Research Guide: Expunging Your Criminal Record
Law Library for San Bernardino County

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?

According the West’s California Digest, the term expungement is defined as,

“…the eradication of a record of conviction or adjudication upon the fulfillment of prescribed conditions…a redefinition of status, a process of erasing the legal event of conviction or adjudication and thereby restoring to the regenerative offender his status quo ante.”¹

In other words, 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. 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 will 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://saclaw.com/pages/expunging-criminal-records.aspx or review some of the other print and electronic resource guides listed below.

Types of Expungement

Many people are not aware that 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.

Finally, 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)

Order for Dismissal (CR-181)

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. Additionally, online information on this topic is provided by the California Department of Corrections and Rehabilitation below:

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

How to Apply for a Pardon: State of California, Office of the Governor, (Please see the bottom of page 2 of this guide.)
http://www.cdcr.ca.gov/BOPH/docs/apply_for_pardon.pdf

What Must I Do to Qualify for Expungement?

You must 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. Case information will need to be obtained for each conviction you want to expunge. The case history sheet should include information that will be pertinent to filling out your expungement documents. 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 the 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
Court Fees

There will be a court fee for filing your documents with the court clerk. The filing fee is based on the type of conviction to be expunged. Fee waivers are available for low-income filers, and these forms can be found online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) and in print at the law library in the *California Judicial Council Forms Manual*. For additional information regarding court fees, you are encouraged to call the court clerk at the courthouse where your documents are being filing.

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.sbcounty.gov/PublicDefender/Default.asp](http://www.sbcounty.gov/PublicDefender/Default.asp). If you were represented by a public defender in a different county, please review the public defender links available on the California Public Defenders Association website at [http://www.cpda.org/County/CountyPDWebSites.html](http://www.cpda.org/County/CountyPDWebSites.html) for contact information.

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 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](http://www.courts.ca.gov/1070.htm)

Sacramento County Public Law Library

San Diego County Public Law Library Research Guide
[http://www.sdcpll.org/resources/guides/Clean_Up_Your_Criminal_Record.pdf](http://www.sdcpll.org/resources/guides/Clean_Up_Your_Criminal_Record.pdf)

Requesting Your Criminal Record

Enter your name and address here.

Enter your phone number here.

For Felony Convictions

Enter the words, “In Pro Per” on the line that states “Attorney For (Name)”, This means you are representing yourself in this petition.

Enter your case number in this box.

The CII number is found on your DOJ Criminal Record printout in the top left hand corner. This is not a required entry. You will need to enter your driver's license number, the last four digits of your social security number, and your date of birth.

Enter the code section violated, e.g., 459.

Check here for felony conviction.

If your felony conviction may be reduced to a misdemeanor under PC 17, check this box.

Check here if all the above statements are true in the paragraph.

Check here if you felony conviction can be reduced to a misdemeanor under PC 17.

Check here if probation was part of your sentence.

Check here if probation was not part of your sentence.

Check here if probation was not part of your sentence.

Your signature

Your address information

Date petition signed
ORDER FOR DISMISSAL
(Pen. Code, §§ 17, 1203.4, 1293.4a)

DO NOT WRITE BELOW THIS LINE! This is where the judge will sign your petition.

1. The court denies the petition.
2. The court grants the petition. The court finds from the records on file in this case, and from the foregoing petition, that the defendant is eligible for the relief requested.

   The court reduces the felony offense to a misdemeanor.
   The court denies the request to reduce the felony offense to a misdemeanor.
   It is ordered that the plea, verdict, or finding of guilt in the above-entitled action be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed.

   The order is granted under the provisions of Penal Code section 1203.4. The defendant 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. Dismissal of the conviction does not permit a person prohibited from holding public office as a result of that conviction to hold a public office.
   c. The defendant may also be eligible to obtain a certificate of rehabilitation and pardon under the procedure set forth in Penal Code section 4852.01 et seq.

6. If the order is granted under the provisions of either Penal Code section 1203.4 or 1203.4a, the defendant is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 12021 and 12021.1 and Vehicle Code section 13555. 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 12021 or 12021.1.

7. In addition, as required by Penal Code section 2996(b), relief under Penal Code sections 17, 1203.4, or 1203.4a does not release defendant 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 defendant 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).

Date: ____________________________

(JUDICIAL OFFICER)