

Research Guide: Expunging Your Criminal Record

Law Library for San Bernardino County

Research Guide, www.sblawlibrary.org, (909) 885-3020.

Disclaimer

The information in this research guide is intended to assist patrons with their legal research and is in no way intended to replace the counsel of an attorney. Any decisions about how to proceed must be determined by the patron. The library staff can recommend and refer you to print and web-based resources that will help you find answers to your law-related questions. The staff at the Law Library for San Bernardino County cannot explain or interpret the law, and we are not permitted to give legal advice.

What is an Expungement?

An expungement has the potential to re-open your criminal case in order for your conviction to be dismissed and possibly set aside. If your conviction is set aside, your case could be closed without the conviction.

Will Expungement Remove a Conviction from My Record?

It is important to keep in mind that even though your record may be expunged, your criminal case record will still exist, and the expungement might appear if a criminal record check is conducted. Additionally, some parts of your sentence will remain unchanged and cannot be dismissed including the issuance of strikes, firearms prohibitions, and exclusions from serving jury duty. For more information on the expungement process, and what it may or may not do for you, refer to the resource guide titled *Expunging Criminal Records: Step by Step* that is provided by the Sacramento County Public Law Library at <http://www.saclaw.org/uploads/files/Step-by-Step/expungingcriminalrecords.pdf> or review some of the other print and electronic resource guides listed below.

Types of Expungement

There are three types of expungement. The first type of expungement is provided in [Penal Code §1203.4](#). This type of expungement includes cases in which probation was ordered as part of the sentence.

The second type of expungement is available under [Penal Code §1203.4\(a\)](#). Expungement under this section should include cases in which probation was NOT ordered as part of the sentence.

The third type of expungement is listed under [Penal Code §17](#). This type of expungement should reduce a felony conviction to a misdemeanor, after which, the misdemeanor could be dismissed. The following dismissal forms are available online at www.courts.ca.gov/forms in a format you can fill out and print:

Petition for Dismissal: CR-180

<http://www.courts.ca.gov/documents/cr180.pdf>

Order for Dismissal: CR-181

<http://www.courts.ca.gov/documents/cr181.pdf>

Certificate of Rehabilitation

If you were sentenced to state prison, you may need to fill out and submit a Certificate of Rehabilitation, instead of the forms listed above. The Certificate of Rehabilitation is made under [Penal Code § 4852.01](#), et. seq. For more information regarding the Certificate of Rehabilitation, you might want to review the *California Criminal Defense Manual* by Matthew Bender at the law library. Additional online information regarding the Certificate of Rehabilitation is provided below:

Certificate of Rehabilitation and Pardon Quick Reference for Restoration of Rights:

http://www.cdcr.ca.gov/boph/docs/restoration_of_rights_reference.pdf

How to Apply for a Pardon: State of California, Office of the Governor:

http://gov.ca.gov/s_pardonsandcommutations.php

What Must I Do to Qualify for Expungement?

- ❖ You should have successfully completed probation or you must have been discharged before the end of your probation sentence. See [Penal Code §1203.4\(a\)](#)
- ❖ You may not be currently serving a sentence or be on probation for any other offense. See [Penal Code §1203.4\(a\)](#)
- ❖ You cannot be charged with any further offenses. See [Penal Code §1203.4\(a\)](#)
- ❖ You will not be eligible for expungement if you were sentenced to state prison, and there are certain offenses that cannot be expunged. Further, you will not be able to apply for expungement proceedings if you owe money for fines, fees, and restitution.

Will I Need a Copy of My Criminal Record Before Filing for an Expungement?

Before you file for the expungement process, you will need to obtain a copy of your criminal record. You will need to obtain case information for each conviction you want to expunge. The case history sheet should include information that will be pertinent to filling out your expungement documents.

How Do I Obtain a Copy of My Criminal Record?

You can request a copy of your criminal records from the State of California Justice Department at <http://ag.ca.gov/fingerprints/security.php> or you might want to review your options under the subheading *Get a Copy of the Information on Your Criminal Record* near the bottom of the page at <http://www.courts.ca.gov/1070.htm>. When you file your original documents, an original Proof of Service needs to be included in your packet showing that copies of all documents were served to the District Attorney's Office.

Where Do I File My Expungement Petition?

You will need to file your petition in the Superior Court for the county where you were convicted.

Court Fees

You will need to pay a court filing fee when you take your documents to the court clerk. The filing fee is based on the type of conviction to be expunged. For additional information regarding filing fees, you are encouraged to call the court clerk at the courthouse where your documents are being filed.

What if I Fill Out the Forms Incorrectly?

If you fill out your forms incorrectly, they will be returned to you. Occasionally, there will be an explanation as to what is incorrect on your forms. You may correct your forms and return it to the court without an additional filing fee.

If 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, but keep in mind that background checks typically go back ten years, so employers might see you had a conviction dismissed. Answering "No" on an application may look dishonest.

Your conviction could be discovered during a standard background check when applying for a government job, a job that requires security clearance, or a job that requires a government-issued license, certificate, or permit. You might want to disclose your conviction and expungement in these situations and you must disclose your conviction and expungement when applying for a government-issued license, certificate, or permit.

Additional Information and Resources

You might consider contacting the Public Defender's Office for additional information or for assistance with filling out your forms if they represented you in court. In San Bernardino County, you can find contact information for the San Bernardino County Public Defender's Office at <http://www.sbccounty.gov/PublicDefender/Default.asp>

What if I Was Convicted in Another County?

If you were represented by a public defender in a different county, please contact the public defender office in that county for additional information regarding their services.

Resource Guides for Expunging Your Criminal Record at the Law Library for San Bernardino County

- ❖ *California Criminal Defense Practice* by Matthew Bender; KFC 1155 .C342, available at all branches
- ❖ *California Criminal Law*, 3rd edition by Witkin; KFC 1100 .W5, available at all branches
- ❖ *California Criminal Law Forms Manual*, 2nd edition by CEB; KFC 1155 .A65 C3424, available at all branches
- ❖ *California Criminal Law Practice and Procedure* by CEB; KFC 1155 A65 .C3424, available at all branches
- ❖ *California Judicial Council Forms Manual*; KFC 955 .A65 C34, available at all branches
- ❖ *Criminal Law Handbook* by Nolo Press; see staff at the reference desk, available at all branches
- ❖ *Deerings California Codes Annotated*; KFC 30.5 .D4, available at all branches
- ❖ *Levenson on California Criminal Procedure*, KFC 1155 .L475, available at the San Bernardino Branch only.
- ❖ *West's Annotated California Codes*; KFC 30.5 .W4, available at all branches

Electronic Research Guides for Expunging Your Criminal Record

Cleaning Your Record Self-Help Guide

<http://www.courts.ca.gov/1070.htm>

California Courts Judicial Council Forms

www.courts.ca.gov/forms

Requesting Your Criminal Record

<http://ag.ca.gov/fingerprints/security.php>

Sacramento County Public Law Library

<http://www.saclaw.org/uploads/files/Step-by-Step/expungingcriminalrecords.pdf>

San Diego County Public Law Library Research Guide

http://sandiegolawlibrary.org/wp-content/uploads/2013/04/Clean_Up_Your_Criminal_Record.pdf