



INFORMATION ABOUT YOUR CLEAN SLATE CONVICTION RECORD REMEDIES & EMPLOYMENT RIGHTS

WHAT IS A PENAL CODE SECTION 1203.4 DISMISSAL? DOES A DISMISSAL MEAN MY RECORD IS COMPLETELY CLEAN?

There is no true “expungement” or sealing of convictions under California law. A “**1203.4, 1203.4a, 1203.41, or 1203.42 dismissal**” (**1203.4 for short**), the available remedy for most convictions, **won’t remove** the conviction from your record or court records, but it can help you obtain employment and it will release you from some penalties and disabilities of your conviction.

Note: if you have to register for a sex offense (PC section 290), a 1203.4 dismissal does **not** end that requirement. A 1203.4 dismissal does **not** reinstate firearm rights, which you lose after a felony conviction and some misdemeanor convictions. To check your eligibility for firearms, complete a **Personal Firearms Eligibility Check** at www.ag.ca.gov/firearms. For more information about the impact of your conviction record remedies, contact EBCLC.

WHAT IS A FELONY REDUCTION OR PROP 47 RECLASSIFICATION?

After your felony is reduced to a misdemeanor under Penal Code section 17(b), it becomes a misdemeanor for almost all purposes, and you are entitled to say that you have not been convicted of a felony in that case. If your felony was reclassified as a misdemeanor under Prop 47, it becomes a misdemeanor for all purposes except it does not restore firearm rights. A key difference between Prop 47 and 17(b) is that 17(b) felony reduction may restore firearm rights, while Prop 47 relief will not.

WHAT IS A PROP 64 RECLASSIFICATION?

Under Prop 64, your felony may be reclassified as a misdemeanor, infraction, or vacated as a legally invalid conviction or your misdemeanor may be reclassified as an infraction or vacated as a legally invalid conviction depending on the facts of the case. Once reduced, the charge becomes a misdemeanor or infraction for all purposes. If vacated, your conviction is dismissed as legally invalid and sealed.

CONVICTION RECORDS AND EMPLOYMENT – YOUR RIGHTS

- You have a right to request a copy of your background check report. Always ask the employer for a copy.
- Your conviction record must be reported correctly, and you have the right to have errors corrected.
- Most employers cannot use your conviction history as the reason not to hire you without first considering: (1) the type of your offense, (2) the requirements of the job in question, and (3) the age of your cases.
- For most jobs, employers are not permitted to consider a conviction that has been dismissed under section Penal Code 1203.4.
- A potential employer may be eligible for tax breaks and other benefits for being a fair chance employer.

**IF ANY OF YOUR RIGHTS ARE VIOLATED OR YOU HAVE QUESTIONS, PLEASE CALL
EBCLC AT 510-548-4040**

This flyer provides general information only. It does not constitute legal advice, nor does it substitute for the advice of an expert representative or attorney who knows the particulars of your case. We have made every effort to provide reliable, up-to-date information but we cannot guarantee its accuracy.



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HOW SHOULD I ANSWER QUESTIONS ABOUT MY CONVICTION RECORD ON JOB APPLICATIONS IN CALIFORNIA?

Read the questions on the application carefully and disclose only the information requested. For example, some employers ask only about felony convictions or only recent convictions, not misdemeanors. In most cases, you need not disclose your arrests that don't lead to conviction, your juvenile record, or successful diversions. Your answer about your conviction history depends on the type of employer – **public** or **private**.

Note that starting January 1, 2018, most California employers may not ask you any questions about criminal history until after they have made a conditional offer of employment. Exceptions include law enforcement and criminal justice employers, employers required by law to run a background check (e.g. schools, banks, ride sharing companies like Uber and Lyft).

CALIFORNIA “PRIVATE” EMPLOYERS

- Private, non-governmental companies hiring for jobs that do not involve work with sensitive populations
- Your California background report for private employers **should not** include any of the following information about your conviction history:
 - Any convictions over 7 years old (or for prison cases, 7 years from date of release from incarceration or date you were discharged from parole, whichever is later); **Exception:** Ride sharing companies (Lyft & Uber) will receive convictions older than 7 years
 - Any arrests not leading to conviction
 - Dismissed (1203.4 or “expunged”) convictions
 - Successful diversion and deferred entry of judgment
- After you have had **all** of your convictions dismissed under section 1203.4, you are legally permitted to state that you have no convictions.
- A potential private employer must first get your written permission before running a conviction background check on you. You are entitled to see any background check run on you. Always get a copy and check it for accuracy.

CALIFORNIA “PUBLIC” EMPLOYERS

- Jobs that require fingerprinting (LiveScan), including government jobs; jobs that require government-issued license, certificate or permit, or security clearance; jobs in health care; jobs working with children or the elderly
- A criminal background report prepared for government employers and professional licensing will almost always include all convictions, no matter how old, including those dismissed under section 1203.4. You are entitled to a copy of this background check if it is the basis for a denial. Ask for a copy and check it for accuracy.
- **Follow the directions on the application about which convictions to disclose.** Most public employers cannot ask about your convictions that were dismissed under section 1203.4, but note that these convictions may still be reported on your LiveScan (fingerprints) background check. If you must disclose your dismissed convictions, write: **“dismissed pursuant to Penal Code section 1203.4.”**

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