



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-173

For business meeting on September 19, 2023

Title

Criminal Procedure: Record Cleaning Forms

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432

Effective Date

January 1, 2024

Date of Report

July 28, 2023

Recommended by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Contact

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Executive Summary

The Criminal Law Advisory Committee recommends revising optional criminal forms used to petition for dismissals and reductions of convictions and request sealing of arrest records. The proposed revisions reflect recent statutory changes that allow for automatic record relief, expand who is eligible for relief, and clarify the effect of relief granted.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2024:

1. Revise the following forms to conform to recent legislation by adding a notice that automatic relief may have already been granted and to make other clarifying and technical changes:
 - *Petition for Dismissal* (form CR-180);
 - *Order for Dismissal* (form CR-181);
 - *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-400);

- *Petition to Seal Arrest and Related Records* (Pen. Code, § 851.91) (form CR-409);
 - *Information on How to File a Petition to Seal Arrest and Related Records Under Penal Code Section 851.91* (form CR-409-INFO); and
 - *Petition for Dismissal—Incarcerated Individual Hand Crew* (Pen. Code, § 1203.4b) (form CR-430);
2. Further revise form CR-430 and revise the following additional forms to account for the expansion of relief provided by recent legislation and to make other clarifying and technical changes:
 - *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew* (Pen. Code, § 1203.4b) (form CR-430-INFO);
 - *Court Cover Letter and Agency Certification—Incarcerated Individual Hand Crew* (Pen. Code, § 1203.4b) (form CR-431); and
 - *Order on Petition—Incarcerated Individual Hand Crew* (Pen. Code, § 1203.4b) (form CR-432);
 3. Further revise forms CR-430-INFO and CR-432 to conform to recent legislation by indicating that the petitioner may still be subject to the terms and conditions of any unexpired criminal protective order; and
 4. Revise the following forms to make the title consistent with the recommended new title of form CR-400 and to make minor technical changes:
 - *Proof of Service for Petition/Application* (Health and Safety Code, § 11361.8) *Adult Crime(s)* (form CR-401);
 - *Prosecuting Agency Response to Petition/Application* (Health and Safety Code, § 11361.8) *Adult Crime(s)* (form CR-402); and
 - *Order After Petition/Application* (Health and Safety Code, § 11361.8) *Adult Crimes* (form CR-403).

The revised forms are attached at pages 15–38.

Relevant Previous Council Action

Effective January 1, 2019, the Judicial Council revised forms CR-180 and CR-181 by adding an option to request conviction relief under Penal Code section 1203.42¹ for persons who were sentenced to state prison for a felony that, if committed after criminal justice realignment

¹ All further references are to the Penal Code unless otherwise specified.

legislation that became effective in 2011, would have been eligible for a county jail sentence under section 1170(h)(5).

Effective July 1, 2017, the council approved forms CR-400, CR-401, and CR-402 as replacements for form CR-187 (which was concurrently revoked), and renumbered form CR-188 as form CR-403. Collectively, these forms implemented Proposition 64, the “Control, Regulate and Tax Adult Use of Marijuana Act,” which, effective November 9, 2016, eliminated or reduced the punishment for designated marijuana-related offenses, and added Health and Safety Code section 11361.8, which provided a resentencing and redesignation mechanism for persons convicted under the previous law who would not have been guilty of an offense or who would have been guilty of a lesser offense had Proposition 64 been in effect at the time. Proposition 64 also directed the council to develop forms for use by persons applying for the relief provided for in the initiative. Effective March 14, 2022, the council made minor revisions to form CR-402 to correct inadvertent errors—but forms CR-400 and CR-401 have not been revised, and form CR-403 has not been revised apart from being renumbered.

Effective January 1, 2019, the council approved forms CR-409 and CR-409-INFO. These forms implement Senate Bill 393 (Stats. 2017, ch. 680), which added section 851.91 and directed the council to develop forms for use by persons applying to have their arrest records sealed under this section.

Effective January 1, 2022, the council approved forms CR-430, CR-430-INFO, CR-431, and CR-432. These forms implement Assembly Bill 2147 (Stats. 2020, ch. 60), which authorized conviction relief for persons who successfully participated as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation.

Analysis/Rationale

The recommended form revisions are based largely on statutory changes made by recently enacted legislation:

- Effective January 1, 2020, Assembly Bill 1076 (Stats. 2019, ch. 578) added sections 851.93 and 1203.425, requiring the state Department of Justice (DOJ) to, beginning on January 1, 2021, review statewide criminal history records and, without requiring a petition or motion, grant automatic record relief to persons with arrests for a misdemeanor or felony punishable in the county jail that did not result in a conviction, as specified, and to persons with convictions who completed probation without revocation or who completed an infraction or misdemeanor sentence without probation, as specified. Persons granted relief are released from most penalties and disabilities resulting from the arrest or conviction, and courts, in turn, are generally prohibited from disclosing information on these arrests or convictions, as well as convictions granted relief under other specified dismissal statutes.

- Effective January 1, 2022, Assembly Bill 1281 (Stats. 2021, ch. 209) amended sections 1203.4, 1203.4a, 1203.4b, and 1203.425 to specify that dismissal of a pleading under these sections does not invalidate a protective order issued by the court in the underlying case, and that such an order remains in effect until the order expires or is modified by the issuing court, despite the dismissal of the underlying pleading.
- Effective September 29, 2022, Assembly Bill 160 (Stats. 2022, ch. 771) amended section 1203.4b to allow defendants who successfully participated at an institutional firehouse, as specified, to petition to have their qualifying convictions dismissed. Defendants granted relief are released from all penalties and disabilities resulting from their conviction.
- Effective January 1, 2023, Assembly Bill 1706 (Stats. 2022, ch. 387) amended Health and Safety Code section 11361.9 to require courts to issue an order granting relief under Health and Safety Code section 11361.8 for specified marijuana-related convictions, and to notify the state DOJ by March 1, 2023, in cases where the prosecuting agency did not challenge the granting of relief by July 1, 2020.²
- Effective January 1, 2023, Senate Bill 731 (Stats. 2022, ch. 814) amended section 1203.41 to allow defendants who have been convicted of a felony to petition for dismissal relief, as long as the conviction does not require registration as a sex offender; and commencing July 1, 2023, amended section 851.93 to extend automatic arrest record relief to persons who have been arrested for a felony, including a felony punishable in the state prison, as specified, and section 1203.425 to extend automatic conviction record relief to defendants convicted of a felony other than one for which the defendant completed probation without revocation, as specified.
- Effective January 1, 2023, Senate Bill 1106 (Stats. 2022, ch. 734) amended sections 17, 1203.4, 1203.4a, 1203.41, 1203.42, and 1203.45 to prohibit the denial of relief under these sections because of an unfulfilled order of restitution or restitution fine. Effective July 10, 2023, Assembly Bill 134 (Stats. 2023, ch. 47) amended section 1203.4b in the same manner.
- Effective January 1, 2023, Senate Bill 1260 (Stats. 2022, ch. 842) amended section 1203.41 to require an order granting relief under this section to specify that the order does not relieve the petitioner of the obligation to disclose the conviction on enrollment as a provider of in-home supportive services and “waiver personal care services.”

² Previously, effective January 1, 2019, Assembly Bill 1793 (Stats. 2018, ch. 993) added Health and Safety Code section 11361.9, which removed the burden of seeking relief for marijuana-related convictions from an eligible defendant and made it the responsibility of government agencies. Section 11361.9 required the state DOJ to identify past convictions potentially eligible for relief under Health and Safety Code section 11361.8 and notify the relevant prosecuting agency, which had until July 1, 2020, to challenge the granting of relief based on ineligibility or a perceived public safety risk. A court granting relief was required to notify the state DOJ, which in turn was required to update the defendant’s criminal information accordingly.

Based on this legislation, and also to avoid the use of gendered pronouns and make minor technical changes, the committee recommends that the council, effective January 1, 2024, revise the forms as described below.

Petition for Dismissal (form CR-180)

- Add a notice that the state DOJ may have already granted automatic relief under section 1203.425, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise item 5 to account for the expansion of dismissal relief under section 1203.41 to a petitioner who served a felony state prison sentence and whose conviction did not result in a requirement to register as a sex offender.
- Revise items 4, 7, and 9 to avoid the use of gendered pronouns.
- Eliminate the declaration under penalty of perjury from the signature line and specify in items 2c, 3b, 4, 5c, and 6 that either *Attachment* (form MC-025) or *Attached Declaration* (form MC-031) may be used if additional space is needed.
- Make minor technical changes: add court address box; rephrase items 2, 3, 5, and 6 for clarity; add printed name field to signature line.

Order for Dismissal (form CR-181)

- Combine items 5 and 6 as new item 5 and renumber subsequent items as needed.
- Revise new item 6 to account for statutory changes regarding the petitioner's disclosure requirements.³
- Add a notice provision as new item 8 stating that dismissal under section 1203.4 or 1203.4a does not release the petitioner from the terms and conditions of any unexpired criminal protective order, as specified.
- Add a notice provision as new item 11 stating that, except as provided in section 1203.425(a)(4), if the order is granted under section 1203.4, 1203.4a, 1203.41, or 1203.42, the court must not disclose information concerning the conviction except to the person whose conviction was granted relief or to a criminal justice agency.

³ As noted above, SB 1260 amended section 1203.41 to require an order granting relief under this section to specify that the petitioner must still disclose the conviction on enrollment as a provider of in-home supportive services and "waiver personal care services." This statutory provision came to the attention of the committee only after the rest of the proposal had already circulated for public comment. Because this additional notice language is a minor change needed to conform the order form to the statute, the committee is recommending it now even though it was not circulated. A recommendation for a minor substantive change unlikely to create controversy may be adopted without circulation for comment. (Cal. Rules of Court, rule 10.22(d).)

- Revise item 5 and new item 7 to avoid the use of gendered pronouns.
- Make minor technical changes: add court address box; revise introductory text before item 1.

Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-400)

- Add a notice that automatic relief may have already been granted, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise items 2 and 4 to avoid the use of gendered pronouns.
- Revise signature line to clarify that an attorney may sign.
- Make minor technical changes: revise title; add court address box; add numbering to items 1 and 2; add printed name field to signature line.

Proof of Service for Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-401)

- Make minor technical changes: revise title to conform to recommended new title of form CR-400; add court address box.

Prosecuting Agency Response to Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-402)

- Make minor technical changes: revise title to conform to recommended new title of form CR-400; add court address box; add instructions (“choose all that apply”); add numbering to check box items; add printed name field to signature line.

Order After Petition/Application Under Health and Safety Code Section 11361.8—Adult Crimes (form CR-403)

- Make minor technical changes: revise title to conform to recommended new title of form CR-400; add court address box; add numbering and clarifying instructions to items 1, 2, and 3; move location of check box in items 1, 2, 3, 5, and 6.

Petition to Seal Arrest and Related Records (form CR-409)

- Add a reference to *Information on How to File a Petition to Seal Arrest and Related Records* (form CR-409-INFO).
- Add a notice that automatic relief may have already been granted under section 851.93, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.

- Revise for clarity instructions on filling out case number and case name in upper right corner of page 1.
- Simplify and eliminate duplication in items 3e, 3f, and 3g.
- Add a check box to item 3f for the petitioner to indicate whether a prosecutor filed a case against the petitioner.
- Revise item 3h: rephrase instructions so that pro se petitioners are not deterred from requesting relief; add text to clarify when the interests-of-justice standard applies.
- Make minor technical changes: reorganize item 1 by separating attorney/petitioner fields and add text regarding address information; clarify instructions in items 2 and 3; add printed name field to signature line.

Information on How to File a Petition to Seal Arrest and Related Records (form CR-409-INFO)

- Add numbering to each question item, and reorder in a more logical fashion so that item 3 is new item 5, item 4 is new item 3, and item 5 is new item 4.
- Revise item 1 to clarify what records are eligible for sealing.
- Revise item 2 to include a reference to *Petition to Seal Arrest and Related Records* (form CR-409), clarify that form CR-409 is optional, and clarify that petitioners should try to provide as much information as they can.
- Revise new item 4 to provide more information on service.
- Revise new item 5 to clarify how courts determine eligibility for arrest sealing.
- Revise item 8 to state that automatic relief may have already been granted under section 851.93, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.

Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-430)

- Add a notice that automatic relief may have already been granted under section 1203.425, that filing a petition may be unnecessary if relief has already been granted, and that a DOJ RAP sheet may (but is not required to) be requested to confirm whether relief has already been granted.
- Revise title and language in items 1 and 2 to account for the expansion of relief under section 1203.4b to successful participants at an institutional firehouse.

- Remove declaration from signature line and specify in item 2 that either *Attachment* (form MC-025) or *Attached Declaration* (form MC-031) may be used if additional space is needed.
- Make minor technical changes: reorganize item 1 by separating petitioner/attorney and address fields.

Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-430-INFO)

- Revise item 3 to indicate that either *Attachment* (form MC-025) or *Attached Declaration* (form MC-031) may be used if additional space is needed.
- Add new item 4 to inform petitioners that the court cannot deny relief under section 1203.4b due to unpaid restitution or restitution fines; renumber subsequent items as appropriate.⁴
- Revise new item 9 to include information on form CR-431.
- Add a bullet to new item 13 that states that a dismissal will not release a petitioner from the terms and conditions of an unexpired criminal protective order that has not been modified or terminated by the court.
- Revise title and language in items 1 and 3 and new items 8, 9, 10, and 12 to account for the expansion of dismissal relief under section 1203.4b to successful participants at an institutional firehouse.

Court Cover Letter and Agency Certification—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-431)

- Revise title and language throughout to account for the expansion of dismissal relief under section 1203.4b to successful participants at an institutional firehouse.
- Revise form to clarify that court clerk should fill out request for certification.
- Revise form to include space for address of parent institution of conservation camp or institutional firehouse.⁵

⁴ The committee recommends this revision because, as anticipated in the invitation to comment, cleanup legislation was signed into law, effective July 10, 2023, amending section 1203.4b to provide that courts cannot deny relief under this section because of an unfulfilled or unpaid order of restitution or restitution fine. (See Judicial Council of Cal., Invitation to Com., *Criminal Procedure: Record Cleaning Forms* (SPR23-14), fn. 3, www.courts.ca.gov/documents/spr23-14.pdf; Assem. Bill 134 (Stats. 2023, ch. 47); Pen. Code, § 1203.4b(c)(4).)

⁵ The committee has confirmed that form CR-431 can be sent to the address currently on the form (the Camp Liaison Captain at the California Department of Corrections and Rehabilitation) or to the Classification and Parole Representative at the parent institution for the fire camp or firehouse that the petitioner was assigned to. Because this

Order on Petition—Incarcerated Individual Hand Crew or Institutional Firehouse Participant (form CR-432)

- Add a notice provision to item 3 stating that a petitioner may still be subject to the terms and conditions of any unexpired criminal protective order as specified.
- Revise title and language in items 1, 2, and 4 to account for the expansion of dismissal relief under section 1203.4b to successful participants at an institutional firehouse.
- Make minor technical changes: add numbering to items 2 and 3; rephrase item 3 for clarity.

Policy implications

This proposal furthers the council’s policy of ensuring access to justice for all litigants. Without updated forms that conform to statutory relief provisions and that are optimized for clarity and ease of use, pro se petitioners, in particular, may encounter difficulties in requesting criminal record relief or understanding the effect of relief granted.

Comments

This proposal circulated for comment from March 29 to May 12, 2023 as part of the regular spring comment cycle.⁶ Ten comments were received from a range of stakeholders: courts (Orange County and San Diego), the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC), public defenders, advocacy organizations (Neighborhood Legal Services of Los Angeles County, Root & Rebound, Legal Services for Prisoners with Children, Californians for Safety and Justice), and a bar association (Orange County). Six commenters agreed with the proposal, three agreed if modified, and one did not indicate a position but provided a specific suggestion regarding record cleaning forms. Although no commenters disagreed with the proposal, the advocacy organizations had feedback on some of the proposed revisions, as well as additional suggestions on how to make the forms easier to use and more comprehensible. As described below, the committee incorporated modifications to the revised forms based on the comments. A chart with all comments received and the committee’s responses is attached at pages 39–67.

was confirmed by the committee only after the rest of the proposal had already circulated for public comment, the committee is recommending this revision now even though it was not circulated. A recommendation for a minor substantive change unlikely to create controversy may be adopted without circulation for comment. (Cal. Rules of Court, rule 10.22(d).)

⁶ A proposal to revise forms CR-180, CR-181, CR-400, CR-409, and CR-409-INFO previously circulated for public comment in spring 2020. (See Judicial Council of Cal., Invitation to Com., *Criminal Procedure: Automatic Record Relief* (SPR20-10), www.courts.ca.gov/documents/spr20-10.pdf.) Those proposed revisions were to reflect the automatic record relief provisions from AB 1793 and AB 1076, which added Health and Safety Code section 11361.9 and Penal Code sections 851.93 and 1203.425, respectively. Comments were received, but the committee withdrew the proposal with the intention of reintroducing it at a later date after a trailer bill pushed back the operative date of key provisions of Penal Code sections 851.93 and 1203.425 to July 1, 2022. (See Sen. Bill 118 (Stats. 2020, ch. 29).) Comments suggesting the avoidance of gendered pronouns in forms CR-180 and CR-181 have been incorporated into the current proposal.

Forms CR-180, CR-181, CR-400, CR-401, CR-402 & CR-403—court address box

In response to the committee’s recommendation to add a court address box to the top of these forms, one commenter objected on the basis that this change could be confusing and create an additional barrier to filing. The committee declined to remove the address box, which is a standard item on Judicial Council forms, but is recommending that the “branch name” line be removed because it may be confusing and unnecessary.

Forms CR-180, CR-400, CR-409 & CR-430—note to petitioner regarding automatic relief

As to these four petition forms, two commenters suggested modifying the “note to petitioner” regarding automatic relief at the top of each form. Specifically, they suggested that the notice should more clearly (1) indicate that petitioning for relief might still be worthwhile even if automatic relief has been granted,⁷ and (2) state that it is not necessary to obtain a DOJ RAP sheet before filing the petition. The committee agreed with these suggestions and incorporated them into the recommended forms.

Forms CR-180 & CR-430—instruction regarding attachment forms

Based on its conclusion that the statutes underlying these petition forms do not require that the forms be submitted under penalty of perjury, in the invitation to comment, the committee proposed removing the declaration under penalty of perjury from the forms’ signature lines and replacing the forms’ references to *Attached Declaration* (form MC-031) (which is signed under penalty of perjury) with references to *Attachment* (form MC-025) (which is not under penalty of perjury).⁸ In response to these proposed revisions, one commenter noted that submitting materials under penalty of perjury can enhance a petitioner’s credibility (particularly as to petitions decided without a hearing), and suggested in part that forms CR-180 and CR-430 should continue to include a reference to form MC-031 as an optional attachment form. Another commenter thought that changing form CR-180 to only refer to form MC-025 might be confusing, and suggested that it would be preferable to inform petitioners that either attachment form can be used to supplement the petition. The committee agreed with these suggestions and incorporated them into the recommended forms.

Form CR-180—revisions for clarity and accuracy for relief under section 1203.41

One commenter suggested revising item 5c to more accurately reflect statutory requirements for relief. The committee agreed with this suggestion and incorporated it into the recommended form.

⁷ As to form CR-409, automatic arrest relief under Penal Code section 851.93 does not result in all of the same benefits as being granted relief after filing a petition under section 851.91; as to form CR-180, felony reduction relief under Penal Code section 17(b) is not part of automatic conviction relief under section 1203.425; and generally, DOJ-granted relief may not immediately be reflected in court records.

⁸ The committee did not propose in the invitation to comment and is not now recommending that a similar change be made to form CR-409 because the underlying statute, Penal Code section 851.91, requires that the petition be verified.

Form CR-181—notice provision

One commenter stated that, to the extent the notice provision in new item 6 instructs petitioners granted relief under sections 1203.4, 1203.41, and/or 1203.42 that they must still disclose the conviction for state licensure, the notice provision conflicts with recent occupational licensing reforms. The committee declined to modify or delete this aspect of the recommended notice provision because an order granting relief under these sections is statutorily required to include such language. (See Pen. Code, §§ 1203.4(a)(1), 1203.41(b)(2), 1203.42(b)(2).)

Form CR-409—revisions for clarity

One commenter suggested that the instructions on filling out the case number and case name fields in the upper right corner of page 1 should be revised for clarity and that item 3h should be revised to indicate when the interests-of-justice standard applies. Another commenter suggested revising item 3f to include a check box for the petitioner to indicate that a prosecutor filed a case against the petitioner. The committee agreed with these suggestions and incorporated them into the recommended form.

Form CR-409-INFO—revisions for clarity

One commenter suggested revising the information sheet to clarify what records are eligible for sealing, clarify the possibility of filing a petition with incomplete information, provide more information on service, and provide a clearer explanation of how courts decide whether to grant or deny a petition. Another commenter suggested providing more nuanced and accurate information on automatic arrest record sealing. The committee agreed with these suggestions and incorporated them into the recommended information sheet.

Form CR-430-INFO—information on court cover sheet

One commenter suggested that the information sheet should briefly explain the role of form CR-431. The committee agreed with this suggestion and incorporated it into the recommended information sheet.

Form CR-431—revisions for clarity

One commenter suggested that the form should clarify which sections are filled out by the court. The committee agreed with this suggestion and incorporated it into the recommended form.

Suggested substantive changes

The committee declined to incorporate the following suggestions into its recommendations at this time, viewing them as substantive changes to the proposal that would necessitate an additional public comment period and thereby delay consideration of the recommended forms for approval. The committee may consider these suggestions during a future proposal cycle:

- Forms CR-180, CR-409: remove blank space for an interests-of-justice argument by the petitioner because these spaces falsely suggest that a petitioner can provide a useful or complete argument in support of the petition in the limited space provided.
- Forms CR-181, CR-403: add space for judges to list their reasons for denying relief.

- Form CR-181: revise the form to combine dismissal and reduction relief (e.g., a single check box that states: “The court grants the petition for dismissal and grants the petition for reduction”).
- Forms CR-430-INFO: add information for petitioners about potential benefits of including a statement signed under penalty of perjury.
- Create an information sheet for form CR-180.
- Create a new single sheet cover page for form CR-180 for attorneys who are filing for dismissal relief, early termination of probation, and/or felony reduction on behalf of clients.

Alternatives considered

Because the proposed form revisions relating to the expansion of relief under Penal Code sections 1203.4b and 1203.41 are based on statutory changes, the committee viewed these revisions as necessary and did not consider other alternatives.

Although the committee considered not updating the forms with notice provisions regarding automatic record relief, limitations on disclosure, and the effect of relief on unexpired criminal protective orders, the committee determined that this information would be useful and potentially save time and resources for courts and petitioners.

The committee considered making no changes to the signature line in form CR-180 (which currently requires the petitioner to declare under penalty of perjury that the information provided is true and correct) and adding penalty of perjury language to the signature line in form CR-430 (which currently requires the petitioner to state that the information provided is true or believed to be true but does not include penalty of perjury language). Instead, however, the committee concluded that the attestation clause in both forms should be eliminated because (1) the underlying dismissal statutes do not require the request for relief to be verified or submitted under penalty of perjury,⁹ and absent a statutory mandate, verification should not be required

⁹ See Pen. Code, §§ 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, 1203.49. Under section 1203.43, if court records showing the case resolution are no longer available and a defendant submits a declaration under penalty of perjury stating that the charges were dismissed, the court must presume the truth of the declaration, provided that the defendant also submits a copy of the defendant’s state summary criminal history information (SCH). However, the defendant is not *required* to submit a declaration under penalty of perjury; the statute merely provides that a court must presume any such declaration to be true under specified circumstances. The current version of form CR-180 accounts for this statutory provision in item 7b by including a box where the defendant may declare under penalty of perjury that the charges were dismissed and indicate whether the state SCH is attached.

Additionally, under section 1203.4a(f), a petition for dismissal of an infraction must be by “written declaration, except upon a showing of compelling need.” Because section 1203.4a(f) does not expressly require the written declaration to be sworn or under oath (i.e., an affidavit), or under penalty of perjury, the committee interpreted this provision as aimed toward eliminating the need for an in-person hearing rather than imposing a verification requirement. (Compare § 1203.4a(f) [referring to a “written declaration”] with §§ 1203.43(b), 1269c, 18140 [referring to a declaration “under penalty of perjury”] and with § 851.91(b)(1)(A), (E)(vii) [requiring petition and

because it is an exception to general pleading practice and an additional burden to the petitioner; (2) the underlying dismissal statutes outline a procedure that includes notice to the prosecuting attorney and thus contemplates an adversarial hearing at which issues regarding the admissibility or reliability of a petitioner’s statements of fact (or other supporting evidence) can be addressed;¹⁰ and (3) when possible, courts can and do independently verify relevant case information.

Fiscal and Operational Impacts

Expected costs are limited to training, possible case management system updates, and the production of new forms. As to forms CR-409 and CR-409-INFO, the Judicial Council was required by law to develop these forms and to translate them into four languages, so revisions to these forms would require modest translation costs. No other implementation requirements or operational impacts are expected.

