

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO**

**FELONY  
PETITION FOR DISMISSAL PACKET  
(PENAL CODE § 1203.4)**



<b>FORMS INCLUDED IN THIS PACKET</b>	
Petition for Dismissal - General Information (Felony Pen. Code, § 1203.4)	SDSC Form #CRM-203
Petition for Dismissal - Petition (Felony/Misdemeanor Pen. Code, §§ 1203.4 & 1203.4a)	SDSC Form #CRM-204
General Information - Petition for Certificate of Rehabilitation	SDSC Form #CRM-208
General Information - Application for Pardon	SDSC Form #CRM-209
Information on How to Apply for a Pardon	Info. Sheet from <a href="http://www.cdcr.ca.gov">www.cdcr.ca.gov</a>
Work Up Sheet- Petition for Dismissal (CONFIDENTIAL)	SDSC Form #CRM-205



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

### PETITION FOR DISMISSAL – GENERAL INFORMATION (FELONY – PEN. CODE, § 1203.4)

Eligibility	Pen. Code, § 1203.4	<p>If probation was <u>granted</u>, petitioner may be eligible for relief if all of the following are met:</p> <ul style="list-style-type: none"> <li>Petitioner is not currently serving a sentence for any offense.</li> <li>Petitioner is not currently on probation for any offense.</li> <li>Petitioner is not currently charged with the commission of any offense.</li> <li>Petitioner has fulfilled the conditions of probation for the entire period of probation, OR petitioner has been discharged prior to the termination of probation, OR relief should be granted in the interest of justice.</li> </ul>
	Ineligible Violations	<ul style="list-style-type: none"> <li>Convictions for violating Penal Code sections 261.5(d), 286(c), 288, 287(c), former 288a(c), 288.5, 289(j), 311.1, 311.2, 311.3, or 311.11, are ineligible for relief.</li> <li>If the petitioner was charged with any offense described in Vehicle Code section 12810(a)-(e), relief is discretionary with the court.</li> </ul>
	Case Status	<p>The case must be an adjudicated matter. This means that the petitioner has either entered a plea of guilty or no contest, or a guilty verdict was entered, and the petitioner was sentenced. The following case dispositions are <b>not</b> eligible for relief:</p> <ul style="list-style-type: none"> <li>Bail was forfeited and a plea was never entered.</li> <li>The case or charge was previously dismissed.</li> <li>State prison was imposed.</li> </ul>
Petition	Location	The petition for dismissal must be filed in the court in which the matter was adjudicated.
	Forms	Court policy requires the filing of the Petition for Dismissal (Felony/Misdemeanor) (SDSC Form #CRM-204) and the Work Up Sheet – Petition for Dismissal (CONFIDENTIAL) (SDSC Form #CRM-205). A separate petition and work up sheet must be submitted for each case number.
	Supporting Documents	If the petition is based on the interest of justice, a declaration stating the reasons why dismissal is appropriate must be attached to the petition. A Declaration form (JC Form #MC-030) may be used.
	Providing Notice	The appropriate prosecuting agency must be given 15 calendar days’ notice of the filing of the petition to allow time for the filing of an optional objection to the petition. It is the petitioner’s responsibility to serve the prosecuting agency with any petitions filed.
	Records Check	The information provided in the petition will be verified by a records check.
	Processing Time	The processing of the petition may take approximately four to eight weeks from the date it is filed. If a opposition is filed by the prosecuting agency and a hearing date is set, the petitioner will be notified.
	Certificate of Rehabilitation and Pardon	If the court grants a petition for dismissal, the petitioner may be eligible for a certificate of rehabilitation and pardon pursuant to Penal Code section 4852.01 et seq. A Certificate of Rehabilitation & Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court’s website at <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a> .
Older Records	<p>Government Code section 68152 allows that some court records may be destroyed after a designated period of time. The court may not be able to process a petition filed after the case records have been destroyed, unless documentation of the appropriate court records can be provided. The following documentation is acceptable:</p> <ul style="list-style-type: none"> <li>Certified copies of the complaint, conviction, and any clerk’s minutes in the case.</li> <li>A Department of Justice abstract of petitioner’s criminal history, which may be obtained by contacting:               <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 60%;">                 California Department of Justice                  Bureau of Criminal Identification and Analysis                  Records Review and Challenge Section                  P.O. Box 160207                  Sacramento, CA 95816-0207               </div> <div style="width: 35%;">                 Telephone: (916) 227-3835                   Website: <a href="http://oag.ca.gov/fingerprints/record-review">http://oag.ca.gov/fingerprints/record-review</a> </div> </div> </li> </ul>	
Granting of the Petition	<p>If granted, a notation of such will be entered on the record, but granting relief does not:</p> <ul style="list-style-type: none"> <li>Prevent disclosure to a criminal justice agency.</li> <li>Release the petitioner from the terms and conditions of any unexpired criminal protective order issued under Penal Code sections 136.2(i)(1), 273.5(j), 368(l), or 646.9(k).</li> <li>Restore any privileges regarding possession or control of firearms (Pen. Code, § 29800 et seq.) or driver license suspension or revocation (Veh. Code, § 13555).</li> <li>Remove the obligation to disclose the conviction in a questionnaire or application for holding public office, licensure with a state or local agency, or for contracting with the California State Lottery Commission.</li> <li>Remove the duty to provide specimens, samples, or print impressions required by the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 299(f)).</li> <li>Permit a petitioner prohibited from holding public office as a result of the conviction to hold public office.</li> </ul>	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT	SUPERIOR COURT CASE NUMBER _____
<b>PETITION FOR DISMISSAL (FELONY/MISDEMEANOR – PEN. CODE, §§ 1203.4 &amp; 1203.4a)</b>	CA/DA CASE NUMBER _____

