



Using Proposition 47 to Reduce Convictions and Restore Rights

(Updated January 2019)

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I. WHAT IS PROP 47?

Proposition 47 (“Prop 47”), which became effective on November 5, 2014, reclassifies several categories of theft and drug-possession crimes from felonies or “wobblers” (crimes that may be charged as either felonies or misdemeanors) to straight misdemeanors. Prop 47 benefits those who have yet to be charged with these crimes, those with pending charges, and those who are currently serving sentences. It also benefits those who have already completed their sentences but who would like to change their records.

This guide is intended to provide introductory information about who is impacted by Prop 47, as well as procedural information to assist attorneys and formerly incarcerated people in reclassifying the felonies of formerly incarcerated people as misdemeanors so they may seal their records.

Important reminders:

1. Prop 47 *does not automatically* convert existing felony convictions to misdemeanors. People with qualifying felonies must petition the sentencing court for relief.
2. Petitions for Resentencing or Reclassification must be submitted *by November 4, 2022*.

Subject to the exceptions below, the following is a list of the crimes which are now misdemeanors as a result of Prop 47:

Theft Crimes:

1. **Any type of property theft** – including shoplifting by entering a business during regular business hours with intent to commit theft – if the value of the property is **\$950 or less**. This does not include robbery or first degree (residential) burglary. [Cal. Penal Code §§ 490.2 and 459.5.]
2. **Receiving stolen property**, if the value of the property is **\$950 or less**. [Cal. Penal Code § 496(a).]
3. **Forgery** of a check, etc. for **\$950 or less each**, unless also convicted of identity theft under Penal Code section 530.5. [Cal. Penal Code § 473(b).]
4. **Passing bad check(s)** for **\$950 or less each**, unless also convicted three or more times of Penal Code sections 470, 473, 475, or 476. [Cal. Penal Code § 476a(b).]
5. **Petty theft with a prior**, unless also convicted and imprisoned for elder abuse theft (then it is a wobbler). [Cal. Penal Code § 666.]

Drug-Possession Crimes:¹

1. **Possession of various controlled substances**, including cocaine and heroin. [Cal. Health & Safety Code § 11350.]
2. **Possession of concentrated cannabis**. [Cal. Health & Safety Code § 11357(a).]
3. **Possession of methamphetamine**. [Cal. Health & Safety Code § 11377.]

Exclusions:²

Although the crimes listed above will now *usually* only be punishable as misdemeanors, the following individuals with “disqualifying priors” are, unfortunately, excluded from relief under Prop 47 and *may not* convert the above felonies to misdemeanors.

1. Those with any **convictions for “serious or violent” offenses** under Penal Code section 667(e)(2)(C)(iv)³, or

¹ Only simple drug possession convictions are included. Drug possession on jail or prison property is *not affected* by Prop 47.

² “Prior conviction” has been interpreted to mean a conviction that happened any time prior to submitting a Prop 47 application (the exclusionary conviction does not need to have occurred prior to the Prop 47 conviction). See, e.g., *People v. Zamarripa* (2016) 247 Cal.App.4th 1179; *People v. Montgomery* (2016) 247 Cal.App.4th 1385.

³ The offenses listed under Penal Code § 667(e)(2)(C)(iv) are:

- a. “Sexually violent offenses” committed by force, violence, duress, menace, fear bodily injury, or threat of retaliation.
- b. Oral copulation, sodomy, or sexual penetration with a child under age 14 and more than 10 years younger than the defendant.
- c. Lewd or lascivious acts with a child under age 14 years.
- d. Murder or gross vehicular manslaughter while intoxicated.
- e. Solicitation to commit murder.
- f. Assault with a machine gun on a peace officer or firefighter.
- g. Possession of a weapon of mass destruction.

2. Those with any **convictions which require sex offender registration** under Penal Code section 290(c). This includes many, but not all, sex offense convictions.