Attachments and Links

1. Proposed forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432, at pages 14–37
2. Chart of comments, at pages 38–66
3. Link A: Assem. Bill 1076 (Stats. 2019, ch. 578),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1076
4. Link B: Assem. Bill 1281 (Stats. 2021, ch. 209),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1281
5. Link C: Assem. Bill 160 (Stats. 2022, ch. 771),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB160
6. Link D: Assem. Bill 1706 (Stats. 2022, ch. 387),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1706
7. Link E: Assem. Bill 1793 (Stats. 2018, ch. 993),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1793
8. Link F: Sen. Bill 731 (Stats. 2022, ch. 814),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB731
9. Link G: Sen. Bill 1106 (Stats. 2022, ch. 734),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1106

any accompanying declarations to be “verified”]; see also *Security Pacific National Bank v. Wozab* (1990) 51 Cal.3d 991, 998 [inserting language not used by the Legislature into a statute “would violate the cardinal rule of statutory construction that courts must not add provisions to statutes”]; Code Civ. Proc., § 1858 [“In the construction of a statute or instrument, the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted. . . .”].) This accords with the general principle that procedural requirements and rights are sometimes less rigorous where infractions are concerned. (See *People v. Carlucci* (1979) 23 Cal.3d 249, 257 [“it is in the interests of the defendant, law enforcement, the courts, and the public to provide simplified and expeditious procedures for the adjudication of less serious traffic offenses”]; Pen. Code, § 19.6.)

¹⁰ Although a petition for dismissal of an infraction must be by “written declaration, except on a showing of compelling need,” in such petitions, the prosecuting attorney must still be given notice as specified—and there is thus still an opportunity for the prosecution to object to the defendant’s request for relief. (Pen. Code, § 1203.4a(f).)

10. Link H: Sen. Bill 1260 (Stats. 2022, ch. 842),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1260
11. Link I: Assem. Bill 134 (Stats. 2023, ch. 47),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB134
12. Link J: Pen. Code, § 851.93,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=851.93.&nodeTreePath=5.5.7&lawCode=PEN
13. Link K: Pen. Code, § 1203.425,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.425.&nodeTreePath=5.10.1&lawCode=PEN
14. Link L: Pen. Code, § 1203.4,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4.&nodeTreePath=5.10.1&lawCode=PEN
15. Link M: Pen. Code, § 1203.4a,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4a.&nodeTreePath=5.10.1&lawCode=PEN
16. Link N: Pen. Code, § 1203.4b,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4b.&nodeTreePath=5.10.1&lawCode=PEN
17. Link O: Health & Saf. Code, § 11361.9,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11361.9.&lawCode=HSC
18. Link P: Health & Saf. Code, § 11361.8,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11361.8.&nodeTreePath=12.6.2&lawCode=HSC

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

Note to petitioner: Your conviction may have already been automatically dismissed by the California Department of Justice (DOJ) under Penal Code section 1203.425. If so, this petition may be unnecessary—but there may be additional benefits to filing it with the court, including felony reduction under Penal Code section 17(b). If you want to know if your conviction has already been dismissed, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ, but this is not required.

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 of judgment for the following offenses:

Code (Penal, Vehicle, etc.)	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, on probation for any offense, or currently charged with committing 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 may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

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

Probation was not granted; more than one year has elapsed since judgment was pronounced. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or currently charged with committing 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;
or
- b. ☐ should be granted relief in the interests of justice. (Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

4. ☐ **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**

Petitioner has completed a term of probation for a conviction under Penal Code section 647(b) and should be granted relief because the conviction was the result of petitioner's status as a victim of human trafficking.

(Please provide evidence that the conviction was the result of your status as a victim of human trafficking. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

5. ☐ **Felony county jail sentence under Penal Code section 1170(h)(5) or felony state prison sentence (Pen. Code, § 1203.41)**

Petitioner is not on parole or under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or currently charged with committing any crime; 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).
- 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).
- c. ☐ more than two years have elapsed since petitioner completed the felony state prison sentence, and the conviction did not result in a requirement to register as a sex offender under Chapter 5.5 (starting with section 290) of Title 9 of Part 1 of the Penal Code.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

6. ☐ **Felony prison sentence that would have been eligible for a felony county jail sentence after 2011 under Penal Code section 1170(h)(5) (Pen. Code, § 1203.42)**

Petitioner is not under supervision and is not serving a sentence for, on probation for, or **currently** charged with **committing any crime**; more than two years have elapsed since petitioner completed the felony prison sentence; and petitioner should be granted relief in the interests of justice.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

7. ☐ **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 former Penal Code section 1000.3 on (date): . Furthermore (check one),

a. ☐ court records are available showing the case resolution; **or**

b. ☐ petitioner declares under penalty of perjury that the charges were dismissed after **petitioner** completed the requirements for deferred entry of judgment. Petitioner (check one)

(1) ☐ has

(2) ☐ has not

attached a copy of **petitioner's** state summary criminal history information.

8. 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).

9. Petitioner requests that **petitioner** be permitted to withdraw the plea of guilty, 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 the Penal Code section(s) noted above.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)	CASE NUMBER:

From the petition filed in this matter, the records of the court, and any other evidence presented in this matter, the court orders as follows:

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
 - a. ☐ ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. ☐ 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
 - a. ☐ ALL FELONY CONVICTIONS in the above-entitled action.
 - b. ☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.
 - c. ☐ 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 (*check all that apply*)
☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.42 ☐ § 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*)
 - a. ☐ ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
 - b. ☐ 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*):

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

4. ☐ The court **DENIES** the petition for dismissal under Penal Code (*check all that apply*)
☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.42 ☐ § 1203.43 ☐ § 1203.49 for (*check one*)
a. ☐ ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.
b. ☐ 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*):
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 **petitioner** committed the crime.
a. The court orders (*check one*):
(1) ☐ the relief described in section 1203.4.
(2) ☐ the relief described in section 1203.4, with the following exceptions (*specify*):
b. The Department of Justice is hereby notified that **petitioner** was a victim of human trafficking when **petitioner** committed the crime, and **notified** of the relief ordered.
6. If this order is granted under the provisions of Penal Code section 1203.4, 1203.41, or 1203.42,
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, under Penal Code section 1203.41, for licensure by a federally recognized tribe or for enrollment as a provider of in-home supportive services and "waiver personal care services" (see Welf. & Inst. Code, §§ 12300–12318, 14132.95, 14132.952, 14132.956, 14132.97)), 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 this order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41, 1203.42, 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 **their** control a firearm if prevented by Penal Code section 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.
8. Dismissal under Penal Code section 1203.4 or 1203.4a does not release petitioner from the terms and conditions of any unexpired criminal protective order issued under Penal Code section 136.2(i)(1), 273.5(j), 368(f), or 646.9(k).
9. In addition, as required by Penal Code section 299(f), relief under Penal Code section 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 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 **petitioner's** prior plea due to misinformation in former Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.
11. Notice: Except as provided in Penal Code section 1203.425(a)(4), if this order is granted under Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, the court must not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or to a criminal justice agency.

FOR COURT USE ONLY

Date:



(JUDICIAL OFFICER)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES <input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

Note to petitioner/applicant: Your conviction may have already been automatically dismissed or redesignated. If so, this petition/application may be unnecessary—but there may be additional benefits to filing it with the court. If you want to know if your conviction has already been dismissed or redesignated, you can request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice, but this is not required.

1. CONVICTION INFORMATION (check all of the Health and Safety Code sections that apply)

- a. ☐ 11357 - Possession of Marijuana
- b. ☐ 11358 - Cultivation of Marijuana
- c. ☐ 11359 - Possession of Marijuana for Sale
- d. ☐ 11360 - Transportation, Distribution, or Importation of Marijuana
- e. ☐ 11362.1 - Personal Use of Marijuana

2. REQUEST (check all that apply)

- a. ☐ PETITION: Petitioner is currently serving a sentence in the above-captioned case and now requests that the court recall and resentence or dismiss the conviction.
- b. ☐ APPLICATION: Applicant has completed the sentence in the above-captioned case and now requests that the court redesignate or dismiss and seal the conviction.

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

- ☐ Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE

- ☐ Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without petitioner/applicant's appearance.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER/APPLICANT OR ATTORNEY)

Proof of Service for Petition/Application under Health and Safety Code Section 11361.8—Adult Crimes (form CR-401)
 may be used to provide proof of service of this petition/application.

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PROOF OF SERVICE FOR PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES Method of Service (only one): <input type="checkbox"/> Personal Service <input type="checkbox"/> Mail	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

1. Person serving: I am over the age of 18 and **not a party to this action.**
 - a. Name:
 - b. Residence or Business Address:
 - c. Telephone:
2. I served a copy of the **Petition/Application under Health and Safety Code Section 11361.8—Adult Crimes** on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date Served:
 - d. Time Served: ☐ AM ☐ PM
3. The documents were served by the following means (*specify*):
 - a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*)
 - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

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

Date:



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
PROSECUTING AGENCY RESPONSE TO PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

PROSECUTING AGENCY RESPONSE (choose all that apply):

1. ☐ The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.
2. ☐ The prosecuting agency requests a hearing and objects to the granting of the petition/application because
 - a. ☐ petitioner/applicant was not convicted of an eligible offense.
 - b. ☐ Other:
3. ☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
4. ☐ The prosecuting agency does not object to petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated:

 (TYPE OR PRINT NAME)


 SIGNATURE OF PROSECUTING ATTORNEY

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:

CASE NUMBER:

**PROOF OF SERVICE
FOR PROSECUTING AGENCY RESPONSE
Method of Service (only one):**

☐ **Personal Service**☐ **Mail**

1. Person serving: I am over the age of 18 and **not a party to this action**.
 - a. Name:
 - b. Residence or business address:
 - c. Telephone:
2. I served a copy of *Prosecuting Agency Response to Petition/Application* under Health and Safety Code section 11361.8—**Adult Crimes** on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date served:
 - d. Time served: ☐ AM ☐ PM
3. The documents were served by the following means (*specify*):
 - a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*)
 - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

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 OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
ORDER AFTER PETITION/APPLICATION UNDER HEALTH AND SAFETY CODE SECTION 11361.8—ADULT CRIMES <input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY DATE: TIME: DEPARTMENT:

From the petition/application filed in this matter, the records of the court, and any other evidence presented in this matter, the court orders as follows:

1. ☐ **RESENTENCING GRANTED.**

The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime and enters the following additional orders:

- a. ☐ The following crime is resentenced as ☐ misdemeanor ☐ infraction
(specify crime; more than one may be listed):
- b. ☐ The following sentence is imposed for the commission of the crime:
- c. ☐ The petitioner is given credit for time served of (number of days):
- d. ☐ Petitioner is required to complete a period of supervision of: months days
☐ parole ☐ postrelease community supervision ☐ mandatory supervision (Pen. Code, section 1170(h))
☐ formal probation ☐ informal probation
- e. ☐ The court releases the petitioner from any form of postconviction supervision.
- f. ☐ The court **DISMISSES** the following crime for the reason that the conviction is legally invalid:
- g. ☐ Other:

2. ☐ **REDESIGNATION GRANTED.**

The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime and enters the following additional orders:

- a. ☐ The following crime is redesignated as ☐ misdemeanor ☐ infraction
(specify crime; more than one may be listed):
- b. ☐ The court **DISMISSES** the following crime for the reason that the conviction is legally invalid (specify crime; more than one may be listed):
- c. ☐ Other:

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

3. ☐ **RESENTENCING/REDESIGNATION DENIED.**

The petitioner/applicant is ineligible for the requested relief. The request for resentencing, redesignation, dismissal, or sealing is **DENIED** as to crime: for the following reasons:

- a. ☐ The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
- b. ☐ The petitioner's/applicant's age at the time the crime was committed makes petitioner/applicant ineligible for the requested relief.
- c. ☐ The nature of the marijuana substance constituting the basis of the crime makes petitioner/applicant ineligible for the requested relief.
- d. ☐ The quantity of the marijuana substance constituting the basis of the crime makes petitioner/applicant ineligible for the requested relief.
- e. ☐ Although petitioner is eligible for relief, for reasons stated on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
- f. ☐ Other:

4. **MISDEMEANOR/INFRACTION FOR ALL PURPOSES**

Any misdemeanor resentenced as an infraction as a result of this order will thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction will be a misdemeanor or infraction for all purposes.

5. ☐ **REGISTRATION.** The petitioner/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code section 11590.6. ☐ **SEALING OF CONVICTION.** The court's record of conviction is ordered sealed. No access to the information shall be permitted without court order.**IT IS SO ORDERED.**

Date:

JUDICIAL OFFICER

Before using this form, read *Information on How to File a Petition to Seal Arrest and Related Records* (form CR-409-INFO), available at www.courts.ca.gov/forms.