Petitioner's (the defendant in the above-entitled case) date of birth: \_\_\_\_\_.

Petitioner was convicted on \_\_\_\_\_ of the following  felony  misdemeanor charges: \_\_\_\_\_.

Petitioner requests reduction of the applicable felony charge(s) to misdemeanor(s) per Penal Code section 17 (separate moving papers are attached).

**Petition for relief per Penal Code section 1203.4:** Petitioner is entitled to the relief requested based on the following: Probation was granted and has expired or been terminated (ending on \_\_\_\_\_); petitioner is not currently serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense; and:

- Petitioner has fulfilled the conditions of probation for the entire period of probation; or
- Petitioner has been discharged prior to termination of probation; or
- Relief should be granted in the interest of justice (declaration stating reasons attached).

**Petition for relief per Penal Code section 1203.4a:** Petitioner is entitled to the relief requested based on the following: Petitioner was convicted of a misdemeanor and probation was not granted; one year has elapsed since the pronouncement of judgment; petitioner has fully complied with and performed the sentence of the court; and is not currently serving a sentence on any offense, not charged with the commission of any offense; and:

- Since the pronouncement of judgment, petitioner has lived an honest and upright life and has conformed to and obeyed the laws of the land; or
- Relief should be granted in the interest of justice (declaration stating reasons attached).

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 / Attorney for Petitioner

**Petition filed must be served on the prosecuting agency.**

If the court grants the relief herein requested, petitioner may have the right to petition for a certificate of rehabilitation and pardon pursuant to Penal Code section 4852.01 et. seq. A Certificate of Rehabilitation & Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

**NOTICE OF HEARING**

Hearing on the petition is scheduled on \_\_\_\_\_ (date) at \_\_\_\_\_ (time)  a.m.  p.m. in Dept. \_\_\_\_\_ of the \_\_\_\_\_ Division of the San Diego Superior Court.

Clerk of the Superior Court

Date: \_\_\_\_\_

by \_\_\_\_\_, Deputy

Distribution by: \_\_\_\_\_ on \_\_\_\_\_ to:  Pet.  Atty  Pros.  Prob.



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### GENERAL INFORMATION – PETITION FOR CERTIFICATE OF REHABILITATION