The following sections explain the process for eligible individuals to receive relief under Prop 47 based on the status of the individual's charge or conviction. They also provide potentially important considerations about when to apply for relief (if required). Remember that those who are currently serving or have completed eligible felony sentences **will not automatically be resentenced**. Those individuals **must apply to their sentencing court for relief by November 4, 2022**.

II. WHAT ARE THE PROCEDURES FOR RECEIVING PROP 47 RELIEF?

Anyone charged after November 4, 2014 with one of the Prop 47 eligible crimes described on the previous page should automatically be charged with a misdemeanor.⁴ Anyone who received a felony conviction in California *before* November 4, 2014, for one of the qualifying crimes described above may apply to have their felony conviction reduced to a misdemeanor. However, a different standard of review will apply depending on whether the individual is currently serving their Prop 47 sentence or has already completed their Prop 47 sentence.

A. For Individuals Currently Serving Sentences

Individuals who are currently serving sentences in prison or county jail – or who are on felony probation – for any of the qualifying crimes listed above, and who do not have any disqualifying priors, may petition the superior court in which they were sentenced to have their felony convictions converted to misdemeanors. [Cal. Penal Code § 1170.18(a).]

Since the passage of Prop 47, county superior courts have adopted different procedures for resentencing those currently incarcerated or serving felony probation. In general, such an individual should submit a Petition for Resentencing to the court in which he or she was sentenced. Some counties also require that applicants serve a copy of the same petition to the district attorney's office, and submit a proof of service to the sentencing court. Further, many counties have developed standard forms, so check with the superior court in the county of conviction about its preferred procedure before submitting a petition. If that county is not using a standard form, you may use the template on *page i* of this document as a guide. The public defender or appeals attorney who represented the applicant in their original case may be able to assist that individual in filing their petition.

h. Any serious or violent felony punishable by life imprisonment or death.

⁴ Unless the person has one of the specific disqualifying priors described under "Theft Crimes" on page 2 above.

Currently incarcerated people who are resentenced under Prop 47 will receive credit for time served and may be eligible for immediate release. These individuals must nonetheless serve one year of parole upon their release. [Cal. Penal Code § 1170.18(d).]

While the possibility of shortening one's sentence – even potentially earning immediate release – carries a strong appeal, there may be an element of strategy in deciding when to seek resentencing. Individuals who are currently incarcerated or serving probation for a qualifying crime should be aware that this is the most difficult stage at which to seek resentencing. For these individuals, the court *must* resentence the person with a qualifying felony to a misdemeanor, *unless* the court determines that such a resentencing would present an unreasonable risk of danger to the public.⁵ Because this is the only stage at which resentencing could be impacted by the discretion of a judge, qualifying individuals who are nearing their release dates, but who have prior violent convictions or who have extensive disciplinary records in prison may wish to wait until their release to change their records. (See “*Completed Sentences*” section below.)

GETTING A RAP SHEET WHILE INCARCERATED:

While we recommend that currently incarcerated individuals seeking to reduce their records under Prop 47 do so with the assistance of an attorney, we also recognize that it can be difficult to obtain legal help while incarcerated. Therefore, an individual who wishes to apply for Prop 47 relief *pro se* (without a lawyer) should begin the process by getting a copy of their RAP sheet or other documentation of their criminal history. Having a copy of the applicant's criminal history will provide necessary information, including the case number and date of conviction for the Prop 47 felony and whether the applicant has any disqualifying priors.

The following are some practical means by which currently incarcerated people may be able to obtain their conviction histories. This section may also be useful for people who are currently incarcerated for non-Prop 47 felonies, but who have old Prop 47 felonies that they would like to reduce to misdemeanors and who need a copy of their record to do so.

Consult Existing Records:

Often, when an individual is in county jail, he or she is provided with a Probation Officers' report, also known as a Presentence Investigation Report, which may provide prior criminal history. A person may be able to obtain a copy of their probation report by contacting the probation department in the county in which the report was written.