Note to petitioner: If your arrest did not result in a conviction and meets certain other conditions, you may have already been granted automatic arrest record relief by the California Department of Justice (DOJ) under Penal Code section 851.93. A petition to seal may be unnecessary if the DOJ has granted automatic relief—but there may be additional benefits to filing a petition with the court. If you want to know if you have already been granted relief, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ, but this is not required.

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Fill in the name and street address of the court that you are filing the petition in:

Superior Court of California, County of

If charges were filed against you and there is a court case associated with your arrest, fill in the case number and case name below. You do not need to fill out the boxes if an arrest happened but no criminal complaint was filed or charged in court:

Trial Court Case Number:

Trial Court Case Name:

People of the State of California
v.

1 Petitioner's Information

- a. Your Full Name: _____
Date of birth: _____ (mm/dd/yyyy)
Your Lawyer (if you have one for this case):
Name: _____ State Bar No.: _____
Firm Name: _____

- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead.)

Street: _____
City: _____ State: _____ Zip: _____
Telephone: _____
Email Address: _____

2 Notice of Court Hearing (clerk fills out section below)

A court hearing is scheduled on this petition as follows:

**Hearing
Date**

→ Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court if different from above:

If an interpreter is needed, please specify the language: _____

3 Information About Your Case (provide as much information as you can)

- a. Date of the arrest you are requesting to be sealed: _____ (mm/dd/yyyy)
b. Where did the arrest happen? Include the city and county: _____
c. What law enforcement agency made the arrest? If it was a police department, include the city (for example, ABC City Police Department). If it was a county sheriff, list the county (for example, XYZ County Sheriff): _____
d. What is the arrest report number or police report number, if available? _____

- 3
- e. What were the offenses for which you were arrested (for example, Penal Code section 242 for battery)?
- f. ☐ The prosecutor filed a case against me (check if true).

If checked, what were the charges the prosecutor filed (for example, Penal Code section 242 for battery)?
- g. If you would like to explain the information provided, please do so below, or complete and attach *Attached Declaration* (form MC-031) or submit other relevant documents.
- h. Check any box that applies:

☐ I am entitled to have this arrest (the arrest described in 3 of this petition) sealed as a matter of right because the arrest did not result in a conviction, and I satisfy the requirements of Penal Code section 851.91.

☐ I am requesting to have the arrest sealed in the interests of justice. (Relief is unavailable as a matter of right if the arrest was for domestic violence, child abuse, or elder abuse, and petitioner’s record shows a “pattern” of arrests and/or convictions for the same type of offense.) (Pen. Code, § 851.91(c)(2)(A).) (Describe below how this is in the interests of justice. In deciding whether to grant this request, the court may consider any important factors, including hardship and difficulties caused by the arrest; statements or evidence regarding your good character; statements or evidence regarding the arrest; your record of convictions; or any other important factors. You may provide statements or evidence from you, from others, or both.)

Please attach any additional signed and dated statements with the petition. Additional statements from you should be submitted on the *Attached Declaration* (form [MC-031](#)).

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: _____

Type or print your name



Signature of Petitioner or Attorney

This information sheet does not cover all of the questions that may arise in a case. Do *not* deliver this information sheet to the court clerk.

1 What is a petition to seal arrest and related records?

The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. You may ask the court to seal an arrest that did not result in a court case, or to seal an arrest that resulted in a court case—as long as the case did **not** result in a conviction. If you are requesting sealing for more than one arrest, you must file a separate petition for each arrest.

2 What information do I include in the petition?

Refer to *Petition to Seal Arrest and Related Records* (form CR-409) to see what information must be included in your petition. Because form CR-409 is an optional form, you may fill out the form or you may write your own petition.

You should carefully fill out all parts of form CR-409 or, if writing your own petition, include the same information as in the form. The court may deny your filing if you provide incomplete information, so provide as much information as you can.

3 What do I do with the petition once I fill it out?

If a criminal case was filed based on the arrest you want to have sealed, take or mail this petition to the clerk's office in the court where the case was filed.

If no criminal case was filed or charged against you, take or mail this petition to the clerk's office in the court that handles criminal matters for the city or county where the arrest happened. If you don't know which court this is, you may want to contact a court in the county to ask.

The clerk will give you a court date for the hearing, which should be at least 15 days from the date you file the petition. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

4 Must anyone else get the petition?

A copy of the petition must be served (delivered by hand, by mail, or electronically) on the prosecutor of the city or county where the arrest happened *and* the law enforcement agency that made the arrest, at least 15 days before the hearing on the petition. You can serve the petition by:

- **Personal service:** You or another person over age 18 go in person to hand-deliver a copy of the petition to the prosecuting attorney's office and to the law enforcement agency during business hours by handing it to an employee. Be sure to get the name of the employee for your proof of service.
- **Service by mail:** Mail a copy of the petition to the prosecuting attorney's office and to the law enforcement agency. You may mail the petition by first-class mail or by certified mail with a return receipt requested.
- **Electronic service:** Contact the prosecuting attorney's office and the law enforcement agency to see if they accept electronic service. If they do, the court may require proof of their consent to electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV), available at www.courts.ca.gov/forms.

After you have served the petition on the prosecutor and the law enforcement agency, you will need to file a "proof of service" with the court. You may use *Proof of Service—Criminal Record Clearing* (form CR-106), available at www.courts.ca.gov/forms.



5 How will the court make its decision?

The court will first determine if you are eligible to have your arrest sealed. You are **not** eligible and the court will **deny** your petition for arrest sealing if any of the following is true:

- Your arrest resulted in a conviction;
- You may still be charged with any of the offenses upon which the arrest was based;
- The arrest or case was filed for murder or any other offense for which there is no statute of limitations (except if you have been acquitted or found factually innocent); or
- You intentionally evaded law enforcement efforts to prosecute the arrest, including by engaging in identity fraud.

If none of the above is true, then the court will look at your arrest and your criminal record history (if any). In most types of cases, the court must seal your arrest **as a matter of right**—meaning that the court is required to **grant** your petition.

However, if your arrest was based on an offense involving domestic violence, child abuse, or elder abuse, and if your record demonstrates a “pattern” of arrests or convictions for the same type of offense, then the court can only seal your arrest **in the interests of justice**—meaning that the court may, but does not have to, grant your petition. The court will decide whether to seal your arrest in the interests of justice based on any relevant factors, including whether you have shown that the arrest has caused you hardship, whether you submitted declarations or evidence regarding your good character, declarations or evidence regarding the arrest, and your record of convictions (if any).

6 What happens if the court grants my petition (request)?

If the court grants the petition, it will send a copy of the order to law enforcement and the California Department of Justice to update the arrest record, noting that the arrest is sealed. Records that are sealed under the court’s order will not be disclosed except to you or a criminal justice agency (which includes courts, peace officers, prosecuting attorneys, city attorneys pursuing specific actions, defense attorneys, probation officers, parole officers, and correctional officers). Criminal history providers may disclose information to other criminal history providers. For more information, see Penal Code section 851.92.

7 Are translations of the petition available?

Translations of the petition are available in Spanish, Chinese, Vietnamese, and Korean at the California Courts website at www.courts.ca.gov/forms.htm.

8 Are there other ways to seal or limit arrest records?

Yes. If your arrest did not result in a conviction and meets certain other conditions, you may have already been granted automatic arrest record relief by the California Department of Justice (DOJ) under Penal Code section 851.93. A petition to seal may be unnecessary if the DOJ has granted automatic relief—but there may be additional benefits to filing a petition with the court. If you want to know if you have already been granted relief, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ—but this is not required to file a petition.

You may **also** request the court to deem an arrest a detention under Penal Code section 849.5; request a determination of factual innocence under section 851.8; receive an acquittal and a determination of factual innocence under section 851.85; have your conviction set aside based on a determination of factual innocence under section 851.86; and request relief after completion of a prefiling diversion program under section 851.87.

Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant

Clerk stamps date here when form is filed.

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the Judicial Council

Before using this form, read *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant* (form CR-430-INFO), available at www.courts.ca.gov/forms.

A copy of this petition must be served on the prosecuting attorney and a proof of service must be filed with the court (you may use *Proof of Service* (form CR-106), available at www.courts.ca.gov/forms).

Note to petitioner: Your conviction may have already been automatically dismissed by the California Department of Justice (DOJ) under Penal Code section 1203.425. If so, this petition may be unnecessary—but there may be additional benefits to filing it with the court. If you want to know if your conviction has already been dismissed, you can request your Record of Arrest and Prosecution (RAP) sheet from the DOJ, but this is not required.

Fill in court name and street address:

Superior Court of California, County of

People of the State of California v.
Defendant:

Case Number:

For Court use only:

Date:

Time:

Department:

1 Petitioner's Information

a. Your Full Name: _____

Date of birth: _____ (mm/dd/yyyy)

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

Local Identifying Number (if known): _____

CDCR No. (while in fire camp or institutional firehouse, if known): _____

Name of fire camp or institutional firehouse (if known): _____

Approximate dates in fire camp or institutional firehouse (if known): _____ to _____
(month/year) (month/year)

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead.)

Street: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Email Address: _____

2 Eligibility for relief under Penal Code section 1203.4b

- a. Petitioner was not convicted of any of the following offenses: murder; kidnapping; rape (as defined in Penal Code section 261(a)(2), (a)(6), or Penal Code section 262(a)(1), (a)(4)); lewd acts on a child under 14 years of age (as defined in Penal Code section 288); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration under Penal Code section 290; escape from a secure perimeter within the previous 10 years; or arson.



2 b. While serving a sentence in this case, petitioner successfully participated as a member of (*check one*):

(1) ☐ An incarcerated individual hand crew in the California Conservation Camp program (fire camp operated by the California Department of Corrections and Rehabilitation);

(2) ☐ An incarcerated individual hand crew in a county fire camp program
(*name of county*): _____; or

(3) ☐ An institutional firehouse (*name of institution*): _____.

c. Petitioner adequately performed the hand crew or institutional firehouse duties and did not engage in any conduct that warranted removal from the program.

d. Petitioner has been released from custody and has no pending criminal charges.

e. In this case number: _____, petitioner is currently (*check one*):

☐ on probation ☐ on parole ☐ on supervised release ☐ not on supervision.

f. ☐ Petitioner requests early termination of: ☐ probation ☐ parole ☐ supervised release.

g. Petitioner requests permission 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 that the court dismiss this action in its discretion and in the interests of justice under Penal Code section 1203.4b.

(Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attachment (form MC-025) or Attached Declaration (form MC-031) (which is signed under penalty of perjury) and attach it to this petition.)

Date: _____

Type or print your name

▶ _____
Signature of Petitioner or Attorney

Penal Code section 1203.4b allows eligible former inmates to ask the court to dismiss a conviction and take other actions that can improve their criminal record (“record clearing”).

Read this information carefully to learn whether you may be eligible for § 1203.4b relief, and how to complete *Petition for Dismissal—Incarcerated Individual Hand Crew or Institutional Firehouse Participant* (form CR-430) to request relief. (Form CR-430 is available at www.courts.ca.gov/forms.)

1 Who is eligible to apply for relief under Penal Code § 1203.4b?

You must meet ALL of these requirements to be eligible to apply (petition) for relief under § 1203.4b:

- a. You were incarcerated in state prison or county jail.
- b. While in state prison or in county jail, you successfully participated as a hand crew member (“grade eligible”) in a California Conservation Camp program operated by the California Department of Corrections and Rehabilitation (CDCR);

OR

While in county jail, you successfully participated in an incarcerated individual fire camp hand crew program operated by a county agency (for example, the sheriff’s department);

OR

While incarcerated, you successfully participated at an institutional firehouse.

- c. You have been released from custody (i.e., you are not in state prison or county jail).
- d. You are not currently charged with committing any offense.

NOTE: You are NOT eligible for Penal Code section 1203.4b relief if your conviction was for any of these offenses: murder; kidnapping; rape (as defined in Penal Code section 261(a)(2), (6) or 262(a)(1), (4)); a violation of Penal Code section 288 (specified sex offenses); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration under Penal Code section 290; escape from a secure perimeter within the previous 10 years; or arson.

2 I’m still on probation, parole, or supervised release. Can I apply for § 1203.4b relief now?

- Yes, you can still petition for a § 1203.4b dismissal even if you are on a term of probation, parole, or supervised release. The law says that you are *not* required to complete your term of supervision before you can ask the court to dismiss your conviction.
- If you are still on a term of supervision and have not violated any terms or conditions of your supervision, and the court grants your petition for a § 1203.4b dismissal, the court will also order early termination of supervision.

3 What information do I need to include on my petition?

Form CR-430 is the form for requesting § 1203.4b relief. It is available at www.courts.ca.gov/forms. You do not have to use form CR-430 for your petition, but it helps organize the information for the court.

You will need to file a separate petition for each case. You will need to list on your petition:

- The case number; and
- Your local identifying number (if any, and if known).

