

# **PETITION FOR RELIEF UNDER PENAL CODE SECTIONS 1203.4, 1203.4A, 1203.41, AND 1203.42**

## **SELF-HELP FORM PACKET**



SHC-CRIM-03 (Rev. 01/16/2024)

Self-Help Services can review your completed forms before you file them with the Court. To request review of your completed forms:

1. Complete the attached forms in black ink.
2. Scan your completed forms and save as a single PDF file.
3. Go to [\*\*www.occourts.org/self-help\*\*](http://www.occourts.org/self-help) (click the button labeled *Click Here to Contact Self-Help Services*), attach the PDF, and complete the online request form. Make sure to select CRIMINAL/TRAFFIC as the case type on the form.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**  
**PETITION FOR RELIEF UNDER PENAL CODE SECTION 1203.4, 1203.4A, 1203.41, OR 1203.42**  
**INFORMATION AND INSTRUCTIONS**

General Information:

You may petition the court to dismiss the charges under Penal Code section 1203.4 after successful completion of probation, or if not placed on probation, any time after the completion of your sentence. You may petition the court to dismiss the charges under Penal Code section 1203.4a after one year from the completion of your terminal sentence. You may petition the court to dismiss the charges under Penal Code section 1203.41 if:

- you were sentenced and completed a county jail sentence **with** mandatory supervision, and one year has elapsed since the completion of your sentence;
- you were sentenced and completed a county jail sentence **without** mandatory supervision, and two years have elapsed since the completion of your sentence; or,
- you were sentenced and completed a state prison sentence for a felony for which you are not on parole or required to register as a sex offender, and two years have elapsed since the completion of your sentence.

You may petition the court to dismiss the charges under Penal Code section 1203.42 if you were sentenced to prison but would have been sentenced to county jail under the October 1, 2011, Realignment Legislation if it had been in effect, and two years have elapsed since completion of your sentence. If it is in the interest of justice, the judicial officer

may allow you to file the petition before probation ends.

- Disclosure – Granting of this petition does *NOT* relieve you of the responsibility to disclose the conviction in response to any direct question as part of any questionnaire or application for public office, for licensure by any state or local agency or by a federally recognized tribe, or for contracting with the California State Lottery.
- Department of Motor Vehicles (DMV) – Granting of this petition does *NOT* affect DMV actions or future consequences for crimes involving operation of a motor vehicle.
- Firearms – Granting of this petition does *NOT* permit you to own, possess, or have in your custody or control any firearm.
- Sealing – Granting of this petition does *NOT* seal your record. The case, including the conviction, will remain public record.
- Sex Registration – For misdemeanor convictions, granting of petition does *NOT* relieve you from any obligation to register under Penal Code section 290. (Felony state prison sentences with a requirement to register as a sex offender are not qualified to submit these petitions per Penal Code section 1203.41.)
- Unexpired Protective Order – Granting of petition does *NOT* terminate a protective order. Any unexpired criminal protective orders that have been issued by the court shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

*This information is for general use and not intended as full and comprehensive instruction governing the laws and rules relating to relief granted under Penal Code section 1203.4. For further information you may refer to Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or you may wish to seek legal assistance.*

Instructions:

NOTE: Clerks cannot advise or give assistance in the completion of this petition.

**If your case has been destroyed pursuant to Government Code section 68153, you must provide the court with either a copy of the probation order or the criminal history record from the California Department of Justice (RAP sheet)**

1. Complete the form, *Petition for Relief under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42*.
2. A copy of the petition must be mailed or delivered to the District Attorney or City Attorney who prosecuted your case. Proof of service is required.
3. If mailed, the person mailing must complete the Proof of Service (see page 2 of the petition). If delivered, the prosecutor may acknowledge its receipt by stamping the original petition to be delivered to the court.
4. Return the original petition and the completed Proof of Service (if prosecutor was notified by mail) to the Criminal Operations Department of the Justice Center in which your case is filed.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, Address, Telephone No., Email</i> )	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR ( <i>Name</i> ): _____ Bar No.: _____	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central – 700 Civic Center Drive West, Santa Ana, CA 92701-4045 <input type="checkbox"/> Harbor-Newport Beach – 4601 Jamboree Road, Newport Beach, CA 92660-2595 <input type="checkbox"/> North – 1275 North Berkeley Avenue, Fullerton, CA 92832-1258 <input type="checkbox"/> West – 8141 13 <sup>th</sup> Street, Westminster, CA 92683-4593	
<b>PEOPLE OF THE STATE OF CALIFORNIA</b>	
vs. Defendant: _____	
<b>PETITION FOR RELIEF UNDER PENAL CODE SECTION 1203.4, 1203.4a, 1203.41, OR 1203.42</b>	Case Number: Driver's License: Date of Birth:

