

# Clean Up Your Record

---



**“Expungement”** – a term commonly misused in reference to post conviction relief pursuant to Penal Code § 1203.4. This term implies that your case will be “erased” or “sealed” off your record. This is not true; the conviction will remain on your record and is not sealed. The more appropriate term would be “dismissal” or “post conviction dismissal”

## Where to find help

The court requires you to file the petitions in the court you were convicted. The Central Public Defenders’ office would assist you if you had convictions in San Bernardino, Redlands or Crest Forest courts. The Public Defender has offices in the West End [\(909\) 948-4669](tel:9099484669) and the Desert [\(760\) 241-0413](tel:7602410413). There is someone in each division that can assist you if your convictions were in one of their courts. Persons with Juvenile convictions can contact our Juvenile office at (909) 387-0569. If your convictions are not in this County contact the Public Defender for the area in which you were convicted.

## What will this process do for you?

### ***The Post Conviction Dismissal will:***

1. Add a new entry into your criminal record showing the dismissal
2. Allow you to answer on some job applications that you have not been convicted.
  - a. However, if you are applying for any government agency, government affiliated agency or any employment that requires government licensing; you should disclose the conviction and the dismissal.
3. If the convicted charge is a felony; this process is the first step in obtaining a pardon.

### ***The Post Conviction Dismissal will not:***

1. Remove or seal the conviction from the court record or your criminal record.
2. Reinstate the right to possess firearms
3. Prevent the conviction from being used as a “prior” to increase punishment in the instance of a subsequent conviction.
4. Prevent the conviction from being used for the purpose of impeachment in event of being called as a witness.
5. Prevent the conviction from being used to refuse or revoke government licenses or permits such as real estate license, teaching credential, bus drivers, security guard certificate, etc.
6. Prevent the conviction from being used by Homeland Security for removal and exclusion purposes.
7. Remove any requirement to register as a Sex Offender per Penal Code § 290.
  - a. If the dismissal is granted, the registrant can proceed with a Certificate of Rehabilitation – if granted, the Certificate of Rehabilitation will relieve specified sexual registrants from further registration.

# Clean Up Your Record

---



## Who is eligible?

- Persons who were granted formal or court probation, AND
- Have successfully fulfilled the conditions of probation for the entire probationary period, OR
- The court deemed it appropriate to terminate probation early. OR
- You were convicted of a crime, but were not placed on probation nor committed to state prison; and one year has passed since judgment.

## Who is not eligible?

- Persons who have active cases
- Persons who are currently on probation on any matter
- Persons who are currently serving a sentence
- Persons who still owe monies to the court in the case they want relief
  - If you are not working and are unable to pay the fees or fines owed, we may be able to assist you with the process.
- Persons who may owe money towards restitution to the victim if any.
- Persons who were sentenced to State Prison
- Persons convicted of Penal Code sections 288a, 288.5, or 289(j) or Penal Code section 261.5(d)
  - Please note if you are ineligible due to one of the above charges or because you went to State Prison you may be able to find relief with a Certificate of Rehabilitation.

## Is there a cost?

The court may charge you a fee of up to \$150 for each petition filed; you may qualify to have these fees waived. Contact the court or our office for a fee waiver.

## How long does the process take?

The process can take up to 8 weeks from the date of filing the petition with the court.

## Will I have a court hearing?

For Misdemeanors: The court refers the petitions to the District Attorney for a report. Once the DA renders the report, the court would then review the report and render a decision. The Petitioner is not required to attend court for this matter. The Court Clerk's office would notify you of the decision.

For Felonies: The court refers the petitions to the District Attorney and the Probation Office for a report. Once these offices have rendered a report, the court would review the reports and the Judge may render a decision or he/she may order a court hearing. The Court Clerk's office would notify you of the decision or if there is a hearing set.

# Clean Up Your Record

---



## Getting Started

If you have convictions older than 20 years, you may be required to obtain your criminal record. Our office will provide you instructions in that event.

1. Complete page 1 of the Post Conviction Dismissal & Certificate of Rehabilitation Questionnaire to the best of your ability.
2. Turn in the questionnaire with the receptionist.
3. The receptionist will give the questionnaire and any other documents you provide to the designated secretary.
4. Please allow 1 to 2 weeks for the secretary to contact you by mail or by phone.
5. The secretary will mail all necessary documents to you with an explanation of the process. Please sign and return the documents to our office for further processing.
6. Once we have received the paperwork back from you we will review to ensure the documents are ready for filing with the court.
7. Our office will file the documents with the court.
8. The court may take up to 8 weeks to process the paperwork. If the allotted time has passed, please do not hesitate to contact our office.
9. If the petition is denied, don't fret as we may be able to determine why the petition was denied and fix the problem. We can then re-file the petition if appropriate. The court may require 6 months or longer between filings.

