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OFFICE OF
THE PUBLIC DEFENDER
LAURA ARNOLD
PUBLIC DEFENDER

FRESH START PROGRAM

POST -CONVICTION RELIEF ASSISTANCE OFFERED BY THE PUBLIC DEFENDER'S FRESH START PROGRAM INCLUDES THE FOLLOWING:

- Reducing Felony to misdemeanor (PC 17b)
- Expungement/Vacate/Dismiss conviction (PC 1203.4; PC 1473.7)
- Reducing conviction to lesser offense (Prop 47)
- Reclassifying and reducing Marijuana crimes (Prop 64)
- Early Termination of Probation (PC 1203.3)
- Human Trafficking Victim Conviction Relief
- Sealing Adult Arrest Records¹
- Sealing Adult Records for Factual Innocence
- Certificates of Rehabilitation/Gubernatorial (Governor's) Pardon
- Correcting Errors in Department of Justice Records (RAP sheets)
- DNA Database Expungement
- Gang Documentation Relief
- Dismissal of Petitions for successful Diversion (PC 1000) with collateral consequences under PC 1203.43

PROCESS FOR FRESH START REQUEST

1. COMPLETE FRESH START PACKET

Please fill out all requested information in the packet, to the best of your ability, and either deliver the packet in person, or mail it to our office: 1021 I St., Ste. 201, Modesto, CA 95353-3428, to the attention of the Fresh Start Program.

2. REVIEW

After reviewing your packet, our office will contact you by U.S. Mail or email (based on your stated preference), notifying you whether your request for assistance has been approved or denied. In some cases, we may need you to provide additional information before we can approve your request.

- **APPROVED APPLICATION** – If your application is approved, our staff will prepare the appropriate forms/pleadings and a declaration for you to sign and send them to you. Upon receipt, please review the documents, and, if they are accurate, please sign and send them back to

¹ For assistance with sealing juvenile court records and dismissal of juvenile petitions, please contact the Office's Juvenile Unit.

us through U.S. Mail or E Mail or personal delivery to our office. If you believe that any of the information is incorrect, please notify us. When we receive your signed documents, we will file and serve them and notify you of the time and place of any scheduled court hearings.

- **DENIED APPLICATION** – If your application is denied, we will send you a letter or email, explaining the reason you are not eligible for the relief you are seeking.
- **FOLLOW UP REQUIRED** – We will contact you if the application is incomplete, or if we need additional documentation. Please reply to our letter within **45 days** or else we will terminate your application for failure to follow up and you will have to re -apply.

APPLICATION

Personal Information:

First Name	Middle Name	Last Name	
Date of Application	Date of Birth	Driver's License No.	Social Security Number
Language Spoken		Place of Birth	

Contact Information

Phone Number	Alternate Phone Number	Email Address
Street Address	City	Zip code

Case Information (if known) – Fill in as much information as you can, do not be discouraged if you do not know the answers. We will assist you in figuring out your record. (Attach an additional sheet if necessary)

**Do you have a copy of your criminal history Record from the Department of Justice?
(Mark “yes” or “no” below)**

<input type="radio"/> YES (Please submit with this form)		<input type="radio"/> NO (We can get this for you, with your authorization)	
County & Case Number	Crime Type (for example drug possession, domestic violence, theft)	Case Type (mark response)	Sentence (mark response)
		<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> infraction <input type="checkbox"/> Don't Know	<input type="checkbox"/> Probation <input type="checkbox"/> Local Prison <input type="checkbox"/> State Prison <input type="checkbox"/> Don't know
		<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> infraction <input type="checkbox"/> Don't Know	<input type="checkbox"/> Probation <input type="checkbox"/> Local Prison <input type="checkbox"/> State Prison <input type="checkbox"/> Don't know
		<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> infraction <input type="checkbox"/> Don't Know	<input type="checkbox"/> Probation <input type="checkbox"/> Local Prison <input type="checkbox"/> State Prison <input type="checkbox"/> Don't know
		<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> infraction <input type="checkbox"/> Don't Know	<input type="checkbox"/> Probation <input type="checkbox"/> Local Prison <input type="checkbox"/> State Prison <input type="checkbox"/> Don't know

