



How to Clean-up Your Criminal Record

Research Guide

Last Reviewed: March 2011

Scope: This guide discusses the following four ways to clean up your adult criminal record: (1) sealing arrest records; (2) expunging a misdemeanor or felony conviction; (3) seeking a certificate of rehabilitation for a felony conviction; and (4) seeking a pardon from the governor. We also have sample motions available at the reference desk for modifying probation, terminating probation, and reducing a felony conviction to a misdemeanor. This information applies to California state convictions, not federal convictions or convictions from other states.

For more information about cleaning up your criminal record, see the California Court's Self-Help Center at: <http://www.courts.ca.gov/1070.htm>

Sealing Arrest Records

Who is eligible to have their arrest records sealed?

You may petition to have your arrest or detention records sealed if you were arrested or detained, but were *not convicted of a crime*, and can prove that you are factually innocent of the crime for which you were held. The crime must have been a misdemeanor or felony, not an infraction. (See Cal. Penal Code § 851.8.)

How do I get started?

The procedure varies, depending on whether charges were filed against you in court.

- If charges were filed against you, but your case was dismissed, or you were acquitted after trial, you need to file your petition in the court where the charges were filed. (See Cal. Penal Code § 851.8(c).)
- If charges were never filed, you need to start by petitioning the agency that arrested you. If that agency denies your petition, or does not respond to it after 60 days, your next step will be to petition the court. (See Cal. Penal Code § 851.8(a) and (b).)

Is there a time limit for bringing the petition?

You need to bring the petition within two years of the date you were arrested, or the date the charges were filed against you, whichever is later. However, this time requirement may be waived if you can show the court you had "good cause" for not filing the petition earlier. (See Cal. Penal Code § 851.8(l).)

What form do I use for the petition?

The form that you use depends on whether you are petitioning the arresting agency or the superior court.

- If you are petitioning the arresting agency, the form you use can be found on the website of the California Department of Justice. Here is a link to the form: http://ag.ca.gov/idtheft/forms/bcii_8270.pdf
- If you are petitioning the San Diego Superior Court, the form you use can be found on the court's website. It is form number [CRM-221](#).
- These forms are also available for review in *How to Clean-up Your Criminal Record* at the Reference Desk (KFC 1194.A65 S43).

For more information on which form to select, and who you need to serve, see San Diego Superior Court form [CRM-220 General Information for Petitions to Seal and Destroy Arrest Records](#).

What happens if my petition is granted?

If the arresting agency or court grants your petition, all records relating to your arrest will be sealed for three years and then destroyed. (See Cal. Penal Code §§ 851.8 (b) and (f).)

For more information about sealing arrest records see:

California Penal Code § 851.8

California Criminal Defense Practice, Matthew Bender, § 103.03

California Criminal Law Practice and Procedure, CEB, starting at §41.10

San Diego Superior Court form [CRM-220 General Information for Petitions to Seal and Destroy Arrest Records](#)

Expungement of Criminal Records

What is expungement?

“Expungement” is a legal term that means dismissal of a criminal conviction. Expungement does not seal your criminal record—your conviction will remain a public record, but an extra entry, “dismissed” will be made on the record. For an explanation of the effects of expungement, see the California Court’s Self Help Center: [What will a Dismissal Do?](#)

Who is eligible for expungement?

You may be eligible for expungement if you:

- successfully completed probation or were discharged before the end of your probationary period;
- are not serving a sentence or on probation for any other offense; and
- have not been charged with any other offense.

Who is *not* eligible for expungement?

You are not eligible for expungement if you were sentenced to state prison. There are also certain offenses that cannot be expunged. For a list of those offenses, and for more detailed information about eligibility, see San Diego Superior Court form packets [PKT-026](#) and [PKT-027](#).

How do I get started?