1. I am the  Defendant  Attorney  Probation Officer for the defendant in the above-entitled action.
2. On the date of \_\_\_\_\_, the defendant was convicted of the following offense(s)/violation of section(s) (*List all*): \_\_\_\_\_
3. **Petitioner declares:**
  - The defendant has fulfilled the conditions of probation for the entire period of probation or has been discharged prior to termination of the period of probation; that the defendant is not serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. (Pen. Code, § 1203.4.)
  - The defendant was not placed on probation; that more than one year has elapsed since the date of pronouncement of judgment: that the defendant has complied with the sentence of the court; that the defendant is not serving a sentence for any offense nor under charge of commission of any crime, and has since the pronouncement of judgment lived an honest and upright life and confirmed to and obeyed the laws of the land. (Pen. Code, § 1203.4a.)
  - The defendant was sentenced to prison at the county jail **with** mandatory supervision; that one year has elapsed since completion of the sentence and defendant is not currently under supervision pursuant to Penal Code section 1170(h)(5)(B), and is not serving a sentence for, on probation for, or charged with the commission of any offense. (Pen. Code, § 1203.41.)
  - The defendant was sentenced to prison at the county jail **without** mandatory supervision; that two years have elapsed since completion of the sentence and the defendant is not under supervision pursuant to Penal Code section 1170(h)(5)(A), and is not serving a sentence for, on probation for, or charged with the commission of any offense. (Pen. Code, § 1203.41.)
  - The defendant was sentenced to state prison for a felony and is not currently on parole or required to register as a sex offender: that two years have elapsed since completion of the sentence and the defendant is not under supervision pursuant to Penal Code section 1170(h)(5)(A), and is not serving a sentence for, on probation for, or charged with the commission of any offense. (Pen. Code, § 1203.41.)
  - The defendant was sentenced to state prison for a felony that, if committed after the October 1, 2011, Realignment Legislation, would have been eligible for sentencing to a county jail; that two years have elapsed since completion of the sentence and the defendant is not under supervision, and is not serving a sentence for, on probation for, or charged with the commission of any offense. (Pen. Code, § 1203.42.)
4. Petitioner and defendant understand that the granting of this petition does NOT relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency or by a federally recognized tribe, or for contracting with the California State Lottery; does NOT affect DMV actions or further consequences for crimes involving the operation of a motor vehicle; and, does NOT permit the defendant to own, possess or have in their custody or control any concealable firearm. The granting of this petition does NOT seal your record. The case, including the conviction, will remain public record. For relief granted pursuant to Penal Code sections 1203.4, 1203.4a, and 1203.41, any unexpired criminal protective orders that have been issued by the court shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal or granting of conviction record relief, of the underlying accusation or information. Relief granted pursuant to Penal Code section 1203.41 does not make a person who is otherwise ineligible to provide, or receive payment for providing in-home supportive services as codified in Penal Code section 1203.41(h).
5. Petitioner and defendant request the conviction be set aside, that a plea of not guilty be entered, and that the Court dismiss this action pursuant to the provisions of Penal Code sections 1203.4, 1203.4a, 1203.41, or 1203.42.
6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

\_\_\_\_\_  
(Type or print name)

\_\_\_\_\_  
(Signature of Petitioner)

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, Address, Telephone No., Email</i> )	FOR COURT USE ONLY
ATTORNEY FOR ( <i>Name</i> ): _____ Bar No.: _____	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central – 700 Civic Center Drive West, Santa Ana, CA 92701-4045 <input type="checkbox"/> Harbor-Newport Beach – 4601 Jamboree Road, Newport Beach, CA 92660-2595 <input type="checkbox"/> North – 1275 North Berkeley Avenue, Fullerton, CA 92832-1258 <input type="checkbox"/> West – 8141 13 <sup>th</sup> Street, Westminster, CA 92683-4593	
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> vs. Defendant: _____	
<b>PROOF OF SERVICE</b> <input type="checkbox"/> PERSONAL SERVICE <input type="checkbox"/> SERVICE BY MAIL	Case Number: _____

This is a proof of service of a Petition for Relief under Penal Code section 1203.4, 1203.4a, 1203.41 or 1203.42.

**DIRECTIONS:** A copy of this petition must be served upon the District Attorney or City Attorney who prosecuted your case. Mail the front and back of each page of this document to the District Attorney or City Attorney who prosecuted the case. When the petition has been served, the original may then be filed with the court.