Ask the Defense Attorney:

Trial and appellate attorneys usually maintain files on their former clients for several years after representing them. These files often include either county or statewide RAP

⁵ Specifically, the court may refuse to resentence such a person if it finds that the person presents an “unreasonable risk” of committing one of the “serious or violent” offenses defined in footnote 1. The court may consider essentially the same factors as would a parole board, including the prisoner's criminal history, disciplinary record and record of rehabilitation while incarcerated, etc.

sheets. Contacting the public or private attorney who represented an individual in their Prop 47-eligible case may be a quick way to get a copy of a RAP sheet.

Review the Individual's C-file:

CDCR maintains a central file ("C-file") for each California prisoner. These files usually contain a RAP sheet for that individual prisoner. Prisoners, in turn, have a legal right to view any non-confidential portions of their own C-files. A prisoner who is interested in reviewing their own C-file for a RAP sheet should ask their assigned correctional counselor to assist them with an "Olson review." [15 CCR § 3375(h); DOM §§ 13030.14., 13030.16; *Olson v. Pope* (1974) 37 Cal. App. 3d 783.]

Obtain a RAP Sheet through the Department of Justice:

A RAP sheet is a statewide summary of a person's criminal convictions in every county in California, compiled by the California Department of Justice (DOJ). It is a comprehensive document, so if an individual has multiple convictions or convictions in multiple counties, a RAP sheet should provide a complete list of all of them. This is helpful in determining whether that individual has felonies that can be reduced to misdemeanors under Prop 47 or any disqualifying priors. (*See full list of eligible convictions and disqualifying priors on page 2.*). For this reason, a RAP sheet is the ideal document to use for completing a Prop 47 application.

Individuals may request only their own RAP sheets; requests from third parties, such as attorneys, will not be accepted. However, prison counselors or litigation coordinators may be able help with the process. Friends and family members on the outside may also be able to help by requesting that appropriate DOJ forms be mailed to the incarcerated person. A RAP sheet applicant may also designate another person – such as a friend, family member, or attorney – to receive the applicant's RAP sheet on their behalf.⁶

There is a \$25 fee for obtaining one's RAP sheet. However, this fee may be waived with proof of indigence. As used in this subsection, "you" refers to the incarcerated person seeking their own RAP sheet. According to the DOJ, the process for an incarcerated person to obtain their RAP sheet is as follows:

1. Obtain a Fingerprint Identification Card (or "Hard Card") and a Fee Waiver form by writing to, faxing, calling, or emailing the DOJ Records Review Unit at:

By mail: Bureau of Criminal Identification and Information
Attention: Record Review Unit
P.O. Box 903417
Sacramento, CA 94203-4170

By fax: (916) 227 – 1964

By phone: (916) 227 – 3835; press option 3, option 2, and option 2 again.

⁶ An applicant who wishes for their RAP sheet to be sent to a third party should provide the name and address of that party and specify that the applicant is naming that party as their designee, as authorized by Penal Code § 11124.

By email: Write to bbswebmaster@dca.ca.gov, with “Fingerprint Identification Cards” in the subject line.

Provide your full name, CDCR number (or booking number), and return address. State that you are incarcerated, wish to receive your RAP sheet in order to apply for Prop 47, and need a Fingerprint Identification Card (“Hard Card”). If needed, also explain that you are indigent and request the Fee Waiver application. You may also use the “Application and Declaration for Waiver of Fee for Obtaining Criminal History Record” (Fee Waiver form) on *pages iii-iv* of this document.

2. Once the Hard Card arrives, fill out the information and provide fingerprints. This may need to be performed by a law enforcement or correctional official, or someone who is a certified fingerprint technician. Most prisons and jails employ someone who has this certification.

Also, if applicable, fill out the Fee Waiver form and provide proof of indigence, such as a commissary account record, evidence that the person was on public assistance (such as CalWORKs or SSI) prior incarceration, etc.

If you are submitting a Hard Card but *do not* qualify for a Fee Waiver, you must submit the \$25 DOJ fee with your other application materials (you may be able to have a loved one on the outside assist you with this). The DOJ accepts personal checks, money orders, and certified checks made payable to the “California Department of Justice.”