A request for an expungement, also referred to as a petition for dismissal, is made under California Penal Code § 1203.4 or 1203.4a. The forms you need to file a petition for dismissal can be found on the San Diego Superior Court website in form packets [PKT-026](#) (for misdemeanors) and [PKT-027](#) (for felonies). These packets include instructions for filling out the forms. Copies of the packets are also available for review in *How to Clean-up Your Criminal Record* at the Reference Desk (KFC 1194.A65 S43).

The San Diego County Public Defender's Office provides assistance with the expungement process. For more information, see: http://www.co.san-diego.ca.us/public_defender/expungement.html

For more information about the expungement process see:

California Penal Code § 1203.4, 1203.4a

California Criminal Defense Practice, Matthew Bender, chapter 103

California Criminal Law Practice and Procedure, CEB, §41.15-41.16

San Diego Superior Court forms packets [PKT-026](#) and [PKT-027](#)

California Courts Self Help Center: <http://www.courts.ca.gov/1070.htm>

Obtaining a Certificate of Rehabilitation

What is a certificate of rehabilitation?

A certificate of rehabilitation is a court order which declares that a person who has been convicted of a felony has been rehabilitated. Certificates of rehabilitation do not apply to most misdemeanors. The petition for a certificate of rehabilitation is made under California Penal Code § 4852.01, *et. seq.* If the petition is granted, it will be forwarded to the governor as an application for a pardon.

What does a certificate of rehabilitation do?

A certificate of rehabilitation may relieve specific types of sex offenders of the obligation to register as a sex offender. It may also enhance the ability of a person who has been convicted of a felony to receive a license from certain state boards. It will *not* seal your criminal record or eliminate the conviction as a potential prior if you are convicted of another crime.

How do I get started?

The forms you need to file for a certificate of rehabilitation and instructions for filling out the forms can be found on the San Diego Superior Court website in [PKT-016](#). This forms packet is also available for review in *How to Clean-up Your Criminal Record* at the Reference Desk (KFC 1194.A65 S43). Be sure to review the eligibility criteria on the general information handout in [PKT-016](#) to ensure you are eligible for a certificate of rehabilitation.

For more information on certificates of rehabilitation see:

California Penal Code § 4852.01, *et. seq.*

California Criminal Defense Practice, Matthew Bender, § 105.05

California Criminal Law Practice and Procedure, CEB, § 41.20

San Diego Superior Court forms packet [PKT-016](#)

Obtaining a Pardon from the Governor

What is a pardon?

A pardon from the governor restores the right to sit on a jury, to seek a position as a county probation officer or state parole agent, and in certain circumstances, restores the right to possess a firearm. A pardon will *not* seal your criminal record, eliminate the duty to disclose the conviction on job applications when asked, or eliminate the conviction as a prior conviction if you are later convicted of another crime.

How do I get started?

Start by filing a certificate of rehabilitation (if you are eligible). If the certificate is granted, it will be forwarded to the governor as an application for a pardon. See the general information handout in San Diego Superior Court [PKT-016](#) to determine if you are eligible for a certificate of rehabilitation.

If you are *not* eligible for a certificate of rehabilitation, you will need to apply directly to the governor for a pardon. This type of pardon is called a traditional pardon. Instructions for filing a traditional pardon can be found in San Diego Superior Court [PKT-016](#). Applicants for a traditional pardon must write directly to the Governor's Office to request an application at the following address:

**Governor's Office
State Capitol
Attention: Legal Affairs Secretary
Sacramento, CA 95814**

The applicant must complete the **Application for Executive Clemency** form and return it to the Governor's Office. In addition, the applicant must send **Notice of Intention to Apply for Executive Clemency** to the district attorney of each county wherein a conviction occurred at least ten (10) days before the Governor can consider the application itself. See Penal Code §4804.

These forms and instructions for filling out the forms are also available for review in *How to Clean-up Your Criminal Record* at the Reference Desk (KFC 1194.A65 S43).

For more information on obtaining a pardon see:

California Penal Code § 4852.01, *et. seq.*

California Criminal Defense Practice, Matthew Bender, § 105.05

California Criminal Law Practice and Procedure, CEB, § 41.20

San Diego Superior Court [PKT-016](#)