Purpose	Does	<ul style="list-style-type: none"> <li>• Serves as an automatic recommendation and application to the Governor for a pardon to accelerate potential pardon relief without requiring involvement and recommendation from the Board of Parole Hearings or further investigation. For information about a pardon, see General Information – Application for Pardon (SDSC Form #CRM-209).</li> <li>• Enhances a person’s potential for becoming licensed by state boards and serve as an official document to demonstrate a person’s rehabilitation, which could improve employment possibilities.</li> </ul>
	Does not	<ul style="list-style-type: none"> <li>• Seal or erase the record of conviction.</li> <li>• Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense.</li> <li>• Allow a person to answer on employment applications that the person has no record of conviction.</li> <li>• Relieve a person of the obligation to register as a sex offender unless the person is granted relief under Penal Code section 290.5.</li> <li>• Restore “all the rights, privileges, and franchises” lost due to a conviction, unless a pardon is also granted.</li> </ul>
Eligibility Criteria	<p>Since conviction, a person has lived an honest and upright life, conducted oneself with sobriety and industry, exhibited good moral character, conformed to and obeyed the laws of the land, and satisfies either (1) or (2) below:</p> <p>(1) Was convicted of a felony (excluding a felony sex offense specified in (2) below) and the person presents satisfactory evidence of five years’ residence in California immediately prior to the filing of the petition, plus one of the following:</p> <ul style="list-style-type: none"> <li>• An additional four years if convicted of violating Penal Code sections 187, 209, 219, 4500, or 18755; Military and Veterans Code section 1672(a); or any offense which carries a life sentence.</li> <li>• An additional two years if convicted of any other offense that does not carry a life sentence.</li> </ul> <p>(2) Was convicted of a misdemeanor sex offense specified in Penal Code section 290, or a felony sex offense specified in Penal Code section 290 and granted probation, and all of the following apply:</p> <ul style="list-style-type: none"> <li>• The accusatory pleading has been dismissed pursuant to Penal Code section 1203.4.</li> <li>• The person has not been incarcerated in any penal institution or agency since the pleading was dismissed pursuant to Penal Code section 1203.4.</li> <li>• The person is not on probation for the commission of any other felony.</li> <li>• The person presents satisfactory evidence of five years’ residence in California immediately prior to filing the petition, plus an additional five years required for the Penal Code section 290 offense.</li> </ul>	
Ineligibility Criteria	<p>A person is ineligible to apply for a certificate of rehabilitation if the person does not meet the above eligibility criteria, or if the person is/was:</p> <ul style="list-style-type: none"> <li>• Convicted only of misdemeanors (except those convicted of a misdemeanor sex offense, as noted above).</li> <li>• Convicted of Penal Code sections 269, 286(c), 287(c), 288, former 288a(c), 288.5, 288.7 or 289(j) (although the Governor has the right to pardon someone convicted of these offenses if there are extraordinary circumstances).</li> <li>• Serving mandatory life parole.</li> <li>• Sentenced to death.</li> <li>• In military service.</li> </ul>	
How to Apply	<p>A Certificate of Rehabilitation &amp; Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court’s website at <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a>.</p>	



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### GENERAL INFORMATION – APPLICATION FOR PARDON

Any person who has been convicted of a criminal offense in California may apply directly to the Governor for a pardon (direct pardon). The granting of a pardon restores to the applicant some of the rights of citizenship which were forfeited as a result of the conviction. The granting of a certificate of rehabilitation pursuant to Penal Code section 4852.01 et seq. automatically serves as a recommendation and application to the Governor for a pardon.

Purpose	Does	<ul style="list-style-type: none"> <li>• Restore “all the rights, privileges, and franchises” of which the person has been deprived due to a conviction, with exceptions.</li> <li>• Allow restoration of firearm right to specified offenders if granted a full and unconditional pardon, unless the conviction was for a felony involving the use of a dangerous weapon (see also, Pen. Code, § 4852.17).</li> <li>• Allow certain ex-felons to be considered for appointment as a county probation officer or state parole officer, but not for any other peace officer positions (Gov. Code, § 1029).</li> </ul>
	Does not	<ul style="list-style-type: none"> <li>• Seal or erase the record of conviction (see Pen. Code, § 4852.17).</li> <li>• Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense.</li> <li>• Affect any of the provisions of the Medical Practice Act (Bus. &amp; Prof. Code, § 2000 et seq.) or the power or authority of the Board of Medical Examiners, or the power or authority of any board that issues a certificate permitting application of one’s art or profession on the person of another. (See also, Pen. Code, § 4852.15.)</li> <li>• Allow a pardoned person to answer on employment applications that the person has no record of conviction.</li> <li>• Automatically restore the ability to own or possess a firearm.</li> <li>• Pardon convictions from another state or federal court.</li> <li>• Necessarily prevent deportation.</li> </ul>
Direct Pardon	<p>The direct pardon procedure is available to persons who are ineligible to petition for a certificate of rehabilitation. This procedure is used primarily, although not exclusively, by California ex-felons who reside out-of-state and are therefore unable to satisfy the residency requirement. The direct pardon procedure is also available to individuals who have convictions of Penal Code sections 269, 286(c), 287(c), 288, former 288a(c), 288.5, 288.7, and 289(j), with the exception of those serving mandatory life parole or a death sentence for those offenses, or persons in military service.</p>	
How to Apply	<p>A Certificate of Rehabilitation &amp; Pardon Instruction Packet (SDSC PKT-016) may be found on the Superior Court’s website at <a href="http://www.sdcourt.ca.gov">www.sdcourt.ca.gov</a>.</p>	