3. Send the completed Hard Card and Fee Waiver form (or check) to the address on *page 5*. It may take the DOJ 1-8 weeks, or sometimes longer, to respond.

Contact Court Clerks or County Records Offices in Each County of Conviction:

Each county should have a record of convictions which occurred within its jurisdiction. However, the process for obtaining case information may vary from county to county, and some counties charge a fee for looking up records or making copies. Some counties – such as Ventura, San Diego, and Bakersfield – have free online databases. Usually, however, an individual can write to the clerk of the county Superior Court to request criminal records. For older convictions, an individual may need instead to write to the county records office. Individuals obtaining their records this way will need to separately contact each county in which that individual has a criminal conviction.

B. For Individuals with Completed Sentences

Individuals who have completed their sentences for any of the qualifying crimes listed on *page 2*, and who do not have any disqualifying priors, may petition the superior court in which they were sentenced to have their felony convictions converted to misdemeanors. [Cal. Penal Code § 1170.18(f).] This is often known as a Petition for Reduction to Misdemeanor (or “Petition for Reclassification”) and *must* be granted if the applicant fits the eligibility requirements listed above. Unlike with the resentencing of currently incarcerated applicants, the court has *no discretion* to withhold relief here.

As described in the previous section, an eligible individual who has completed their sentence should submit a Petition for Reduction to Misdemeanor to the court in which he or she was sentenced. Some counties also require that applicants serve a copy of the petition to the district attorney's office, and submit a proof of service to the sentencing court. Check with the county superior court about its preferred procedure before submitting a Prop 47 petition. If that county is not using a standard form, you may use the template on *page i* of this document as a guide.

Though a hearing is not required for a person with a completed sentence to have their felony reduced to a misdemeanor under Prop 47, it may still be advantageous to request one. Having a hearing will ensure that the judge's reduction of a felony will be recorded in a court order.⁷ A hearing also provides an opportunity to request that the judge reduces any court-ordered fines, restitution, etc. Requesting a hearing will not reduce an applicant's likelihood of being granted relief under Prop 47.

GETTING A RAP SHEET WHEN NOT IN PRISON OR JAIL:

To apply for relief under Prop 47, first obtain a copy of the applicant's complete California criminal record. This can be done by requesting a RAP sheet from the California DOJ. If a person has multiple convictions or convictions in multiple counties, a RAP sheet should provide a complete list of them. RAP sheets should also provide case numbers, dates, and counties of convictions and show whether the applicant has disqualifying priors, information that is necessary to completing a Prop 47 petition.

While the DOJ charges \$25 for RAP sheet requests, this fee can be waived with proof of indigence. The DOJ also requires the applicant's fingerprints to process a RAP sheet request. People who are *not* currently incarcerated must provide their fingerprints by visiting a Live Scan provider. The Live Scan provider, a private company or public agency not directly affiliated with the DOJ, will likely charge between \$10-25 for the fingerprinting service. Unfortunately, this fee cannot be waived.

Individuals who cannot afford to pay the Live Scan fee, however, may be able to attend one of several "free RAP sheet days" being held by organizations like Legal Services for Prisoners with Children. Feel free to contact us for information. (*See also "Consult Existing Records" and "Ask the Defense Attorney" sections on page 4.*)

Individuals may request only their own RAP sheets; requests from third parties will not be accepted. (*See page 5 for information on designating another recipient.*) As such, as used in this subsection "you" refers to the individual seeking their own RAP sheet.

If you are applying for a copy of your RAP sheet, you should:

1. Determine whether you might qualify for a fee waiver. You may qualify for a fee waiver if you are on SSI, CalWORKs, or another form of government aid, or if your income is otherwise very low.

⁷ Once such a court order is issued, the affected individual should keep a copy for their records.