1. Person serving. I am over the age of 18 and not a party to this action.  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
  
 Telephone: \_\_\_\_\_
  
2. I served a copy of the Petition for Relief under Penal Code section 1203.4, 1203.4a, 1203.41 or 1203.42 as follows (check either a or b below):
  - a.  **Personal Service:** I personally delivered the Petition for Relief under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42 to the person at the address listed below:
    - (1) Name of person served: \_\_\_\_\_
    - (2) Address where served: \_\_\_\_\_
  
    - (3) Date served: \_\_\_\_\_
    - (4) Time served: \_\_\_\_\_
  
  - b.  **Service by Mail:** I deposited the Petition for Relief under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42 in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
    - (1) Name of person served: \_\_\_\_\_
    - (2) Address where served: \_\_\_\_\_
  
    - (3) Date served: \_\_\_\_\_
    - (4) Time served: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

\_\_\_\_\_  
*(Type or print name)*

\_\_\_\_\_  
*(Signature of Declarant)*

PLAINTIFF/PETITIONER: People of the State of California v. DEFENDANT/RESPONDENT:	CASE NUMBER:
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**THINGS TO CONSIDER BEFORE WRITING YOUR DECLARATION**

*(This form must be attached to another form or court paper before it can be filed in court.)*

The declaration is your chance to present your statement and evidence to convince the judge that you deserve a dismissal.

Here are some ideas that you can include in your declaration:

1. Explain the basic information about your conviction and sentence. Tell the judge why your conviction meets the requirements for dismissal.
2. Explain why granting your dismissal would be "in the interests of justice"— meaning why you deserve to have your conviction dismissed, and how the dismissal will help you succeed in the future.
  - a. Here are some examples of things you may want to talk about (but only if they are true for your situation):
    - i. If there were circumstances that made your life especially difficult at time of your conviction;
    - ii. How you are turning your life around;
    - iii. Your work and/or school history (including any vocational training, GED or other classes, and other programs you've participated in);
    - iv. Current opportunities for work, school, and other activities to enrich your life, and how dismissal will help you take advantage of these opportunities;
    - v. Your family situation and needs, and how a dismissal will help you reconnect with, support, or otherwise benefit your family; and
    - vi. Any problems you have had completing probation, and what you are doing to address those problems.

You should be specific and honest, and include as many details as possible to give the judge a clear picture of what happened. But you should not include irrelevant or unnecessary information that might distract the judge.

You may also include letters of reference, certificates of completion or any other relevant documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

**SAMPLE ONLY: DO NOT FILE THIS PAGE**

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

- Attorney for   
  Plaintiff   
  Petitioner   
  Defendant  
 Respondent   
 Other (Specify):

PLAINTIFF/PETITIONER: People of the State of California DEFENDANT/RESPONDENT:	CASE NUMBER:
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**DECLARATION**

*(This form must be attached to another form or court paper before it can be filed in court.)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

- Attorney for     Plaintiff     Petitioner     Defendant
- Respondent     Other (*Specify*):

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central – 700 Civic Center Drive West, Santa Ana, CA 92701-4045 <input type="checkbox"/> Harbor-Newport Beach – 4601 Jamboree Road, Newport Beach, CA 92660-2595 <input type="checkbox"/> North – 1275 North Berkeley Avenue, Fullerton, CA 92832-1258 <input type="checkbox"/> West – 8141 13 <sup>th</sup> Street, Westminster, CA 92683-4593	
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> vs. Defendant:	
<b>ORDER FOR RELIEF UNDER PENAL CODE SECTION 1203.4, 1203.4a, 1203.41, or 1203.42</b>	Case Number: Driver's License: Date of Birth:

***If this order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41 or 1203.42:***

- The defendant is relieved from all penalties and disabilities resulting from the offense except as provided in Vehicle Code section 13555.
- Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in their custody or control any firearm or prevent their conviction under Penal Code Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.
- As required by Penal Code section 299(f), this relief does *not* release the defendant from the separate administrative duty to provide specimens, samples or print impressions under the DNA and Forensic Identification Database and Databank Act of 1998 if the defendant was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).
- Dismissal of the conviction does *not* permit a person prohibited from holding public office as a result of that conviction to hold public office.
- Dismissal of the conviction does *not* relieve the defendant from any obligation to register under Penal Code section 290 for misdemeanor conviction.
- For relief granted pursuant to Penal Code sections 1203.4, 1203.4a, and 1203.41, any unexpired criminal protective orders that have been issued by the court shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal or the granting of conviction record relief, of the underlying accusation or information.

***If this order is granted the provisions of Penal Code section 1203.41 additionally apply:***

- Dismissal of the conviction does *not* relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or by a federally recognized tribe, or for contracting with the California State Lottery.
- Relief granted does not make a person who is otherwise ineligible to provide, or receive payment for providing, in-home support services as codified in Penal Code section 1203.41(h).

**GRANTED:** It appears to the court from the records on file in this matter, and from the petition, that the defendant is eligible for the relief requested. It is hereby ordered that the plea, verdict, or finding of guilty in the above-entitled action be set aside and vacated and a plea of not guilty be entered, and that the accusatory filing is dismissed.

The restitution ordered on \_\_\_\_\_ is deemed a Civil Judgment pursuant to Penal Code section 1214(b) as to count(s) \_\_\_\_\_.

**DENIED**

**OTHER:** \_\_\_\_\_

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

\_\_\_\_\_  
 Judge/Commissioner of the Superior Court