It is helpful to provide details about your participation in a CDCR fire camp or an institutional firehouse program:

- The CDCR number you had while participating in fire camp or an institutional firehouse;
- The name of the fire camp or institutional firehouse; and
- The approximate dates that you were in fire camp or at an institutional firehouse.

For example: CDCR No. TK12345;

Eel River Camp, August–November, 2020

You are *not* required by law to provide this information in your petition. It can help speed up the court’s decision on your request by making it easier for CDCR to locate and confirm your participation in fire camp or an institutional firehouse and report back to the court.

Tip: If you were a county jail inmate and participated in a fire camp, it is *very likely* the fire camp was operated by CDCR. You would have been given a CDCR number during your time in fire camp.



You may also explain why granting a dismissal would be in the interests of justice. You can write in the allotted space on the form, or you can use either *Attachment* (form MC-025) or *Attached Declaration* (form MC-031) (which is under penalty of perjury). Both are available at www.courts.ca.gov/forms.

4 I still owe a restitution fine in my case. Can I apply for § 1203.4b relief now?

Yes. The law says the court cannot deny § 1203.4b relief because of unpaid restitution and fines.

5 Where and how do I file my § 1203.4b petition with the court?

a. You must file your petition with the court. File in the county where you were sentenced for the conviction you want the court to dismiss.

First, check with the court clerk or check the court's website to see whether there are any local rules about filing and service of the petition, as well as how to obtain proof of filing.

- In many counties, you must serve the original § 1203.4b petition with the court, have the court file-stamp one copy, and then you must serve the file-stamped copy of the petition on the prosecuting attorney.
 - If you “file first,” as described in b. and c. below, the court has a chance to add a hearing date to the petition before you serve it.
 - Some courts require you to first serve *a copy* of the § 1203.4b petition on the prosecuting attorney and *then* file the original petition with the court, together with a completed and signed proof of service. (See **6** and **7** for information on service and proof of service.)
- b. Fill out petition form CR-430, *and make at least two copies*. You will use one copy to notify the prosecuting attorney. Be sure to keep the other copy for your own records.
- c. File the original § 1203.4b petition with the court by:
- Taking the original petition and a copy to the court in person and handing it to the court clerk; *or*
 - Mailing the petition and a copy to the court; *or*

- Filing the petition electronically, if the local court rules permit this type of filing.

d. When the court files the original petition, ask the court clerk to file-stamp the copy of the petition and return it to you. *This is an important step because, in many counties, the file-stamped copy must be served on the prosecuting attorney.* If you file the petition by mail, include the copy for the court clerk to file-stamp and then return to you. Include a self-addressed, stamped envelope for the clerk to use to mail the file-stamped copy back to you.

6 How do I “serve” a copy of my § 1203.4b petition on the prosecuting attorney?

- a. “Serving” a petition means delivering a copy of the petition to the prosecuting attorney.
- b. You must serve a copy of your § 1203.4b petition on the prosecuting attorney in the county where you filed your petition with the court.
- c. You can serve the petition by:
- **Personal service:** You *or another person over age 18* go in person to hand-deliver a copy of the petition to the prosecuting attorney's office during business hours by handing it to an employee. Be sure to get the name of the employee for your proof of service.
 - **Service by mail:** Mail a copy of the petition to the prosecuting attorney's office. You may mail the petition by first-class mail or by certified mail with a return receipt requested.
 - **Electronic service:** Contact the prosecuting attorney's office to see if they accept electronic service. If they do, the court may require proof of their consent to electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV), available at www.courts.ca.gov/forms.

7 How do I prove that I served my § 1203.4b petition on the prosecuting attorney?

- a. It is very important that you properly serve your § 1203.4b petition and then file proof with the court. This “proof of service” tells the court that you gave the prosecuting attorney the required notice of your § 1203.4b petition.
- b. You will need to confirm that you served the petition by filing a proof of service form that describes who, when, where, and how you served your § 1203.4b petition. You can use *Proof of Service—Criminal Record Clearing* (form CR-106) for this purpose.
- c. Fill out form CR-106. (Follow the directions on form CR-106-INFO. Both forms are available at www.courts.ca.gov/forms). Form CR-106 has spaces for you to write how you served the prosecuting attorney with your § 1203.4b petition. If you had someone else help you serve the petition on the prosecuting attorney, that person will have to fill out the proof of service form.
- d. After filling out the proof of service (form CR-106), make a copy for you to keep.
- e. You must file the original proof of service with the court to prove that you gave the prosecuting attorney the required notice of your § 1203.4b petition. You can file the proof of service form the same way you filed the petition.

8 What happens next?

- a. **The court can consider your petition 15 days after you serve the prosecuting attorney with your petition. The prosecuting attorney can object to your petition at any time before the court grants or denies the petition.**
- b. If the prosecuting attorney does object, you will receive a copy of the objection in the mail and the court will schedule a hearing. (See 11 for more information about the hearing.)
- c. Before the court can grant your § 1203.4b petition, the court must get certification of your participation in fire camp or an institutional firehouse from CDCR or the appropriate county authority.

9 What is “certification” by CDCR or the appropriate county authority?

- a. In order for the court to decide whether to grant your § 1203.4b petition, the court must have “certification” from CDCR or the county authority that:
 - You successfully participated in fire camp as a hand crew member or at an institutional firehouse; AND
 - You participated in fire camp or an institutional firehouse during the time you were incarcerated for the conviction you are asking the court to dismiss.
- b. When you file your § 1203.4b petition, include a copy of form CR-431. You should fill out personal information on the form that you also included on form CR-430, but the court will fill out the rest. The court will then send the forms to CDCR or the appropriate county authority to ask for confirmation (“certification”) of your successful participation in fire camp or an institutional firehouse.
- c. “Successful participation” in fire camp or an institutional firehouse means that you adequately performed your duties and did not have any violations that could have led to your removal from fire camp or the institutional firehouse.

10 When will the court make a decision?

- a. The court will not make a decision until it hears from CDCR or the appropriate county agency certifying participation.
- b. The law does not set a time frame, but the court may ask CDCR or the appropriate county authority to respond to a request for certification by a certain date.
- c. After CDCR or the appropriate county authority certifies whether your participation in fire camp or an institutional firehouse was successful, the court likely will contact you and the prosecuting attorney. But the law does not require the court to contact you, so you may want to check with the court to confirm that the certification has been received.

11 Will I have to attend a hearing?

- a. The law does not *require* the court to hold a hearing in order to make a decision on your § 1203.4b petition. The court can make a decision on your petition without holding a hearing. But the law allows the court to hold a hearing if it chooses to do so.
- b. The law allows the prosecuting attorney to request a hearing and to ask the court to deny your § 1203.4b petition.
- c. If the court schedules a hearing, you will be notified of the hearing date and time. You have a right to attend the hearing and to explain why your § 1203.4b petition should be granted and your conviction dismissed.
- d. *Note:* Even if the prosecuting attorney does not object to your § 1203.4b petition, the court may ask the prosecuting attorney to tell the court whether there is anything it should consider when deciding whether to grant your petition.

12 How will the court make its decision?

- a. If you meet all of the eligibility factors, and the court receives certification of your successful participation in fire camp **or at an institutional firehouse**, the court may grant your § 1203.4b petition *if it is in the interests of justice*.
- b. If the court determines that it's not in the interests of justice to grant relief, the court can deny your petition even if you meet all the eligibility requirements. You may resubmit your petition in the future if you think the court's decision was incorrect.
- c. Once the court makes a decision on your § 1203.4b petition, it will issue an order (likely on form CR-432) that states whether the court granted or denied your petition. If the court grants your petition, the order will state which convictions have been dismissed and whether supervision has been terminated. The court will also report this change in your record to the Department of Justice so that your statewide criminal history summary can be updated.

13 If the court grants relief, what happens to my conviction?

- a. If the court grants relief and dismisses the conviction, you will be released from most of the penalties and restrictions that are connected to the conviction. The law keeps certain penalties in place.
- b. A dismissal will NOT:
 - Reinstate your right to possess firearms.
 - Prevent suspension of your driver's license in some cases.
 - Allow you to omit the conviction from applications for the California Commission on Teacher Credentialing, a position as a peace officer, public officer, or for contracting with the California State Lottery Commission.
 - Permit you to hold public office if the law prohibits people from holding public office as a result of that conviction.
 - Seal or remove the court file from public inspection.
 - Prevent the conviction from being used as a "prior" in the future.
 - Remove from your record the fact that an arrest occurred.
 - **Release you from the terms and conditions of an unexpired criminal protective order that has not been modified or terminated by the court.**

**Court Cover Letter and Agency Certification—
Incarcerated Individual Hand Crew or
Institutional Firehouse Participant**

Clerk stamps date here when form is filed.

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**Not approved by
the Judicial Council**

☐ **Secretary, California Department of Corrections and Rehabilitation**
(check one):

☐ c/o Camp Liaison Captain
1515 S Street, 330 N-113
Sacramento, California 95811

☐ c/o Classification and Parole Representative
Parent Institution (name):

Address: _____

☐ **Appropriate county authority (name):** _____
Address: _____

Superior Court of California, County of _____

**Attached is a copy of a petition for relief under Penal Code section 1203.4b
filed by:**

Petitioner's Full Name: _____

Date of birth: _____ (mm/dd/yyyy)

CDCR No. (while in fire camp or institutional firehouse, if known): _____

Case Number: _____

Name of fire camp or institutional firehouse, if known: _____

 Approximate dates in fire camp or institutional firehouse: _____ to _____
 (month/year) (month/year)

For Court Use Only
Please certify, by (date): _____, whether the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse and has been released from custody.

Date: _____

Court Clerk: _____ Court Contact Information (optional): _____

Agency Certification
NOTE TO CERTIFYING AGENCY: Please fill out this certification and mail this form to the court at the address above.

The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority certifies that, on case number: _____ (check one):

- ☐
- The petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse and has been released from custody.

 Dates of participation: _____ to _____
 (month/year) (month/year)

- ☐
- The petitioner participated but was not successful as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.

- ☐
- The petitioner did not participate as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.

Date: _____

Agency: _____

Type or print your name

Signature of Agency Representative

Order on Petition—Incarcerated Individual Hand Crew or Institutional Firehouse Participant

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council

Superior Court of California, County of

Case Number:

For Court use only:

Date:

Time:

Department:

1 Your Full Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

CDCR No. (if known): _____

Name of fire camp or institutional firehouse (if known): _____

2 The court finds:

a. ☐ The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority has certified to the court that the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.

b. ☐ The petitioner has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief under Penal Code section 1203.4b. The court orders early termination of (check one):
☐ probation ☐ parole ☐ supervised release

c. ☐ It is in the interests of justice to dismiss the accusations or information against the petitioner and release the petitioner from all penalties and disabilities resulting from the offense of which the petitioner has been convicted, except as provided in Vehicle Code Section 13555.

3 The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code section 1203.4b (check one):

a. ☐ for all convictions in case number: _____ or

b. ☐ for only the following convictions in case number: _____
 (specify charges and date of conviction):



3 As to these convictions, it is ordered that the petitioner's plea of guilty or nolo contendere be withdrawn and a plea of not guilty be entered, or the verdict of guilt be set aside. The court dismisses the accusations or information against the petitioner with respect to these charges.

Petitioner is released from all penalties and disabilities resulting from the convictions in this case for which the court is granting relief, except as follows:

- Suspension of petitioner's driver's license except as provided in Vehicle Code section 13555.
- In any subsequent prosecution, this conviction may have the same effect as if the accusation or information had not been dismissed.
- Petitioner must still disclose the conviction in response to any direct question in any questionnaire or application for licensure by the California Commission on Teacher Credentialing, for a position as a peace officer, for public office, or for contracting with the California State Lottery Commission.
- Petitioner may still be prohibited from owning, possessing, or having in petitioner's custody or control any firearm.
- Petitioner may still be prohibited from holding public office as a result of the dismissed conviction.
- Petitioner may still be subject to the terms and conditions of any unexpired criminal protective order issued under Penal Code section 136.2(i)(1), 273.5(j), 368(l), or 646.9(k).

