



Office of the District Attorney Alameda County

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Alameda County District Attorney Applicant PC 1203.4 Dismissal Checklist

DISMISSAL (PC1203.4/1203.4a)

1. The first thing that someone who wants to apply for a dismissal needs to understand is that if your petition is granted under Penal Code 1203.4, your case is not sealed. The conviction remains on your record for many purposes, including sex offender registration and immigration consequences. What the statute provides is, except as elsewhere stated, the defendant is 'released from all penalties and disabilities resulting from the offense'.

2. WHO IS ELIGIBLE FOR RELIEF?
 - a. An adult who was granted probation, completed all the terms of probation, and is no longer on probation, is eligible for relief under this statute.
 - b. He or she must not be on probation, or serving a sentence (including informal probation), for any other offense, anywhere. (Penal Code § 1203.4)
 - c. If your criminal case was reduced to an infraction, you are also eligible for a dismissal under Penal Code section 1203.4a.
 - d. misdemeanor or felony convictions that resulted in a term of probation, and have completed that term successfully without violations and have paid any ordered restitution can petition to have their pleas withdrawn and their convictions dismissed

3. What are the effects of dismissal under PC1203.4/1203.4a?
 - a. Result in a new entry in the court record showing the dismissal of the case;
 - b. Allow you to answer on many, but not all, job applications that you have not been convicted.
 - c. If, however, you are applying for a government job or a job which requires a government-issued license, certificate, or permit, or a job which involves a security clearance, the conviction will be discovered; in such cases, you should disclose the initial conviction and its later expungement;

d. Prevent use of the conviction to impeach you if you testify as a witness, unless you are being tried for a subsequent offense.

e. It Will Not:

1. Remove the conviction from your "Rap Sheet" - California and FBI criminal history records will still show the conviction and the later dismissal "per PC 1203.4";

2. Reinstate the right to possess firearms, if it was taken away (in cases such as Domestic Violence) (reduction to a misdemeanor may accomplish this if the offense is not one of violence;)

3. Remove the requirement to register as a sex offender per PC290. If the expungement is granted, registrants must then complete and file paperwork requesting a Certificate of Rehabilitation, when eligible. A Certificate of Rehabilitation will relieve specified sex offenders from further registration. This is true for both felony and misdemeanor convictions.

4. Allow you to omit the conviction from applications for government issued licenses;

5. Seal or otherwise remove the court case file from public inspection - anyone who knows where to look will be able to find the court case file (probation reports are in confidential files and are not subject to public inspection 90 days after sentencing;)

6. Prevent the conviction from being used as a "prior" or "strike prior" to increase punishment on a subsequent conviction;

7. Prevent the conviction from being used for impeachment purposes on a subsequent offense;

8. Prevent the conviction from being considered and used to refuse or revoke government licenses and permits such as real estate sales licenses, teaching credentials, bus drivers licenses, security guard certificates, etc.; however, the expungement may reduce the weight given the conviction by the licensing agency.

9. Prevent the conviction from being used by INS for removal and exclusion purposes.