ADDITIONAL INFORMATION	YES	NO	I DON'T KNOW
Are you currently on informal probation, formal probation, post release community supervision, mandatory supervision, or parole on any case in Stanislaus County or any other county?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do you have any new charges pending against you in Stanislaus County or any other county?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I would like help with:			
(Check all that may apply. Do not be concerned if you do not know what to ask for. We will review and advise you of your options. For more information visit:			
Motion to Vacate Plea/set aside Conviction/dismiss (PC 1203.4)	<input type="checkbox"/>	Sealing an Adult's Arrest Record (an arrest that never resulted in a prosecution)	<input type="checkbox"/>
Reducing a felony to a Misdemeanor (PC 17B)	<input type="checkbox"/>	Dismissal Petition for Successful PC 1000 Participants with Immigration Consequences	<input type="checkbox"/>
Early termination of Probation (PC 1203.3)	<input type="checkbox"/>	Certificate of Rehabilitation/ Gubernatorial (Governor) Pardons	<input type="checkbox"/>
Reclassifying and reducing Marijuana Crimes (Prop 64)	<input type="checkbox"/>	Correcting Errors in Department of Justice Records (RAP sheets)	<input type="checkbox"/>
(Reducing certain felonies conviction to a lesser offense) (Prop 47)	<input type="checkbox"/>	DNA Database Expungement	<input type="checkbox"/>
Gang Documentation Relief	<input type="checkbox"/>	Human Trafficking Victim Conviction Relief	<input type="checkbox"/>
Sealing Adult Records for Factual Innocence	<input type="checkbox"/>	Motion to Vacate based on Immigration Consequences (PC 1473.7)	<input type="checkbox"/>
Motion to Vacate for Factual innocence	<input type="checkbox"/>	Other:	<input type="checkbox"/>

**FRESH START
CONFIDENTIAL PROGRAM QUESTIONNAIRE**

PLEASE ANSWERING THE FOLLOWING IN THE SPACE PROVIDED. IF YOU NEED ADDITIONAL SPEACE, PLEASE ATTACH A SEPARATE SHEET OF PAPER.

1. Describe why you want or need postconviction relief. How has your criminal history been a barrier to you?

2. If you are making this request for employment purposes, please list licenses or jobs for which you might be qualified but for your past convictions. Describe any education or vocational training you may have received or job skills you may have and attach transcripts, certificates, or diplomas.

3. Are you on at risk of experiencing harm; i.e. losing your job, housing, benefits, immigration status, custody of your children, etc., due to your criminal record? Please explain.

4. Have you done or would you be willing to do volunteer work in the community? Where? If possible, please attach proof of completion of hours of community service completed subsequent to the date of your conviction:

5. Do you still owe fines and fees associated with your cases(s)? NO __ YES __ If the answer is "yes", are you financially able to pay any amount? NO __ YES, \$ ____ per week.

**DOCUMENTATION OF “GOOD CAUSE” FOR EARLY TERMINATION OF
PROBATION OR JUSTIFICATION FOR EXPUNGEMENT AFTER IMPERFECT
COMPLIANCE WITH CONDITIONS OF SUPERVISION**

Please provide any documentation supporting discretionary relief (why you should be given a benefit, although you did not completely fulfill your court-ordered obligations), including:

Letters attesting to your character from people who know you well; in particular those who can attest to how things were for you back then and how things have changed.

Letters from prospective, current, or past employers.

Letters denying you employment due to a criminal conviction.

Termination letters from employers due to criminal conviction.

Letters denying you an occupational license due to a criminal conviction.

Notice of any other adverse actions due to your criminal history; i.e. denial of affordable housing, eviction, family court documents, etc.

Proof of completion (or participation) in counseling, or any rehabilitative programs (substance abuse, AA, anger management, parenting, etc.), including those which were ordered by the court.

Proof of any volunteer work you do or have done since the conviction, in addition to that which was court ordered.

Any other documentation that you believe would support your request.