4 ☐ The court **DENIES** the petition without prejudice because (check all that apply):

- a. ☐ Petitioner's conviction is for an offense that is ineligible for relief under Penal Code section 1203.4b(a)(1)(A)–(H).
- b. ☐ Petitioner is in custody.
- c. ☐ Petitioner is currently charged with the commission of any other offense.
- d. ☐ The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority did not certify to the court that the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, as a member of a county incarcerated individual hand crew, or at an institutional firehouse.
- e. ☐ Petitioner was not serving a sentence for this conviction at the time of participation in fire camp or an institutional firehouse.
- f. ☐ The court finds that granting relief would not serve the interests of justice because:
- g. ☐ Other:

Date: _____

Signature of Judicial Officer

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Californians for Safety and Justice by Gilbert Johnson CA TimeDone Manager Oakland, CA	A	On behalf of the California TimeDone program, a project of Californians for Safety and Justice, I agree with the CR 180 form update to include the new penal code language across the state. This update is crucial to millions of Californians accessing record relief under Senate Bill 731.	The committee appreciates the comment.
2.	Legal Services for Prisoners with Children by Kellie Walters Staff Attorney Oakland, CA	AM	Regarding Form CR-181, the first amendment will "Combine items 5 and 6 as new item 5 and renumber items as needed." It could be clearer because the proposed document does not combine them.	The committee notes that the quoted description refers to items 5 and 6 in the current version of form CR-181 (revised as of January 1, 2019); those two items have been combined into new item 5 in the proposed form attached to the invitation to comment.
			Additionally, the requirement in section 6 that a petitioner who has received relief under 1203.4, 1203.41, or 1203.42 must still disclose for state licensure is contrary to the occupational licensing reforms that were recently passed.	Assuming that the commenter is suggesting that the notice provisions in new item 6 in proposed form CR-181 should be modified or deleted, the committee does not recommend this change. An order granting relief under Penal Code sections 1203.4, 1203.41, and/or 1203.42 is statutorily required to include the notice provisions in question. (See Pen. Code, §§ 1203.4(a)(1), 1203.41(b)(2), 1203.42(b)(2).)
3.	Neighborhood Legal Services of Los Angeles County by Laura Siegel, Staff Attorney and Bridget Engle, Supervising Attorney	AM	On behalf of Neighborhood Legal Services of Los Angeles County (NLSLA), we respectfully submit these comments in response to Invitation to Comment SPR23-14 regarding the Judicial Council Criminal Law Advisory Committee Proposed Forms CR-180, CR-181, CR 400, CR-401, CR-	The committee appreciates the comment. Please see the committee's response to the commenter's specific suggestions below.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
	Pacoima, CA		<p>402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, CR-432.</p> <p>The mission of NLSLA is to expand access to justice and address the most critical needs of impoverished communities, including those of individuals with prior system involvement. Our office has assisted hundreds of clients with removing critical barriers they face as a result of their criminal records, including preparation of expungement petitions, arrest seals, motions for early termination of probation, and petitions to reduce convictions to lower-level offenses.</p> <p>Criminal record history leads to difficulty obtaining and maintaining stable housing employment, and professional licenses for individuals with prior system involvement. These consequences negatively affect not only the individuals themselves but also their families who profoundly suffer from these penalties. The impact of these penalties has a ripple effect to the broader community. In California, low-income people of color are overrepresented at every stage in the criminal legal system. As a result, they are more likely to face the collateral consequences that stem from having a criminal record. Therefore, on top of reducing recidivism and increasing the likelihood of successful reentry, the ability to access clean slate relief is a vitally important race equity issue.</p> <p>NLSLA has seen numerous examples of people obtaining housing, jobs, and professional licenses after availing themselves of post-conviction relief. Unfortunately, we have</p>	

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>also seen just as many people who are unable to petition for relief due to a range of barriers. For example, a lack of clarity about the process for obtaining post-conviction relief, knowledge on how to collect necessary information, and instructions on how to complete, file and serve the required forms leaves pro per individuals feeling overwhelmed and ill-prepared to seek critical remedies they are otherwise eligible for.</p> <p>The recent statutory changes reflected in the proposed forms greatly expand the eligibility for record clearing relief and make other significant changes to this area of the law.</p> <p>We thank and commend the Judicial Council for producing forms that will be an important tool in facilitating access to this valuable form of relief for petitioners, and help the courts operate more efficiently by simplifying, standardizing, and clarifying the procedures and conserving court resources.</p> <p>However, in order to better achieve the stated purposes, we recommend the following modifications:</p>	
			<p>A. Recommended Changes to the Notice Provision Regarding the Possibility of Automatic Relief on Forms CR-180, CR-400, CR-409, and CR-430</p> <p>We agree that providing notice to petitioners of the existence of automatic record-clearing relief is useful. However, we suggest modifications to the notice provision to better reflect that petitioning for relief may be necessary or desirable even if automatic relief has been granted, and to</p>	

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response				
		<p>further clarify that it is not necessary for petitioners to access Department of Justice (DOJ) RAP sheets before petitioning for relief.</p> <p>In order to incorporate this information, we suggest the following changes to the notice provision of form CR-180, and suggest that corresponding changes also be made on the CR-400, CR-409, and CR-430 forms.</p> <table><tr><th>Current notice provision on proposed form CR-180</th><th>Recommended notice provision on form CR-180</th></tr><tr><td>Note to petitioner: Your conviction(s) may have already been automatically dismissed under Penal Code section 1203.425. If so, this petition may be unnecessary. To find out if your conviction has already been dismissed, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.</td><td><i>Note to petitioner: Your conviction(s) may have been automatically dismissed under Penal Code section 1203.425. If so, this petition may not be necessary, but there may be additional benefits to you even if your conviction was automatically dismissed. If you want to know if your conviction has already been dismissed, you have the option to request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice, but this is not necessary.</i></td></tr></table>	Current notice provision on proposed form CR-180	Recommended notice provision on form CR-180	Note to petitioner: Your conviction(s) may have already been automatically dismissed under Penal Code section 1203.425. If so, this petition may be unnecessary. To find out if your conviction has already been dismissed, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.	<i>Note to petitioner: Your conviction(s) may have been automatically dismissed under Penal Code section 1203.425. If so, this petition may not be necessary, but there may be additional benefits to you even if your conviction was automatically dismissed. If you want to know if your conviction has already been dismissed, you have the option to request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice, but this is not necessary.</i>	<p>The committee agrees with aspects of this suggestion and has incorporated them, with modifications, into the revisions that it is recommending for adoption, as discussed below.</p>
Current notice provision on proposed form CR-180	Recommended notice provision on form CR-180						
Note to petitioner: Your conviction(s) may have already been automatically dismissed under Penal Code section 1203.425. If so, this petition may be unnecessary. To find out if your conviction has already been dismissed, request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice. Failing to check, however, does not prevent you from filing this petition.	<i>Note to petitioner: Your conviction(s) may have been automatically dismissed under Penal Code section 1203.425. If so, this petition may not be necessary, but there may be additional benefits to you even if your conviction was automatically dismissed. If you want to know if your conviction has already been dismissed, you have the option to request your Record of Arrest and Prosecution (RAP) sheet from the California Department of Justice, but this is not necessary.</i>						

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response
		<p>The reasons for these recommended changes are discussed below.</p> <p>1. Explain that even if automatic relief has been granted, petition-based relief may still be beneficial.</p> <p>It is important that the proposed forms convey the information that the relief available through automatic record clearing may not offer the full range of benefits conferred through petition-based relief.</p> <p>For example, the petition-based arrest seal relief available through Penal Code section 851.91 is more comprehensive than the automatic relief available through Penal Code section 851.93, which explicitly allows the Department of Social Services to still consider arrests sealed pursuant to that section. Penal Code section 851.93(d)(6). Therefore, it is important to inform the public that petition-based relief may still be valuable for individuals seeking certain types of professional licenses.</p> <p>Also, when the DOJ grants automatic relief pursuant to Penal Code section 851.93 and Penal Code section 1203.425, the court records do not necessarily reflect this relief. That is, even when a DOJ RAP sheet shows that an</p>	<p>The committee agrees that these notice provisions should alert petitioners to potential differences between automatic and petition-based record relief. The committee has revised the recommended notice in form CR-180 to clarify that automatic relief is granted by the state Department of Justice (DOJ) (rather than the court), and that there may be additional benefits to affirmatively filing a petition, including felony reduction under Penal Code section 17(b). The committee has revised the recommended notice in form CR-409 to acknowledge that the benefits of automatic and petition-based relief may not be identical. Corresponding changes are being recommended in forms CR-400 and CR-430.</p> <p>The committee notes that, under the automatic relief statutes, once the DOJ has granted arrest or conviction record relief, the DOJ must notify the</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>arrest has been sealed pursuant to Penal Code section 851.93, the records of an associated court case are often still visible in court records. Similarly, when a DOJ RAP sheet shows that a conviction has been dismissed pursuant to Penal Code section 1203.425, the conviction may still appear on court records as a conviction that has not been dismissed. Therefore, the records may still appear on public court websites and records. We have seen many examples of this situation in Los Angeles County. Since private background check reports contain publicly available information, convictions granted automatic dismissals, but still appearing as non-dismissed convictions on court records, run the risk of being wrongfully reported on private background checks.</p> <p>2. Further clarify that requesting DOJ RAP sheets is not necessary.</p> <p>We suggest modifying the language in the current notice provision regarding the role of requesting DOJ RAP sheets to make it more accessible and more clearly convey that this is not a necessary step in the process. We are concerned that use of the phrase “failing to check” might deter petitioners who have not obtained their DOJ RAP sheets from petitioning. Also, in our experience, obtaining DOJ RAP sheets is a significant barrier for many petitioners given the associated cost, even with the fee waiver that partially covers the cost.</p>	<p>appropriate superior court that relief was granted, and the court thereafter is prohibited from disclosing information on the arrest or conviction except as specified. (Pen. Code, § 851.93(c), 1203.425(a)(3)(A).)</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>B. Recommend Changes to Proposed Forms CR-180 and CR-430 to Clarify the Possibility and Benefits of a Perjury Statement</p>	

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response
		<p>The proposed forms reflect that the relevant dismissal statutes do not require a perjury statement by removing the penalty of perjury declaration from the signature line of forms CR-180 and CR-430, and changing references from Attached Declaration (form MC-031), which has a perjury statement, to Attachment (form MC-025), which does not itself include a perjury statement. However, making statements under penalty of perjury often makes the petition stronger. Not all issues involved in the decision are independently verifiable. For example, in the case of discretionary dismissal petitions in the interests of justice, the petitioner's explanation of mitigating circumstances and rehabilitation efforts and life changes may not be independently verifiable, and the petitioner's statements provide crucial information needed for the court to evaluate the petition. Furthermore, record-clearing petitions are often decided without an adversarial hearing, or even if there is a hearing, petitioners often do not have attorneys. For these reasons, it is important that petitioners have the opportunity to make their petitions more persuasive to a judicial officer through a perjury declaration and that they are informed about the benefits of doing so.</p> <p>Accordingly, we recommend that the forms provide information for petitioners about potential benefits of including a signed under penalty of perjury statement, include MC-031 as an option when suggesting a form to use for the declaration, and clarify the opportunity to add a penalty of perjury statement even if the petitioner is using a form that does not contain a perjury statement.</p>	<p>The committee agrees with the suggestion to revise forms CR-180 and CR-430 to inform petitioners that they may use <i>Attached Declaration</i> (form MC-031) if desired and has incorporated this suggestion into the revisions that it is recommending for adoption. The committee declines to otherwise revise the forms as suggested at this time, as the underlying statutes do not require the petitions to be submitted under penalty of perjury.</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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			It may also be helpful to add information about perjury statements on information sheets associated with the affected forms, the CR-430-INFO, and the recommended CR-180-INFO discussed further below.	Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.
			<p>C. Recommended Addition of a CR-180-INFO Information Sheet to Assist Petitioners in Understanding and Using Form CR-180</p> <p>Form CR-180 is complex, and understandably, has technical language. We suggest that one way to assist petitioners who use form CR-180 would be adding a CR-180-INFO information sheet to provide guidance on how to use the form CR-180 to petition for relief, similar to the way guidance is provided on the CR-409-INFO and CR-430-INFO information sheets.</p> <p>A note on the form CR-180 could then be added directing petitioners to form CR-180-INFO, similar to the notes at the top of forms CR-409 and CR-430 directing petitioners to the relevant information sheets.</p> <p>Below are some specific examples of information about petitioning for dismissal with form CR-180 that would benefit from further explanation on a CR-180-INFO.</p> <p>Add information about service and filing: Both CR-409-INFO and CR-430-INFO describe how to file a petition with</p>	Because recommending a new form would be an important substantive change to the proposal, the committee believes public comment should be sought before such a new form is recommended to the Judicial Council. The committee may consider this suggestion during a future proposal cycle.

