

CHANGE OF PLEA 1203.4 PACKET

What you will find in this packet:

- **Petition to Change Plea Instructions (CR-500a-INFO)**
- **Petition for Dismissal (CR-180)**
- **Order or Dismissal (CR-181)**
- **Statement of Assets (CR-506)**
- **Declaration (MC-031)**



Superior Court of California, County of Contra Costa

CHANGE OF PLEA AND DISMISSAL PENAL CODE SECTIONS 1203.4, 1203.4a, and §17

You are eligible for a Change of Plea and Dismissal under Section 1203.4 or 1203.4a if:

- Your sentence included a fine, probation and/or county jail (not state prison);
- You have completed the jail sentence for that conviction;
- You are no longer on probation or parole for any conviction;
- You do not have any pending charge against you in any jurisdiction.

PLEASE NOTE:

- ➔ If you completed probation successfully, (no revocations, arrests, other convictions), the court will typically grant your Change of Plea and Dismissal.
- ➔ If you did not complete probation successfully, the Court may or may not decide to grant your Change of Plea and Dismissal. Attach supporting documents (letters of support, completion of education program, Certificate of Completion for job training or drug/alcohol rehabilitation program, etc.) to your petition(s).
- ➔ If you were sentenced to prison, you can apply for a Certificate of Rehabilitation seven to ten years after being released from custody. You may apply for the Certificate of Rehabilitation in the superior court of the county where you live now, even if your convictions were in another county (See Penal Code Section 2852.06).
- ➔ If all of your convictions are dismissed under Penal Code Section 1203.4 or 1203.4a:
 - You have the legal right to say *No Convictions* on private job applications, and those convictions should not appear on private background checks.
 - When applying for an occupational license, a Change of Plea and Dismissal can be used to demonstrate rehabilitation.

About Felony Reduction(s) under Section 17:

- If the felony conviction could have originally been sentenced either as a misdemeanor or as a felony, it is eligible to be reduced to a misdemeanor before being dismissed under Section 1203.4 or 1203.4a. Submit supporting documents (described above) with your petition.
- Felony convictions reduced under Section 17 become misdemeanors for all purposes.
- If you were sentenced to state prison (or the state prison sentence was suspended), you are not eligible to have your felony reduced to a misdemeanor.

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INSTRUCTIONS FOR CHANGE OF PLEA PETITION

Contact the Public Defender at (925) 335-8000 for Contra Costa County convictions

- OR -

Fill out and file the attached court forms yourself.

1. If you fill out the forms yourself, complete a separate petition for each case/docket number and:
 - a. Include the correct case/docket number, date of conviction, and the exact code section(s) of each conviction on each petition.
 - b. Bring 2 copies and the original of each petition when you file these forms.
 - c. You may be required to pay reimbursement costs up to \$150 for felony and misdemeanor convictions where you served a term of probation; or \$60 for a misdemeanor conviction where no probation was involved and any infraction. You can pay by cash, credit card, money order, cashier's check, or traveler's check.
 - d. If you cannot afford to pay the reimbursement costs, fill out the attached Financial Evaluation form and the court will make a decision about your ability to pay at the time your petition is decided.
 - e. If you fail to pay court-ordered reimbursement costs by the due date, the debt will be sent to the court's collection agency (AllianceOne), and you will have to pay an additional administrative fee of up to \$50.00 (See Penal Code Section 1205(d)).
 - f. If you have a felony conviction, file your petition(s) for a Change of Plea and Dismissal for all of your convictions in Martinez.
 - g. If you have more than one misdemeanor conviction (from different courthouses), file your petition(s) in the court where the most recent misdemeanor case was filed. All of your petitions will be heard in the court where the petition(s) is filed at the same time:

IF YOU HAVE THESE KINDS OF CASE(S):	FILE YOUR PETITION AT THE	COURT ADDRESS	CLERK'S OFFICE
<ul style="list-style-type: none"> • All Felonies • Felonies with other Misdemeanor case(s) • Misdemeanors • Misdemeanors with Infractions <p><u>And the most recent misd. case was in Walnut Creek, Concord/Mt. Diablo</u></p>	Wakefield Taylor Courthouse	725 Court Street Room 127 Martinez, CA 94553	(925) 608-1000
<ul style="list-style-type: none"> • Misdemeanors • Misdemeanors with Infractions • Infractions <p><u>And the most recent misd. case was in Pittsburg</u></p>	Arnason Justice Center Courthouse	1000 Center Drive, Pittsburg, CA 94565	(925) 608-1000
<ul style="list-style-type: none"> • Misdemeanors • Misdemeanors with Infractions • Infractions <p><u>And the most recent misd. case was in Richmond</u></p>	George D. Carroll Courthouse	100 – 37 th Street, Richmond, CA 94805	(925) 608-1000
<ul style="list-style-type: none"> • Infractions 	Walnut Creek Courthouse	640 Ygnacio Valley Road, Walnut Creek, CA 94596	(925) 608-1000

What happens after the Change of Plea form is filed?