2. If you likely do qualify for a fee waiver, you should fax, email, or mail a completed “Application and Declaration for Waiver of Fee for Obtaining Criminal History Record” (Fee Waiver form) to the Record Review Unit at the Bureau of Criminal Identification and Information. (*See page 5 for contact information and pages iii-iv for Fee Waiver form.*) If the waiver is approved, the DOJ will send you a pre-printed “Request for Live Scan Service” in two weeks. Using this pre-printed form waives the \$25 DOJ fee (but not the Live Scan fee).
3. If you either are not approved for a fee waiver, or likely do not qualify for one in the first place, you should complete the “Request for Live Scan Service” found on *pages v-vi* of this document.
4. However you obtain your “Request for Live Scan Service” form, the next step is to bring your completed form to a Live Scan provider in your area, along with a valid driver's license, ID, or passport. The Live Scan provider will collect its fingerprinting fee (which, again, varies by provider) and, if you do not qualify for a fee waiver, the Live Scan provider will also collect the \$25 DOJ fee. Accepted payment methods vary by provider. Find a local Live Scan provider by visiting www.oag.ca.gov/fingerprints/locations.
5. The Live Scan provider will scan your application and fingerprints. You should then receive your RAP sheet from the DOJ within 4-6 weeks.

COLLATERAL CONSEQUENCES AND REDUCTION TO A MISDEMEANOR:

A felony conviction history, unfortunately, carries with it many potential obstacles to full reentry into society that can last long after incarceration has ended. Tens of thousands of Californians face barriers to employment, housing, and civic engagement as a result of their felony convictions. Because of these “collateral consequences,” individuals with old convictions for the offenses reclassified by Prop 47 may find it to their benefit to petition for a reduction to a misdemeanor.

Having a felony conviction converted to a misdemeanor in California may have the benefit of restoring access to certain professional licenses, to some forms of public assistance, and to the right to serve on a jury.⁸ Converting a felony to a misdemeanor

⁸ While a reducing a felony to a misdemeanor under Prop 47 will cause that conviction to be considered a misdemeanor for most purposes, Prop 47 does not restore an individual's right to possess a gun. If it is important for the individual to be able to possess a gun (such as in order to work as a security guard), that individual should consider instead reducing their felony to a misdemeanor using Penal Code § 17(b). A reduction under § 17(b) allows the individual to honestly state on applications that he or she has not been convicted of a felony, to obtain professional licenses, to serve on a jury, and, under California law at least, to own and use a gun. Note that while a reduction under 17(b) typically restores gun rights under California law, the federal government may still consider a conviction reduced under this section to be a felony for purposes of its gun statutes. See *People v. Gilbreth* (2007) 156 Cal.App.4th 53, 57; *U.S. v. Tallmadge* (9th Cir. 1987) 829 F.2d 767, 770.

In order to be eligible for a reduction to a misdemeanor under § 17(b), an applicant must:

can also make many individuals eligible to have their offenses “set aside and dismissed.” (See “*Clearing a Misdemeanor Record*” section.) Whether an individual only reduces their felony convictions to misdemeanors using Prop 47, or also has their convictions set aside and dismissed, these people should ensure that their records are accurately reported in subsequent applications for employment, housing, etc.

Immigration Consequences of Prop 47:

Prop 47 may also have a significant impact on the rights of immigrants. For example, federal immigration law allows for deportation of residents who have been convicted of certain crimes that are punishable by sentence of a year or more. As of January 2015, the maximum misdemeanor sentence in California has been reduced to 364 days from 365 days. [Cal. Penal Code § 18.5.] This one-day difference between a misdemeanor and a felony sentence, combined with Prop 47 relief, can now help many California residents avoid deportation. Accordingly, non-citizen Prop 47 applicants should request that the maximum 364 day misdemeanor sentence is reflected on their felony reduction court order. The Immigrant Legal Resource Center has published more detailed information on the immigration consequences of Prop 47. Copies of these publications may be obtained from LSPC or downloaded from the ILRC website at www.ilrc.org.

We strongly advise that non-citizens retain legal counsel before seeking relief under Prop 47. The intersection between immigration law and criminal law can be extremely complex. Consulting an attorney will help ensure that an applicant is pursuing the most appropriate form of relief.