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>the court, including advice like bringing or mailing an extra copy for the court to file-stamp. Those information sheets also include helpful information about what “service” means and who needs to be served. A CR-180-INFO could cover similar questions about where the petition should be filed, what prosecuting agency must be served, and how to show the court service was completed.</p> <p>Add information about Senate Bill 1106: On page 7, the Invitation to Comment refers to the statutory changes made by SB 1106 to Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42 and 1203.45 that prohibit denial of relief under these sections because of unpaid restitution. This is an important change in the law that affects the forms of relief covered by form CR-180. The Invitation to Comment notes that this change did not affect Penal Code section 1203.4b relief as anticipated, because of a chaptering issue, and suggests possible addition to the CR-430-INFO to address this issue should the chaptering issue be resolved before publication of the forms. However, because the forms of relief covered by form CR-180 are affected now by SB 1106, the suggested language in the possible addition to CR-430-INFO on page 7 of the Invitation to Comment would be a good addition to a CR-180-INFO to help petitioners access relief that has become available to them because of the statutory changes.</p> <p>Clarify the two-year waiting period for petitioners who completed a state prison sentence and are seeking relief pursuant to Penal Code section 1203.41: We suggest adding information that parole is not part of a prison</p>	

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response	
		sentence, so for petitioners released from state prison and placed on parole, the two-year period begins upon release from prison.	The committee agrees with this suggestion and has incorporated it, with minor modifications, into the revisions that it is recommending for adoption.	
		D. Recommended Modifications to Proposed Form CR-180		
		In order to accurately reflect Penal Code section 1203.41(a)(6), and correctly describe eligibility for Penal Code section 1203.41 relief, we suggest modifying the language after the checkbox in item 5(c) of form CR-180.		
		<table><tr><th>Current language:</th><th>Recommended language:</th></tr><tr><td>More than two years have elapsed since petitioner completed the state felony prison sentence.</td><td><i>More than two years have elapsed since petitioner completed the state prison sentence and the conviction did not result in a requirement to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.</i></td></tr></table>		Current language:
Current language:	Recommended language:			
More than two years have elapsed since petitioner completed the state felony prison sentence.	<i>More than two years have elapsed since petitioner completed the state prison sentence and the conviction did not result in a requirement to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.</i>			
E. Recommended Modifications to Proposed Form CR-181	1. Provide places for judges to state reasons for denial.	It will be very beneficial to have a space on the form CR-181 that encourages the court to state the reasons for the	Because this would be an important substantive change to the proposal, the	

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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			<p>court’s determination that granting relief to the petitioner would not serve the interests of justice, if that is the court’s decision. This would be similar to item 4(f) on form CR-432, which provides a place for the court to give reasons for denying relief pursuant to Penal Code section 1203.4b. Providing the basis for the court’s decision will better position petitioners for future access to this relief. Providing this space on the CR-181 also helps guide the courts efficiently through the process of considering the petition and communicating the decision to the petitioner. Furthermore, it will avoid courts having to respond to later questions about the reasons for the denial, conserving court resources. For example, there are a number of courthouses in Los Angeles County that do not hold hearings on expungement petitions. When a judge denies a petition and does not include a reason on the order or the minute order, often the only way to hear the judge’s reasoning is to file another petition for expungement.</p> <p>2. Modify the form to encourage ruling on reductions.</p> <p>Although this issue is not related to the recent legislative changes, we also recommend modifications to form CR-181 to encourage rulings on reduction requests pursuant to Penal Code section 17(b) or Penal Code section 17(d)(2). Even though form CR-181 provides boxes in sections #1 and #2 for courts to indicate whether a reduction is being granted or denied, in our experience, these sections of the forms are often not used at all when courts decide petitions. That is, courts leave items #1 and #2 blank even when a petition includes a reduction request.</p>	<p>committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.</p> <p>Because this suggestion would be important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response
		One option in order to address this issue would be to combine the dismissal and reduction decisions. So, the court can choose from options such as “The court grants the petition for dismissal and grants the petition for reduction” and “The court grants the petition for dismissal and denies the petition for reduction,” and so on for the different possible decisions.	
		F. Recommended Modification to Proposed Form CR-403 Form We suggest adding a reason box for item 3(e), i.e., having the court providing a basis for determination that resentencing would provide an unreasonable risk of danger to public safety. The advantages of offering space for the court to provide reasons for denial are similar to the benefits described above in suggesting form CR-181 be modified to provide space for the court to give reasons for a denial.	Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.
		G. Recommended Modifications to Proposed Form CR-409 1. Clarify provision of trial court case number and name. We recommend modifying the language on the right side of the first page, near the boxes for providing information on the trial court case number. <table><tr><td>Current language:</td><td>Recommended language:</td></tr></table>	Current language:
Current language:	Recommended language:		

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response
		<div> <div>Fill this out if a criminal complaint was filed.</div> <div><i>If there is a court case associated with this arrest, fill in the trial court case number and name in the boxes below</i></div> </div> <p>The purpose of this suggested modification is to clear up any potential ambiguity about which part of the form the word “this” in the instructions refers to.</p> <p>2. Clarify applicability relief in the interests of justice.</p> <p>Another suggested modification concerns page 2, Section H, where a petitioner is prompted to describe why the interests of justice support the relief. Our high-volume practice of filing arrest seal petitions has shown us that judges often treat certain types of arrests as either categorically ineligible for relief, or they mistakenly believe they have discretion to grant or deny. This comes up most commonly with domestic violence-related arrests. For example, a petitioner with a single domestic violence arrest that meets all eligibility requirements under PC 851.91 is entitled to seal the arrest as a matter of right. However, despite the language in PC 851.91(c)(2)(a)(i)(I) indicating that a petitioner may only seal their domestic violence arrest in the interests of justice “if the petitioner’s record demonstrates a pattern of domestic violence arrests, convictions, or both,” judges often overlook the word “pattern” and believe they always have discretion if the arrest involves domestic violence. Subdivision ii in this section then goes on to state: (ii) For</p>	<p>The committee agrees with this suggestion and has incorporated it, with minor modifications, into the revisions that it is recommending for adoption.</p>

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Commenter	Position	Comment	Committee Response
		<p>purposes of this subparagraph, “pattern” means two or more convictions, or five or more arrests, for separate offenses occurring on separate occasions within three years from at least one of the other convictions or arrests. Even though the plain language of the statute clearly defines “pattern,” we see judges misinterpret the law on a regular basis. We believe adding clarity to the CR-409, Section H, will help prevent this mistake from happening (and the mistake leads to a waste of judicial resources, with mandatory petitions having to be re-filed and new hearings being held on what should be a very straightforward remedy). We recommend the following sentence be added to the form:</p> <p>“The interests of justice standard only applies to petitioners whose records show a “pattern” of arrests or convictions for offenses listed in PC 851.91(c)(2)(a)(i). “Pattern” is defined in PC 851.91(c)(2)(a)(i)(ii).”</p>	
		<p>H. Suggested Modifications to Proposed Form CR-409-INFO</p> <p>1. Clarify the record types eligible for sealing.</p> <p>We suggest adding information in item 1 that it is possible to seal an arrest that did not result in a court case, or an arrest that did result in charges being filed but no conviction. This will help clarify the applicable law for petitioners who may not be familiar with how to characterize different kinds of interactions with law enforcement or courts generally, and specifically may not know that court cases which do not result in conviction remain on court and state criminal records.</p>	<p>The committee agrees with this suggestion and has incorporated it, with minor modifications, into the revisions that it is recommending for adoption.</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment		Committee Response				
			<table><tr><th>Current language:</th><th>Recommended language:</th></tr><tr><td>The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. A separate petition must be filed for each arrest for which sealing is requested.</td><td>The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. You can ask the court to seal arrests that did not result in a court case, or arrests that did result in charges being filed in court, but the court case did not result in a conviction. A separate petition must be filed for each arrest for which sealing is requested.</td></tr></table>	Current language:	Recommended language:	The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. A separate petition must be filed for each arrest for which sealing is requested.	The petition is a request to the court to seal arrest and related records under Penal Code section 851.91. You can ask the court to seal arrests that did not result in a court case, or arrests that did result in charges being filed in court, but the court case did not result in a conviction. A separate petition must be filed for each arrest for which sealing is requested.		
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			<p>2. Clarify the possibility of filing with incomplete information.</p> <p>It is often very difficult for petitioners, or even petitioners’ attorneys, to get information about arrests. This difficulty seems to be recognized on the CR-409 form, which states in item 3, “(provide as much information as you can).” In contrast, the language in item 2 on proposed form CR-409-INFO states that, “The court may deny your filing if you provide incomplete information.” While this does track Penal Code section 851.91(b)(2), in order to avoid deterring petitioners who may have incomplete information about their arrests, we suggest modifying the language in the last</p>		<p>The committee agrees with this suggestion and has incorporated it, with minor modifications, into the revisions that it is recommending for adoption.</p>				

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>sentence of this section of the form to match the language on the CR-409 form “(provide as much information as you can).”</p> <p>3. Correct and clarify eligibility for sealing arrests.</p> <p>Item 3 lists out three scenarios under which the court will not seal an arrest as a matter of right, listed out as (1), (2) or (3). These listed scenarios generally track Penal Code section 851.91(a)(2). However, Penal Code section 851.91(a)(2) specifies situations under which arrests are ineligible to be sealed at all, neither as a matter of right nor in the interests of justice. The situations under which arrests can be sealed in the interests of justice are specified in Penal Code section 851.91(c)(2)(A)(i). Accordingly, we recommend changing the language in item 3 to accurately reflect the law specifying which arrests are eligible to be sealed as a matter of right, which are eligible to be sealed in the interests of justice, and which are ineligible to be sealed.</p> <p>4. Clarify the meaning of relief “as a matter of right.”</p> <p>We suggest defining “as a matter of right” to help petitioners understand that this means that if the relevant conditions are met, the arrest seal is mandatory.</p> <p>5. Provide more information about service.</p> <p>We recommend providing more general information in item 5 about serving the prosecuting agency and law enforcement</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)
All comments are verbatim unless indicated by an asterisk (*).

Commenter	Position	Comment	Committee Response
		agency that made the arrest in order to help self-represented petitioners unfamiliar with court processes. Also, specifically, we recommend clarifying the electronic service option, which is often not available, and even if it is available, the process may be unclear to petitioners. In order to clarify these issues, we recommend adding language adapted from item 5 of the CR-430-INFO which provides more explanation and information about service.	the revisions that it is recommending for adoption.
		<p>I. Recommended Modifications to Proposed Form CR-430-INFO</p> <p>We recommend adding information to item 8 of the CR-430-INFO about the CDCR/county authority certification process and about form CR-431. It may also be helpful to add information to item 8 of form CR-430-INFO clarifying which portions of the CR-431 form the petitioner is responsible for completing. This is discussed further below in the discussion of the recommended modifications to form CR-431.</p> <p>1. Explain generally the role of the CR-431.</p> <p>Item 8 of form CR-430-INFO explains that the court will contact CDCR or the county authority for certification of certain information needed to determine eligibility for dismissal pursuant to Penal Code section 1203.4b. In order to help petitioners understand this certification process, it would be helpful to briefly explain the role of form CR-431. For example, Item 8 could explain that the petitioner should submit form CR-431 to the court along with the other petition documents, and that the court will then send the</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>form to CDCR or the appropriate county authority to certify and return to the court.</p> <p>2. Add information about county authority contact information.</p> <p>We also suggest clarifying for petitioners the use of the two checkboxes at the top of the CR-431 regarding whether the form is to be directed to CDCR or the appropriate county authority. If petitioners are responsible for adding the address for the relevant county authority on this form, it would also be helpful to explain how petitioners can get this information.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>J. Recommended Modifications to Proposed Form CR-431</p> <p>Clarify which information the petitioner should fill out and which parts the court fills out: For example, it is not clear if the “Please certify by (date)___ “ item in the middle of the page should be filled out by the petitioner or left blank for the court to complete. In order to guide petitioners, we suggest adding horizontal lines above and below this section or otherwise visually demarcating this section and indicating that the court is to fill out the information within the border, or alternatively, adding a horizontal line above the section and indicating that the petitioner should fill out the section above the line.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
4.	Orange County Bar Association By Michael A. Gregg President	A	*The proposal appropriately addresses the stated purpose.	The committee appreciates the comment.