## What if I am not eligible for a “dismissal” per PC § 1203.4?

You may be eligible for relief by filing a Certificate of Rehabilitation petition.

## Who is eligible for a Certificate of Rehabilitation?

- Those who can show the court that they have been rehabilitated. The rehabilitation period for most charges is a total of 7 years, beginning the date of release from any jail/prison facility.
  - To show the court you have been rehabilitated – you must have no negative contact with any law enforcement. Any arrests or convictions during the rehabilitation period could be reason for a denial.
- Those who are not on parole or probation
- Those who have no pending charges
- Those who are not serving a sentence anywhere
- Those who have had a conviction in the State of California
- Must be a California resident for 5 or more sequential years prior to filing petition

Please note the San Bernardino County Public Defenders' office can only assist residents of San Bernardino County regardless of where the conviction was. Please contact your local Public Defender office if you live in another county.

# Clean Up Your Record

---



Also note the Central Public Defenders' office will assist persons who reside in: San Bernardino, Redlands, Yucaipa, Colton, Highland and the Crestline area

If you reside in the West End area (Rancho Cucamonga, Chino, Fontana, Rialto etc.) contact our Rancho office at (909) 948-4669

If you reside in the Desert area (Victorville, Barstow, Morongo, Big Bear etc.) contact our Victorville office at (760) 241-0413

## What is the process?

1. Complete both pages of the Post Conviction Dismissal & Certificate of Rehabilitation Questionnaire to the best of your ability.
2. Give the questionnaire and your criminal record to the receptionist
3. The receptionist will give the paperwork to the secretary.
4. Once the secretary has reviewed the criminal record she will prepare the petition. Or if there is anything on the report that would make you ineligible, she would mail you a letter explaining why you are not eligible at this time.
5. The secretary will mail the petition and a DA Questionnaire to you.
  - a. Please sign the petition on the flagged space and fill in any spaces that may be highlighted. (DO NOT DATE petition)
  - b. Please fill out the DA Questionnaire thoroughly and do not leave anything blank. If something does not apply to you, please mark the space N/A. Sign and date the questionnaire.
  - c. Return both documents in the envelope provided.
  - d. If you have any character letters or letters of achievement, return with the petition in the envelope provided.
6. When the secretary receives the documents, she will review the petition to ensure it is ready to file with the court. Once the petition is filed, the court will set a hearing at least 30 to 45 days out. The secretary will notify you of this hearing.
7. At this time the District Attorney may begin their investigation. The investigation process is very thorough wherein they may interview you, family members, neighbors and or employers.
8. You will meet your attorney on the date of the hearing. If you have any legal questions for the attorney you can ask at this time.

# Clean Up Your Record

---



## **What if I am not eligible for Certificate of Rehabilitation?**

There are a few circumstances that would cause you to be ineligible for Certificate of Rehabilitation relief.

- Persons convicted of felony offenses under Penal Code section 286(c), 288, 288a(c), or 289(j) are not eligible.
- Persons with convictions out of the State of California
- Persons who have convictions in the State of California but do not reside here.
- Persons convicted of misdemeanors with the exception of any misdemeanor in which the person was required to register as a sexual registrant.
- Persons who are serving a mandatory life parole
- Persons committed to prison under a death sentence
- Persons in the military service

If any of the above factors apply to you there may be relief available. In these instances you would apply for a Traditional Pardon directly with the Governor's office.