III. CONCLUSION

Prop 47 has the potential to help hundreds of thousands of Californians gain their freedom and work towards rebuilding their lives. The sooner individuals with qualifying convictions take action to reduce or reclassify their sentences, the greater the impact of this law will be.

For additional resources on Prop 47 and clearing records, including referrals for legal assistance or county-specific Prop 47 information, please contact:

Legal Services for Prisoners with Children

1540 Market St., Suite 490
San Francisco, CA 94102
(415) 255-7036
www.prisonerswithchildren.org

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1. Have been convicted of a felony that could have instead been punished as a misdemeanor (i.e., a “wobbler”), and
 2. Have been sentenced to probation (not prison).

Note that § 17(b) reductions are discretionary; the court will consider factors like the severity of the offense, the defendant's criminal record and “rehabilitation,” and public safety.

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address)		FOR COURT USE ONLY	
TELEPHONE NO: _____ FAX NO: _____ ATTORNEY FOR (NAME): _____ SUPERIOR COURT OF CALIFORNIA COUNTY OF _____			
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: _____			
PETITION <input type="checkbox"/> FOR RESENTENCING (Pen. Code, § 1170.18(a)) <input type="checkbox"/> FOR REDUCTION TO MISDEMEANOR (Pen. Code, § 1170.18(f))			
INSTRUCTIONS • Petitioner must complete Petition and indicate whether a request is made for Resentencing or Reduction to Misdemeanor. • Upon filing, petitioner is required to immediately provide notice by providing a copy of the Petition to the District Attorney. • The District Attorney is required to complete the Response, file with the court, and provide notice by providing a copy to the Petitioner. • If the petitioner is currently in County Jail or State Prison related to this case, District Attorney indicates the petitioner is ineligible, or if either the petitioner or District Attorney requests a hearing as provided below, the court will set a hearing and provide notice of the date, time, and location to the petitioner and District Attorney.			

PETITIONER/CONVICTION INFORMATION

On (date) _____, Petitioner, the defendant in the above-entitled criminal action, was convicted of the following felony offenses that have now been reclassified as misdemeanors (specify code(s) and section(s)): _____

and was sentenced to (specify sentence imposed): _____

Petitioner has no prior convictions for offenses under Penal Code §667(e)(2)(C)(iv) or for an offense requiring registration pursuant to Penal Code §290(c). Petitioner does not pose an unreasonable risk of danger to public safety as defined in Penal Code §1170.18(c).

1. ☐ RESENTENCING

Petitioner is currently serving the above sentence. Petitioner requests that the felony sentence be recalled and that Petitioner be resentenced to a misdemeanor under Penal Code § 1170.18(b), (d).

☐ Petitioner is currently being held in County Jail or State Prison

2. ☐ REDUCTION TO MISDEMEANOR

Petitioner has completed the above sentence. Petitioner requests that the eligible felony convictions listed above be reduced to misdemeanors under Penal Code § 1170.18(f), (g).

☐ Although a hearing is not necessary, I request a hearing for this determination. (check only if you want a hearing for this determination.)

I declare under penalty of perjury and to the best of my information and belief that the foregoing is true and correct.

Executed on: _____ (DATE) _____ (SIGNATURE OF PETITIONER OR ATTORNEY)

PETITION

- ☐ FOR RESENTENCING (Pen. Code, § 1170.18(a))
☐ FOR REDUCTION TO MISDEMEANOR (Pen. Code, § 1170.18(f))

Bureau of Criminal Identification and Information
Attention: Record Review Unit
P.O. Box 903417
Sacramento, CA 94201-4170

Dear Record Review Unit,

Enclosed with this letter, please find a request for waiver of the fee for criminal history record and proof of public benefits.

Please send the Request for Live Scan form to the following address:

Name

Street Address

City State Zip Code

Sincerely,

Edmund G. Brown Jr.
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF CRIMINAL IDENTIFICATION AND INFORMATION
P.O. BOX 903417
SACRAMENTO, CA 94203-4170

APPLICATION AND DECLARATION FOR WAIVER OF FEE
FOR OBTAINING CRIMINAL HISTORY RECORD

I, the undersigned, declare that I am unable to pay the fee to obtain a copy of my criminal history record without impairing my obligation to meet the common necessities of life.