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
	Newport Beach, CA			
5.	Root & Rebound by Gail Yen California Policy Director Oakland, CA	AM	<p>On behalf of Root & Rebound, I'm writing to share our public comments on the revisions to record cleaning forms proposed in SPR 23-14. Root & Rebound is a statewide reentry legal education and resource center based in Oakland, California that provides critical resources and support to the individuals, families, and communities most impacted by our criminal legal system. Our mission is to support people navigating reentry and reduce the harms perpetuated by mass incarceration. One of those ways is through helping people who need support in petitioning for conviction dismissals and sealing of arrest records with the use of these forms. Since record relief is one of the most common reasons why people with conviction records seek our legal support, we're acutely aware and regularly use these forms when supporting people in reentry. We are most concerned that these forms be navigable and useful for people who do not have legal assistance.</p> <p>Based on our extensive experience with these forms, we propose the following changes and edits to the following forms:</p> <p>CR-180</p> <p>1. Reinstate use of form MC-031 (specifically for declarations) the most common attachment for the CR-180. Exclusive use/suggestion of MC-025 risks confusion and deters use of a more specific form MC-031 that is often the most applicable. At a minimum explicitly offer both forms as options for attachment.</p>	<p>The committee appreciates this comment. Please see the committee's responses to the commenter's specific suggestions below.</p> <p>The committee agrees with the suggestion to inform petitioners that they may use <i>Attached Declaration</i> (form MC-031) if desired and has incorporated it into the revisions that it is recommending for adoption.</p>

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Criminal Procedure: Record Cleaning Forms (revise forms CR-180, CR-181, CR-400, CR-401, CR-402, CR-403, CR-409, CR-409-INFO, CR-430, CR-430-INFO, CR-431, and CR-432)

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Commenter	Position	Comment	Committee Response
		2. Remove the blank spaces for an interest of justice argument by the petitioner. These limited spaces falsely suggest that a petitioner can possibly provide useful information or a reasonably complete argument in support of their petition in the space provided. These spaces are not sufficient or useful for supporting a petition in the interests of justice. Instead it should point directly to the optional form to attach when an interest of justice argument is required (see above).	Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.
		3. Removing the excessive spaces also provides the opportunity to reduce the number of pages of this form from three to two pages. This will save paper and make the document easier to navigate for both petitioners and courts. We have experiences with courts mistakenly failing to turn to the third page and claiming that the form did not include a request for relief.	The committee appreciates the comment and notes that each of the proposed forms, including form CR-180, indicates the total number of pages in the bottom right corner ("Page x of x").
		4. The specific options for relief should be listed in statutory order (i.e. PC 1203.49 relief should be the last option on the form not the fourth of seven).	The committee declines the suggestion as unnecessary and prefers the current ordering of options for relief, which groups misdemeanor convictions together.
		5. In the initial explanatory note there is the suggestion that the DOJ RAP Sheet will verify if relief has been automatically granted. However, this information will not verify whether the local court has properly updated local records to reflect the automatic relief. This form should not suggest that these are the same and that DOJ relief is enough as many records for employment and housing are verified through county court records not through the DOJ state records.	The committee agrees that the note to petitioner should specify that automatic relief is granted by the state Department of Justice (DOJ) rather than the court and has incorporated this aspect of the suggestion into the revisions that it is recommending for adoption.

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Commenter	Position	Comment	Committee Response
			The committee also notes that, under the automatic relief statutes, once the DOJ has granted arrest or conviction record relief, the DOJ must notify the appropriate superior court that relief was granted, and the court thereafter is prohibited from disclosing information on the arrest or conviction except as specified. (Pen. Code, §§ 851.93(c), 1203.425(a)(3)(A).)
		6. Automatic relief does not also grant 17(b) reductions. The use of this form for 17(b) reductions even if the person has been granted automatic relief should be contemplated in the form and the first explanatory note should not deter someone from submitting this form for the purpose of 17(b) reduction.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
		7. The last sentence of the initial explanatory note: “Failing to check, however, does not prevent you from filing this petition” includes a double negative and the “however” clause that may cause additional confusion about how automated relief impacts this petition process. This sentence would be rewritten in a more straightforward way.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
		8. Remove the court address and branch requirements. These can be confusing and create more barriers to a petition. Please revert to the current form that does not require specific court info from the petitioner.	The committee declines to remove the address box because it is a standard item on Judicial Council forms and the petitioner should be aware of which court they are filing in. However, the committee agrees that the “branch name” line should be removed as it may be confusing and unnecessary, and the

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Commenter	Position	Comment	Committee Response
			committee has incorporated this change into the revisions that it is recommending for adoption.
		CR-181 9. Where the court “DENIES” an order the court should be required to provide a reason for the denial. There should be specific space for the court to complete a brief reasoning for the denial.	Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.
		10. If the court finds that automatic relief has already been granted, the court should still grant the order and be required to order verification that all relief is reflected in local court records.	The comment is beyond the scope of the proposal.
		CR-400 et seq. 11. This form is superfluous. Relief granted by this form should have been completed automatically already under AB 1793 (2018). Continuing to update and invest in these forms diverts funds and focus from completing and verifying automatic relief for all eligible people. Further, failing to demand the state and counties do the required work to ensure everyone entitled to relief receives it contravenes the purpose of the law. When a law requires automatic relief there is specific intent that it be automatic and not simply a matter of individuals seeking individual relief.	The committee disagrees with the comment, given that the legislation in question did not remove the ability to affirmatively petition for relief. To the contrary, “[i]t is the intent of the Legislature that persons . . . who proactively petition for a recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to Section 11361.8 be prioritized for review.” (Health & Saf. Code, § 11361.9(i).)

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Commenter	Position	Comment	Committee Response
		12. Remove the court address and branch requirements. These can be confusing and create more barriers to a petition. Please revert to the current form that does not require specific court info from the petitioner.	The committee declines to remove the address box because it is a standard item on Judicial Council forms and the petitioner should be aware of which court they are filing in. However, the committee agrees that the “branch name” line should be removed as it may be confusing and unnecessary, and the committee has incorporated this change into the revisions that it is recommending for adoption.
		CR-409	
		13. Either in 3.f., or in the right column under “Trial Court Case Number,” or both, add a checkbox to affirmatively confirm that no criminal complaint was filed. This will clarify that the questions have been answered and not inadvertently omitted. This will help petitioners fill out the form with confidence that they have completed all of the necessary fields and do not need additional information. This is especially important because CR-409-INFO, number 2, requires the form be filled out completely before it is submitted.	The committee agrees with the suggestion to include a check box in item 3.f and has incorporated this into the revisions that it is recommending for adoption.
		14. Additionally, consider adding a box on the right column of the first page under the case name for the petitioner to list the arrest number. For the many instances where a person has an arrest but no criminal complaint it may be helpful to call this option out clearly and prominently.	The committee declines to incorporate the suggestion, given that an additional box on would be duplicative of item 3.d on the same page.
		15. Remove question 3.g. This section is unnecessary and confusing as it asks for an explanation for a petition that is a	The committee declines to incorporate the suggestion. Item 3.g allows the

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Commenter	Position	Comment	Committee Response
		matter of right. Petitioners will either check 3.h. “matter of right,” at which point no further explanation is required, or they will check 3.h. “Interest of justice” at which point they are directed to complete the MC-031 attachment.	petitioner an opportunity to provide additional information about the arrest, if any, that does not obviously belong elsewhere on the form. (See Pen. Code, § 851.91(b)(1)(E)(v) [listing information to be included in a petition to seal an arrest, including “[a]ny other information identifying the arrest” that is available from the arresting agency or the court].)
		16. Remove the lines for handwritten notes under 3.h. This is not sufficient space for a person to make an interest of justice argument and inclusion of this space gives people the wrong impression that such an argument can be made in this space. Directing someone to the additional MC-031 form should be the approach to providing interest of justice arguments.	Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.
		17. The last sentence of the initial explanatory note: “Failing to check, however, does not prevent you from filing this petition” includes a double negative and the “however” clause that may cause additional confusion about how automated relief impacts this petition process. This sentence would be rewritten in a more straightforward way.	The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.
		CR-409-INFO 18. Number 8 tells petitioners that “A petition to seal <i>is</i> unnecessary if automatic relief has been granted” (emphasis added), however this would only be true if automatic relief was granted by the DOJ <u>and</u> that information was transmitted to the county court and reflected in all of its records. Depending on the county verifying that the county	The committee agrees with the suggestion and has revised item 8 in the recommended information sheet to conform with the revised note to petitioner in form CR-409.

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	Commenter	Position	Comment	Committee Response
			has actually reflected automatic relief may be impossible without filing such a petition. The INFO sheet, and the rest of the materials, should not suggest with certainty that a RAP sheet that reflects automatic relief is actual verification that county courts have reflected that relief.	
6.	Angelica A. Rivera Fresno County Public Defender's Office Senior Defense Attorney Fresno, CA	A	No specific comment.	No response required.
7.	San Diego Office of the Primary Public Defender by Jennifer Gerstenzang Deputy Public Defender San Diego, CA	NI	<p>My name is Jennifer Gerstenzang and I am an attorney with the San Diego Public Defender's Fresh Start Program. Each of the attorneys on our unit has over 1200 clients at any given time, and we are constantly trying to streamline how we can assist our clients more efficiently and effectively. We are ecstatic about PC 1203.425 but know that most of our clients unfortunately do not qualify for mandatory/automatic expungements. Additionally, with the expansion of 1203.41, we have many more clients who desperately need our services.</p> <p>It would be great to have one uniform one page form to file for expungements with, as well as indicate we are asking 1203.3 and 17(b) relief, as these are the most common areas of relief we ask for. I think when an attorney is filing we don't need the space in the form to add why it is in the interests of justice (and, in most cases, the court will require much more information than what is in the small area allotted for the pro per petitioner in order to grant the</p>	<p>The committee appreciates the comment.</p> <p>Because this would be an important substantive change to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may consider this suggestion during a future proposal cycle.</p>

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	Commenter	Position	Comment	Committee Response
			<p>petition) because we will be requiring our clients to submit a more thorough declaration on a separate piece of paper.</p> <p>As our program routinely files hundreds upon hundreds of these petitions a year, it would make it easier for all involved (our office, the court clerks, the prosecution, and the bench) to have a quick cover page where it is easy to see any and all relief the petitioner is requesting.</p> <p>I do think the CR-180 is important for pro per petitioners as it allows for a more easy route for them to file on their own. However, it would be nice to have a separate form that practitioners can use in order to submit these petitions. I have attached a proposed form that includes what I am suggesting.</p>	
8.	Superior Court of Orange County by Iyana Doherty Courtroom Operations Supervisor	A	<p>We agree with the suggested revisions to the optional forms as the revisions are necessary due to legislation changes and/or are useful for the courts and petitioners.</p> <ul style="list-style-type: none"> • Yes, it states the purpose and adequately addresses the expansion of relief under PC section 1203.4b. • Implementation requirements – communication to staff and Judicial Officers. • No cost savings • Reviewing the new forms with the Courtroom Clerks and Case Processing unit would be about three hours each. • Docket codes to conform with the new verbiage added to the forms and update of procedures and local forms as needed. Approximately 5 days to train and implement successfully. 	The committee appreciates the comments.

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Docket code creation or modifications would also need to comply with the JBSIS and DOJ reporting. • Yes, 3 months would be sufficient and the preferred timeline to implement this new form instead of January 1st. Legislation updates are the priority for January 1st. • No difference anticipated for different sized courts. 	
9.	Superior Court of San Diego County by Mike Roddy Executive Officer	A	<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? The proposal adequately addresses legislative changes. • Do the proposed revisions to forms CR-430, CR-430-INFO, CR-431, and CR-432 adequately address the expansion of relief under Penal Code section 1203.4b to institutional firehouse participants? Yes. • Would the proposal provide cost savings? If so, please quantify. No. • What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? None for this court. SD Superior Court has created its own forms. 	The committee appreciates the comments.

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			<ul style="list-style-type: none"> • Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes. <ul style="list-style-type: none"> • How well would this proposal work in courts of different sizes? This proposal would work fine in the San Diego Superior Court (a large court). <p>Additional comment: This does not have to do with any of the proposed changes, but San Diego Superior Court repeatedly gets conflicting information as to where to send the firecamp petitions (see Form CR-431, two sections for addresses). In December 2022, the court received a CDCR memo that listed various addresses for sending the court cover letter, depending on where the firecamp was located, none of which is the Sacramento address listed on the CR-431. In addition, it is taking CDCR months to return the firecamp certifications (even if a due date is given by the court), although it is unknown if this is due to staffing issues, sending the cover letter to the wrong address, or something else. This leads to rescheduled hearings and delayed relief. It would be helpful if there was some statewide, coordinated rules regarding addresses and the timeline for CDCR's response.</p>	<p>The comment regarding statewide, coordinated rules regarding addresses and the timeline for CDCR's response is beyond the scope of the proposal. However, the committee has confirmed that the CDCR address currently listed on form CR-431 is correct, and that courts may also choose to send the form directly to the Classification and Parole Representative at the parent institution for the conservation camp or firehouse that the petitioner stated they were assigned to. To reflect this, the committee has incorporated an updated address field into the revisions that it is recommending for adoption.</p>
10.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following:</p>	The committee appreciates the comments.

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			The proposal addresses the stated purpose, including changes to Penal Code section 1203.4b. It would likely result in cost savings to the courts. The form's notice provision regarding the possibility of automatic relief having previously been granted could result in fewer petitions being filed. The form also provides the litigant with the method of determining if prior automatic relief has been granted (in a way that does not involve the courts). There are no training or case management coding issues. There does not appear to be a disparate impact on courts of varying sizes.	

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