Applicants for a Traditional Pardon must write the Governor's office directly to request an application:

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

**POST CONVICTION DISMISSAL & CERTIFICATE OF REHABILITATION QUESTIONNAIRE**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Middle: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ AKA: \_\_\_\_\_

CDL: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing Address if different from above: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

***Please answer the following questions to the best of your ability:***

- 1) Are you currently on probation? Yes \_\_\_\_\_ No \_\_\_\_\_
  - a) If yes, in which County are you on probation? \_\_\_\_\_
  - b) If yes, Felony \_\_\_\_\_ Misdemeanor \_\_\_\_\_
  - c) If yes, when does probation expire? \_\_\_\_\_
- 2) Do you have any outstanding fines or fees? Yes \_\_\_\_\_ No \_\_\_\_\_
- 3) Do you owe restitution? Yes \_\_\_\_\_ No \_\_\_\_\_
- 4) Do you have any pending charges or cases? Yes \_\_\_\_\_ No \_\_\_\_\_
- 5) Were you convicted of PC286(c), PC 288, PC288a(c), PC288.5 or PC 289(j)? Yes \_\_\_\_\_ No \_\_\_\_\_
- 6) Were you convicted of a felony under PC261.5(d)? Yes \_\_\_\_\_ No \_\_\_\_\_
- 7) If you were not sentenced to probation, has it been less than 1 year since conviction? Yes \_\_\_\_\_ No \_\_\_\_\_

**If you answer “yes” to any of the above questions you may NOT be eligible for Post Conviction Relief at this time.**

If you answered “no” to all of the above questions, please continue.

Was the conviction in San Bernardino County? Yes \_\_\_ No \_\_\_ If yes, where: \_\_\_\_\_

**If no, please contact the Public Defender in the County in which you were convicted.**

***Please list all San Bernardino County convictions here:***

Court Case #: _____	Charge(s): _____	Conviction Date: _____	Felony <input type="checkbox"/>
			Misd <input type="checkbox"/>
Court Case #: _____	Charge(s): _____	Conviction Date: _____	Felony <input type="checkbox"/>
			Misd <input type="checkbox"/>
Court Case #: _____	Charge(s): _____	Conviction Date: _____	Felony <input type="checkbox"/>
			Misd <input type="checkbox"/>
Court Case #: _____	Charge(s): _____	Conviction Date: _____	Felony <input type="checkbox"/>
			Misd <input type="checkbox"/>

**POST CONVICTION DISMISSAL & CERTIFICATE OF REHABILITATION QUESTIONNAIRE**

***Certificate of Rehabilitation***

- 1) Do you reside in San Bernardino County? Yes \_\_\_\_\_ No \_\_\_\_\_
- 2) Have you resided continuously in California at least 5 years to the present date? Yes \_\_\_\_\_ No \_\_\_\_\_  
Date of residency from \_\_\_\_\_ to present date.
- 3) Have you stayed out of trouble since your release? Yes \_\_\_\_\_ No \_\_\_\_\_
- 4) Were you released at least seven years ago? Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered “yes” to the above questions, you **may** be eligible for Certificate of Rehabilitation in this County.

**Please note that before we can proceed you will need to obtain your criminal record.**

You can request your record at the local Sheriff office.

**Please provide the following information for each commitment:**

***Most Recent Felony Conviction:***

Charge(s) \_\_\_\_\_ Conviction Date \_\_\_\_\_ County of Conviction: \_\_\_\_\_

State Prison name: \_\_\_\_\_ Release Date \_\_\_\_\_ Discharge date: \_\_\_\_\_

Parole Violation?: If yes, release date \_\_\_\_\_

***Second Most Recent Felony Conviction:***

Charge(s) \_\_\_\_\_ Conviction Date \_\_\_\_\_ County of Conviction: \_\_\_\_\_

State Prison name: \_\_\_\_\_ Release Date \_\_\_\_\_ Discharge date: \_\_\_\_\_

Parole Violation?: If yes, release date \_\_\_\_\_

***Third Most Recent Felony Conviction:***

Charge(s) \_\_\_\_\_ Conviction Date \_\_\_\_\_ County of Conviction: \_\_\_\_\_

State Prison name: \_\_\_\_\_ Release Date \_\_\_\_\_ Discharge date: \_\_\_\_\_

Parole Violation?: If yes, release date \_\_\_\_\_

***Fourth Most Recent Felony Conviction:***

Charge(s) \_\_\_\_\_ Conviction Date \_\_\_\_\_ County of Conviction: \_\_\_\_\_

State Prison name: \_\_\_\_\_ Release Date \_\_\_\_\_ Discharge date: \_\_\_\_\_

Parole Violation?: If yes, release date \_\_\_\_\_

***Fifth Most Recent Felony Conviction:***

Charge(s) \_\_\_\_\_ Conviction Date \_\_\_\_\_ County of Conviction: \_\_\_\_\_

State Prison name: \_\_\_\_\_ Release Date \_\_\_\_\_ Discharge date: \_\_\_\_\_

Parole Violation?: If yes, release date \_\_\_\_\_