1. The Probation Department or Court Probation will conduct an investigation. This includes a criminal history search.
2. The Probation Department or Court Probation will recommend that the judge either grant or deny your request for a Change of Plea and Dismissal.

PLEASE NOTE:



If Probation recommends approving your Change of Plea and Dismissal, and the judge agrees, there will be no hearing. The Change of Plea and dismissal will be granted, and the court order will be sent to the address listed on the petition(s).



If Probation recommends that the judge deny your Change of Plea and Dismissal, or the judge or the district attorney requests a hearing, a hearing date will be set. The court will send a notice with a hearing date to the address listed on the petition(s).

QUESTIONS AND ANSWERS ABOUT SECTION 1203.4 or 1203.4a DISMISSALS

1	WILL THE CONVICTION BE COMPLETELY “CLEARED,” “ERASED,” “SEALED,” OR “DESTROYED?”	NO. The initial conviction is still in the court file, and on file with the Department of Justice.
2	When do I have to disclose my conviction?	<ul style="list-style-type: none"> • In any direct question in a questionnaire or application for public office • For a license by any state or local public agency • For contracting with the California State Lottery Commission.
3	Will my conviction still count as a “strike” or a “prior”?	Yes.
4	Can the conviction still be used as grounds for deportation in an immigration proceeding?	Yes.
5	Will my right to possess a firearm be restored?	No.
6	If I am required to register as a sex offender, will the Change of Plea and Dismissal remove that requirement?	No.
7	If I am required to register as a narcotics offender under Section 11590 of the Health and Safety Code, will the Change of Plea and Dismissal remove that requirement?	Yes. You do not have to wait until 5 years after probation ends.
8	If my driver’s license was suspended or revoked, will the Change of Plea and Dismissal reinstate it?	No. Check with the DMV for more information.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: DATE OF BIRTH:	CASE NUMBER:
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49)	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

1. On (date): _____, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses or was granted deferred entry or judgment for the following offenses:

Code	Section	Type of offense (felony, misdemeanor, or infraction):	Eligible for reduction to misdemeanor under Penal Code, § 17(b) (yes or no)	Eligible for reduction to infraction under Penal Code, § 17(d)(2) (yes or no)

If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).

2. **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**

Probation was granted on the terms and conditions stated in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply):

- a. has fulfilled the conditions of probation for the entire period thereof.
- b. has been discharged from probation prior to the termination of the period thereof.
- c. should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

3. **Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)**

Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of any crime; and the petitioner (check one):

- a. has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land.
- b. should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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4. **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**
- a. Petitioner has completed a term of probation for a conviction under Penal Code section 647(b).
 - b. Petitioner should be granted relief because the petitioner can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking. *(Please note: You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents to establish that the conviction was the result of your status as a victim of human trafficking.)*

5. **Felony county jail sentence under Penal Code section 1170(h)(5) (Pen. Code, § 1203.41)**
- Petitioner is not under supervision under 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, and should be granted relief in the interests of justice, and *(check one)*:
- a. more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B); **or**
 - b. more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).
- (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)*

6. **Deferred entry of judgment (Pen. Code, § 1203.43)**
- Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under Penal Code section 1000.3 on *(date)*: _____ .Furthermore *(check one)*
- a. court records are available showing the case resolution.
 - b. petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment. Petitioner *(check one)*
 - has
 - has not

attached a copy of his or her state summary criminal history information.

7. Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17 (b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).
8. Petitioner requests that he or she be permitted to withdraw the plea of guilty or nolo contendere, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section *(check one)*
- 1203.4 1203.4a 1203.41 1203.43 1203.49 of the Penal Code.