I declare under the penalty of perjury that the forgoing is true and correct and was signed at _____, California, on _____, 20_____.

Attached is verification of proof of indigence as required by Penal Code Section 11123.

DECLARANT

BCII 8690 (Rev. 01/07)



REQUEST FOR LIVE SCAN SERVICE

[Print Form](#)[Reset Form](#)

Applicant Submission

ORI (Code assigned by DOJ)

Authorized Applicant Type

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

Agency Authorized to Receive Criminal Record Information

Mail Code (five-digit code assigned by DOJ)

Street Address or P.O. Box

Contact Name (mandatory for all school submissions)

City

State



ZIP Code

Contact Telephone Number

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name
(AKA or Alias) Last

First

Suffix

Date of Birth

Sex ☐ Male ☐ Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing
Number

(Agency Billing Number)

Place of Birth (State or Country)

Social Security Number

Misc.
Number

(Other Identification Number)

Home

Address Street Address or P.O. Box

City

State



ZIP Code

Your Number:

OCA Number (Agency Identifying Number)

Level of Service: ☐ DOJ ☐ FBI

(If the Level of Service indicates FBI, the fingerprints will be used to check the criminal history record information of the FBI)

If re-submission, list original ATI number:
(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

Employer Name

Mail Code (five digit code assigned by DOJ)

Street Address or P.O. Box

City

State



ZIP Code

Telephone Number (optional)

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed

ORIGINAL - Live Scan Operator

SECOND COPY - Applicant

THIRD COPY (if needed) - Requesting Agency



REQUEST FOR LIVE SCAN SERVICE

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Business and Professions Code sections 4600-4621, 7574-7574.16, 26050-26059, 11340-11346, and 22440-22449; Penal Code sections 11100-11112, and 11077.1; Health and Safety Code sections 1522, 1416.20-1416.50, 1569.10-1569.24, 1596.80-1596.879, 1725-1742, and 18050-18055; Family Code sections 8700-87200, 8800-8823, and 8900-8925; Financial Code sections 1300-1301, 22100-22112, 17200-17215, and 28122-28124; Education Code sections 44330-44355; Welfare and Institutions Code sections 9710-9719.5, 14043-14045, 4684-4689.8, and 16500-16523.1; and other various state statutes and regulations. The CJIS Division uses this information to process requests of authorized entities that want to obtain information as to the existence and content of a record of state or federal convictions to help determine suitability for employment, or volunteer work with children, elderly, or disabled; or for adoption or purposes of a license, certification, or permit. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to Live Scan service to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information. For questions about this notice or access to your records, you may contact the Associate Governmental Program Analyst at the DOJ's Keeper of Records at (916) 210-3310, by email at keeperofrecords@doj.ca.gov, or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 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, 1203.42, 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 of 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)

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, on probation for any offense, or 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 may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

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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; **or**
- b. ☐ should be granted relief in the interests of justice. (*Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.*)

4. ☐ **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**

Petitioner has completed a term of probation for a conviction under Penal Code section 647(b) and 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 provide evidence that the conviction was the result of your status as a victim of human trafficking. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.*)

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); 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 may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.*)

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6. ☐ **Felony prison sentence that would have been eligible for a felony county jail sentence after 2011 under Penal Code section 1170(h)(5) (Pen. Code, § 1203.42)**

Petitioner is not under supervision and is not serving a sentence for, on probation for, or charged with the commission of any offense; more than two years have elapsed since petitioner completed the felony prison sentence; and petitioner should be granted relief in the interests of justice.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.)

7. ☐ **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 former Penal Code section 1000.3 on (date): . Furthermore (check one),

- a. ☐ court records are available showing the case resolution; **or**
- 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)
- (1) ☐ has
- (2) ☐ has not
- attached a copy of his or her state summary criminal history information.

8. 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).
9. Petitioner requests that he or 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 the Penal Code section(s) noted above.

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)