FRESH START FAQ'S AND ANSWERS

Expungement (Dismissal) of Criminal Records (PC 1203.4/1203.4a/1203.41)

What is an expungement/dismissal?

An expungement (also called a “dismissal”) is a way of clearing up your adult record that limits the information that shows up on a background check. It can also relieve you of some of the consequences of a conviction.

It is important to understand, however, that a criminal record actually cannot be “expunged”. The term “expungement” implies a complete erasure, as if the case never occurred. A more proper term is “dismissal.” When a section 1203.4 petition is granted, the court re-opens your case, the “finding of guilt” (your guilty plea or no contest plea, or guilty verdict) is withdrawn, and a not-guilty plea is entered. The court then dismisses the case. The dismissal will not erase your offense from your criminal record, but it does change your record to show that the conviction was dismissed. The dismissal does not seal the conviction from public view. The conviction remains on your record for many purposes including sex offender registration and immigration consequences.

Getting a conviction expunged hides the conviction from certain people (for example, some employers, some landlords, credit agencies) when they run a background check on you. Most private employers are not allowed to see a conviction has been expunged. Additionally, most private employers CANNOT ask you about, or even consider a conviction that has been expunged when you apply for a job. Be aware, however, many times a court file still exists after an expungement. Anyone who know how to look for a court file may be able to find it.

Which convictions are not eligible for expungement?

Convictions to certain crimes can never be expunged. They are listed in the table below. However, those convicted of these crimes may be eligible for a Certificate of Rehabilitation and Pardon even if you are not eligible for an expungement for one of these offenses

Penal Code Section	Penal Code Section
Felony 261.5(d)	289(j)
286(c)	287(c)
288(a)	any infraction
288(c)	
288.5	
Vehicle Code Sections 2800, 2801, or 2803, insofar as the conviction reflects a failure to stop and submit to inspection of equipment or to unsafe conditions endangering a person.	

YOU ARE NOT ELIGIBLE IF:

1. You are currently being prosecuted of any offenses in any jurisdiction;
2. You are currently on probation (informal summary or formal), mandatory supervision, post release community supervision, or parole in any jurisdiction.
3. You are currently serving a sentence in any jurisdiction;
4. You were sentenced to state prison for the conviction.

YOU MAY BE ELIGIBLE IF NONE OF THE ABOVE ARE TRUE, AND:

1. You were convicted of a misdemeanor or a felony and were granted probation (formal or informal probation) or sentenced pursuant to Penal Code section 1170, subdivision (h).
2. Your period of supervision has expired or been terminated.
3. You were convicted of a misdemeanor and denied probation, or you were convicted of an infraction.
4. The appropriate amount of time has passed since you completed supervision:
 - a. You must wait one year after completing the supervision part of a “split” sentence under section 1170, subdivision (h) before applying for a dismissal.
 - b. You must wait two years after completing a “straight” sentence before applying for a dismissal.

I went to State Prison on my case? Can I get my case dismissed/expunged?

Maybe. The law used to be you could not dismiss/expunge a case for which you served state prison sentence. The law has changed. You may not petition to dismiss/expunge your case to which you served a state prison sentence if the conviction has been re-designated as a misdemeanor under Prop 47 or under Prop 64. If you were sentenced to state prison on the case and the case is not eligible to be dismissed/expunged, you may still qualify for relief via a petition for a certificate of rehabilitation and Pardon.

What will a dismissal/expungement do?

A dismissal/expungement will:

1. Allow you to answer on many, but not all, job applications that you have not been convicted. If 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 most cases, you should disclose the initial conviction and its later expungement. Also, be aware a court filing may still exist after an expungement. Anyone who know how to look for a court file may be able to find it.
2. Be seen as evidence of rehabilitation;
3. Make you eligible for a federal student loan if your application was denied because of a drug conviction;
4. Prevent use of a conviction to impeach you if you testify as a witness, unless you are being tried for a subsequent offense.

What won't a dismissal/expungement do?