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 OR ATTORNEY)

(ADDRESS OF PETITIONER) (CITY) (STATE) (ZIP CODE)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ DATE OF BIRTH: _____	
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49)	CASE NUMBER: _____

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

1. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces (*check one*)
 - ALL FELONY CONVICTIONS in the above-entitled action.
 - ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - only the following convictions in the above-entitled action (*specify charges and date of conviction*):

2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for (*check one*)
 - ALL FELONY CONVICTIONS in the above-entitled action.
 - ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - Only the following convictions in the above-entitled action (*specify charges and date of conviction*):

3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code § 1203.4 § 1203.4a § 1203.41 § 1203.43 § 1203.49 and it is ordered that the pleas of guilty or nolo contendere, or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (*check one*)
 - ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 - only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

4. The court **DENIES** the petition for dismissal under Penal Code § 1203.4 § 1203.4a § 1203.41 1203.43 § 1203.49 for (*check one*)
 - ALL CONVICTIONS in the above-entitled action.
 - only the following convictions or pleas for deferred entry judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:

CASE NUMBER:

5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the petitioner was a victim of human trafficking when he or she committed the crime. The court orders (*check one*)
- a. the relief described in section 1203.4.
- b. the relief described in section 1203.4., with the following exceptions (*specify*):
6. If this order is granted under the provisions of Penal Code section 1203.4 or 1203.41,
- a. The petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission; and
- b. Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)
7. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.
8. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner 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).
10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

FOR COURT USE ONLY

Date:

(JUDICIAL OFFICER)

NAME :	<i>FOR COURT USE ONLY</i>
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PEOPLE OF THE STATE OF CALIFORNIA vs.	
DEFENDANT:	
DEFENDANT'S STATEMENT OF ASSETS / FINANCIAL EVALUATION (PC 1203.4)	CASE NUMBER:

It is a misdemeanor to make any willful misstatement of material fact in completing this form (Pen. Code, § 1202.4(f)(4).)

(Attach additional sheets if the space provided below for any item is not sufficient.)

PERSONAL INFORMATION

- | | |
|----------------------|----------------------------|
| a. Defendant's name: | c. Telephone number: |
| b. Date of birth: | d. Drivers license number: |

DEFENDANT'S PRESENT EMPLOYMENT

- a. Occupation: _____
- b. Name of employer: _____
- c. Address: _____
- d. Gross pay per: Month \$ _____ Week \$ _____ Day \$ _____
- e. Take-home pay per month: \$ _____
- f. Checking, saving and credit union accounts (list banks):
- | | | |
|----------|----|-------|
| 1) _____ | \$ | _____ |
| 2) _____ | \$ | _____ |
| 3) _____ | \$ | _____ |

OTHER MONTHLY INCOME

- | | |
|--|----------|
| a. Unemployment and/or disability: | \$ _____ |
| b. Social Security: | \$ _____ |
| c. Welfare, TANF: | \$ _____ |
| d. Worker's Compensation: | \$ _____ |
| e. Child Support Payments: | \$ _____ |
| f. Spousal Support Payments: | \$ _____ |
| g. All other income not else where listed: | \$ _____ |

IF NOT WORKING, STATE THE NAME AND ADDRESS OF LAST EMPLOYER AND LAST DATE OF EMPLOYMENT

- a. Name :
- b. Address:
- c. Last date of employment:

SPOUSE'S MONTHLY EMPLOYMENT

- a. Occupation: _____
- b. Name of employer: _____
- c. Address: _____
- d. Gross pay per: Month \$ _____ Week \$ _____ Day \$ _____
- e. Take-home pay per month: \$ _____
- f. Checking, saving and credit union accounts (list banks):
- | | | |
|----------|----|-------|
| 1) _____ | \$ | _____ |
| 2) _____ | \$ | _____ |
| 3) _____ | \$ | _____ |

OTHER MONTHLY INCOME

- a. Unemployment and/or disability: \$ _____
- b. Social Security: \$ _____
- c. Welfare, TANF: \$ _____
- d. Worker's Compensation: \$ _____
- e. Child Support Payments: \$ _____
- f. Spousal Support Payments: \$ _____
- g. All other income not else where listed: \$ _____

EXPENSES

- a. Rent or house payment: \$ _____
- b. Car payments: \$ _____
- c. Transportation payments: \$ _____
- d. Loan payments: \$ _____
- e. Clothing and laundry: \$ _____
- f. Food: \$ _____
- g. Support payments: \$ _____
- h. Insurance payments: \$ _____
- i. Other payments (utilities, taxes): \$ _____

ASSETS

Please state value of any assets you own
(ie: cash, cars, income tax refund due, life insurance, other personal property)

- Items: _____ \$ _____
- _____ \$ _____
- _____ \$ _____
- _____ \$ _____
- _____ \$ _____

TOTAL: \$ _____

Declaration of Defendant

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

(Signature of Defendant)

PLAINTIFF/PETITIONER: 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*):