by the individual generating the CLETS request.)
THE RESULT OF THIS REQUEST FOR RECORD IS AS FOLLOWS:

No record available through CLETS

Response from: CII FBI DMV California Only

Sent for Admin Record Multi

DATE PROCESSED: _____ PROCESSED BY: _____

DATE RETURNED: _____ RECONCILED BY: _____

DATE CLETS DESTROYED (SHREDDED): _____

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO

FOR COURT USE ONLY

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|---|---|--|--|---|
| <input checked="" type="checkbox"/> Fresno 1100 Van Ness Ave. Fresno CA 93724 | <input type="checkbox"/> Clovis 1011 Fifth St. Clovis CA 93812 | <input type="checkbox"/> Coalinga 160 W. Elm St. Coalinga CA 93210 | <input type="checkbox"/> Firebaugh 1325 "O" St. Firebaugh CA 93622 | <input type="checkbox"/> Fowler 127 E. Merced St. Fowler CA 93625 |
| <input type="checkbox"/> Kerman 719 S. Madera Ave. Kerman CA 93630 | <input type="checkbox"/> Kingsburg 1600 California St. Kingsburg CA 93631 | <input type="checkbox"/> Reedley 815 "G" St. Reedley CA 93654 | <input type="checkbox"/> Sanger 619 "N" St. Sanger CA 93657 | <input type="checkbox"/> Selma 2117 Selma St. Selma CA 93622 |

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT/APPELLANT:

DECLARATION OF SERVICE

CASE NUMBER:

DIRECTIONS: A copy of this document must be mailed to the district attorney/city attorney at the address listed below. YOU MAY NOT PERFORM THE MAILING YOURSELF. You must have a party who is at least 18 years old complete the information below and mail the document by first class mail, postage prepaid, or personally delivered. The original must be filed with the court.

declares as follows:

(Type Name of Declarant)

I am over the age of eighteen (18) years and not a party to this action. I am a resident of or employed in the county in which the mailing described below took place.

My Business Residence address is _____

1. MAIL DELIVERY

On _____, I served a copy of this _____ by depositing a copy of it in the United States mail at _____, enclosed in a sealed envelope with postage thereon fully prepaid, and the envelope addressed as shown below:

District Attorney
2220 Tulare Street, Suite 1000
Fresno, CA 93721

2. PERSONAL DELIVERY

Receipt of copy of _____ acknowledged.

Dated: _____

Signature: _____

Type or Print Name: _____

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

Executed on _____, at _____, California.