A dismissal/expungement will not:

1. Remove the conviction from your "Rap Sheet" – California and FBI criminal records will still show the conviction and the later dismissal "per Penal Code Section 1203.4."
2. Reinstate the right to possess a firearm if it was taken away.
3. Remove the requirement to register as sex offender per Penal Code Section 290. If the expungement is granted, registrants must then complete and file paperwork requesting a Certificate of Rehabilitation, when eligible. A Certificate of Rehabilitation issued prior to July 1, 2021 will relieve some 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 or public office;
5. Seal or otherwise remove the court case file from public inspection—everyone who knows where to look will be able to find the court file.
6. Prevent the conviction from being used as "prior" or "strike prior" to increase the punishment on a subsequent conviction;
7. Prevent the conviction from being used for impeachment purposes, should you be arrested for a subsequent offense;
8. Prevent the conviction from being considered and used to refuse or revoke government licenses or permits such as real estate sales licenses, teaching credentials, bus driver's 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 ICE (Immigration) for removal and exclusion purposes.

How do I get a dismissal/expungement?

The applicant must complete a "Petition for Dismissal" for each case separately and submit to the Superior Court where the conviction occurred for review and decision by the court. Any supporting documentation to show why the court should grant your dismissal/expungement must be filed with the petition. The Petition for Dismissal and supporting documentation must also be served on the prosecuting agency.

How much does it cost to request a dismissal/expungement?

The Court may or may not charge a fee for the filing of each dismissal/expungement petition. If a filing fee is required, you may file a "Request to Waive Court Fees".

Do I need a lawyer to file for a dismissal/expungement?

Not necessarily. The Superior Court's website contains helpful information about the expungement process for both misdemeanors and felonies. The forms you need are on the Court's website. The local public library and Stanislaus County Law Library have resources to learn how to file for a dismissal/expungement.

If you feel you are unable to pay any court fees, you can file a “Request to Waive Court Fees” along with the petition and supporting documentation. Some courts require you to file a “financial declaration.” The Court will make a decision as to whether to order that fees be waived. You may file these forms yourself by filing out the forms online, and mailing or taking them to the court address on the form for filing.

What if I want a lawyer to assist me?

While you do not need a lawyer, you may want one. You may hire a lawyer or our office may be able to help you at no cost. Our paralegal staff will review your entire record and determine what relief you are eligible for. Some petitions for dismissal/expungement are more complicated and the Judge needs to see additional information to help with a decision. Our office can assist you in researching your record, determining if you owe fines and fees or restitution, writing petitions, drafting motions and declarations, requesting fees waivers, filing documents with the court, serving the petition on the prosecutorial agency, and appearing in court to argue for the dismissal/expungement.

If you would like our office to assist you, fill out and submit the Fresh Start Program application packet.

You may email, fax or mail or drop off your request form, as follows:

Office of the Public Defender
Fresh Start Program
1021 I Street, Suite 201
Modesto, California 95354

Email: freshstart@stancounty.com
Fax: (209) 525-4244
(Attn: Fresh Start)

How long does it take to get a decision from the court after filing the Petition Dismissal is filed?

It depends on if your case is a felony or misdemeanor, how old your cases are. Old case numbers must be converted to new numbers and the court must set a court date and assign a courtroom department. It can take anywhere from 30 days to 4 months or longer depending on how old your cases are, or if the court is extremely busy.

Will there be a court hearing?

There will be a court hearing, and you will need to appear, unless we are representing you and you have given us permission to appear and conduct the hearing in your absence. If your case involves a felony conviction, a waiver of your right to be personally present for the hearing must be entered in writing, in open court.

How do I get older misdemeanor cases dismissed/expunged?

Misdemeanor cases that are older than 5 years may be purged or (destroyed) by the court at any time, depending on the charges. In some cases, it can be less than that. Just because the court

has purged your files, does not mean the case is off your record. If your original court file has been purged, it is more difficult to obtain an expungement. Our office will order your criminal history report from the California Department of Justice (DOJ) in Sacramento in order to proceed with a dismissal/expungement at no cost to you.

If I have any questions, who can I contact for help?

Please call the Office of the Stanislaus County Public Defender at (209) 525-4200 and ask to speak to someone from the Fresh Start Program. You may also email a question to our office at freshstart@stancounty.com, and our staff will assist you.