## Information on How to Apply for a Pardon ([www.cdcr.ca.gov/bph/clemency](http://www.cdcr.ca.gov/bph/clemency))

### Clemency – Overview

#### Background

A California Governor's pardon is an acknowledgement from the Governor that a person has been rehabilitated after a conviction. The Governor's authority to grant a pardon is found in Section 8 of Article V of the Constitution of the State of California. In most cases, it relieves the recipient of many, but not all, of the penalties associated with a criminal conviction (Pen. Code, § 4853.). Please visit [Governor's Office Internet website](http://www.gov.ca.gov) ([www.gov.ca.gov](http://www.gov.ca.gov)) for more information on the rights of citizenship that may be restored under a [pardon](http://www.gov.ca.gov/pardons) ([www.gov.ca.gov/pardons](http://www.gov.ca.gov/pardons)).

There are three primary methods by which an individual may obtain a pardon. A pardon may be obtained by first receiving a certificate of rehabilitation. Alternatively, if someone is ineligible to receive a certificate of rehabilitation, that person may pursue a direct pardon through the Governor's Office. Finally, there are procedures in place for those currently incarcerated to receive a pardon.

#### Pardons with Certificates of Rehabilitation

For most people, the first step in applying for a pardon is to obtain a certificate of rehabilitation from the superior court in the county where the applicant currently lives. (Pen. Code, § 4852.01.) Receiving a certificate of rehabilitation serves as an official document to demonstrate an offender's rehabilitation, which may enhance the applicant's employment options, and may be considered by state licensing Boards. It does not erase or seal the applicant's criminal record. Furthermore, it does not prevent the conviction from being considered for later convictions. (Pen. Code, § 4852.17.) There are several eligibility criteria that must be satisfied under Penal Code sections 4852.01, 4852.03, and 4852.05, in order to apply for a certificate of rehabilitation. A certificate of rehabilitation is not an automatic pardon; it is an automatic application for a pardon. In the event that a certificate of rehabilitation is issued by a court, the certificate of rehabilitation shall be reviewed by the Board of Parole Hearings within one year. (Pen. Code, § 4852.16, (b).) Thereafter, the Board shall issue a recommendation as to whether the Governor should pardon that individual. (Pen. Code, § 4852.16, (b).) Penal Code section 4852.18. requires the Board of Parole Hearings to provide the clerk of the superior court of each county a set of sample forms for a [Petition for Certificate of Rehabilitation and Pardon](#), a [Notice Of Filing Of Petition For Certificate Of Rehabilitation And Pardon](#), and a [Certificate Of Rehabilitation](#). For additional information or questions about pardons, please send an email to [BPHpardon@cdcr.ca.gov](mailto:BPHpardon@cdcr.ca.gov)

#### Pardons without Certificates of Rehabilitation

Those who are ineligible for a certificate of rehabilitation may pursue a pardon directly through the Governor's Office. This procedure is used primarily by people who were convicted of a crime in California and now reside outside the state. The direct pardon procedure is also available to people who are not eligible for a certificate of rehabilitation because they have been convicted of specified sex offenses or misdemeanor offenses. (Pen. Code, § 4852.01, (d).)

The Governor is required to make the application for a pardon available on the [Governor's Office Internet website](http://www.gov.ca.gov) ([www.gov.ca.gov](http://www.gov.ca.gov)) (Pen. Code, §4802.5.). You may visit the Governor's Office Internet website for more information on how to apply for a direct [pardon](http://www.gov.ca.gov/pardons) ([www.gov.ca.gov/pardons](http://www.gov.ca.gov/pardons)).

All applications for a direct pardon received by the Governor shall be promptly forwarded to the Board of Parole Hearings for an investigation and recommendation to the Governor. (Pen. Code, § 4802.5.) The Board shall examine and consider all applications that are referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection with the pardon. (Pen. Code, § 4812, (a).)

In the case of a person twice convicted of a felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board. (Pen. Code, § 4802.) Thereafter, and upon completion of investigation, the Board shall transmit its written recommendation to the Governor. (Pen. Code, § 4813.) The Governor may not grant a pardon or commutation to a person twice convicted of a felony except with the approval of the Supreme Court. (Cal. Const., art.V, § 8.)

## **Commutations and Pardons for Inmates**

Persons who are currently incarcerated may be eligible for a Governor's pardon or commutation of sentence. The Board may report to the Governor the names of any person imprisoned in state prison, who in its judgment ought to have a commutation of sentence or be pardoned based on good conduct, unusual term of sentence, or other causes including evidence of intimate partner battering. (Pen. Code, § 4801.) The Board is expressly authorized to make recommendations to the Governor at any time regarding applications for pardon or commutation (Pen. Code, § 4812, (b).) Additionally, upon request of the Governor, the Board is obligated to investigate and report on all applications for reprieves, pardons, and commutations of sentence. (Pen. Code, § 4812, (a).) Under these circumstances, the Board is required to make recommendations to the Governor for each of these cases. (Pen. Code, § 4812, (a).)

In the case of a person twice convicted of a felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board. (Pen. Code, § 4802.) Thereafter, and upon completion of investigation, the Board shall transmit its written recommendation upon such application to the Governor. (Pen. Code, § 4813.) The Governor may not grant a pardon or commutation to a person twice convicted of a felony except with the approval of the Supreme Court (Cal. Const., art.V, § 8.). For more information please visit the Governor's [commutations](http://www.gov.ca.gov/commutations) (www.gov.ca.gov/commutations) web page.

**CONFIDENTIAL**

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, KEARNY MESA, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	<i>FOR COURT USE ONLY</i>
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT	SUPERIOR COURT CASE NUMBER
<b>WORK UP SHEET – PETITION FOR DISMISSAL (CONFIDENTIAL)</b>	PROBATION NUMBER

Date Needed By \_\_\_\_\_

<b>TO BE COMPLETED BY PETITIONER OR REPRESENTATIVE</b>	
NAME:	ALIAS(ES):
ADDRESS:	
PHONE NUMBER:	DRIVER LICENSE:
DATE OF BIRTH:	PLACE OF BIRTH:
SOCIAL SECURITY NUMBER:	
CHARGES:	

**FOR COURT USE ONLY**

<input type="checkbox"/> Proof of service in file shows that the petition was served on the prosecuting agency at least 15 calendar days (plus an additional five or 10 days, if served by mail) before submitted to court for review.
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Distribution by: \_\_\_\_\_ on \_\_\_\_\_ to:  Prob.  BIU

<b>TO BE COMPLETED BY BACKGROUND INVESTIGATION UNIT (BIU)/PROBATION INVESTIGATOR ONLY</b>					
<b>Checks Completed:</b>					
Local Records	CII	FBI	Wants/Warrants	DMV	Other
<input type="checkbox"/> Probation granted on _____ for _____ years. <input type="checkbox"/> No probation. Sentenced: _____					
<b>During term of probation, record indicates:</b> <input type="checkbox"/> Clear record <input type="checkbox"/> Petitioner was convicted in the following case(s): Case No.: _____ Charge(s): _____ sentenced: _____ Case No.: _____ Charge(s): _____ sentenced: _____ Case No.: _____ Charge(s): _____ sentenced: _____					
<b>At time of petition, record indicates:</b> <input type="checkbox"/> Clear record <input type="checkbox"/> Arrested within the last 12 months on:					
Date: _____ Charge(s): _____      Date: _____ Charge(s): _____      Date: _____ Charge(s): _____ Date: _____ Charge(s): _____      Date: _____ Charge(s): _____      Date: _____ Charge(s): _____					
<input type="checkbox"/> Outstanding warrant(s): _____					
<input type="checkbox"/> Petitioner now on probation for another offense: _____					
<input type="checkbox"/> Petitioner now in jail/prison for another offense: _____					
Completed by: _____ Date: _____					