



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 19–20, 2017

Title	Agenda Item Type
Criminal Procedure and Juvenile Law: Judicial Council Optional Forms under Proposition 64	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Approve forms CR-187, CR-188, JV-744, and JV-745	January 23, 2017
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair Hon. J. Richard Couzens, Vice-chair	December 8, 2016
Family and Juvenile Law Advisory Committee	Contact
Hon. Jerilyn Borack, Cochair Hon. Mark Juhas, Cochair	Kimberly DaSilva, 415-865-4534 kimberly.dasilva@jud.ca.gov Tracy Kenny, 916-263-2838 tracy.kenny@jud.ca.gov

Executive Summary

The Criminal Law and the Family and Juvenile Law Advisory Committees recommend that the Judicial Council approve four optional forms to enable petitioner/applicants to file for resentencing, dismissal, and record sealing under the “Control, Regulate and Tax Adult Use of Marijuana Act” (“Proposition 64”), and for the forms to become effective January 23, 2017. This request responds to the enactment of Proposition 64, effective November 9, 2016, which directs the Judicial Council to “promulgate and make available all necessary forms to enable the filing of the petitions and applications” provided for in the initiative. The proposed forms are currently circulating for public comment; the comment period began on December 16, 2016, and will end on February 13, 2017. To ensure that the forms are available to courts as soon as possible, the committees seek out-of-cycle approval of the forms, prior to the closing of the period for public

comment. The committees will propose any necessary revisions to the forms based on comments received to be effective September 1, 2017.

Recommendation

The Criminal Law Advisory Committee and the Family and Juvenile Law Advisory Committee jointly recommend that, effective January 23, 2017, the Judicial Council:

1. Approve optional *Petition/Application (Health and Safety Code § 11361.8(b))* (form CR-187) to allow adult offenders to obtain a new sentence, dismissal and sealing of records of specified marijuana-related convictions under Health and Safety Code section 11361.8.
2. Approve optional *Order After Petition/Application (Health and Safety Code § 11361.8(f))* (form CR-188) for courts to make the relevant orders on the request for relief under Health and Safety Code section 11361.8 for adult offenses.
3. Approve optional *Request to Reduce Juvenile Marijuana Offense (Health and Safety Code § 11361.8(m))* (form JV-744) to allow juvenile marijuana offenders to obtain a new disposition or to have their offenses redesignated as infractions under Health and Safety Code section 11361.8.
4. Approve optional *Juvenile Order After Request to Reduce Marijuana Offense (Health and Safety Code § 11361.8(m))* (form JV-745) for courts to make the relevant orders on the requests for relief under Health and Safety Code section 11361.8 for juvenile offenses.

The proposed optional forms are attached at pages 8–16.

Previous Council Action

There has been no previous action on this proposal.

Rationale for Recommendation

Background

On November 8, 2016, the people of the state of California voted to enact Prop. 64. Effective November 9, 2016, Prop. 64 legalizes and redesignates specified marijuana-related offenses and regulates legalized use. Specifically, Prop. 64 (1) legalizes specific marijuana activity for adults 21 years of age or older¹; (2) reduces criminal penalties of specified marijuana-related offenses for adults, designating different offense levels for adults ages 18–20 and adults 21 and older²; (3) reduces criminal penalties of specified marijuana-related offenses for juveniles³; (4) authorizes

¹ See Health & Saf. Code, § 11362.1.

² See Health & Saf. Code, §§ 11357, 11358, 11359, and 11360.

³ *Id.*

resentencing, dismissal, and sealing of prior, eligible convictions⁴; and (5) amends specific court record destruction provisions.⁵ It also includes regulation provisions.⁶

The resentencing and dismissal provisions set forth in Health and Safety Code section 11361.8 permit persons previously convicted of designated marijuana-related offenses to obtain a reduced conviction or sentence if they would have received the benefits of Prop. 64 if it had been in effect when the crime was committed. If the conviction was for conduct now legal, Prop. 64 provides for dismissals of those convictions, and for the sealing of records of dismissed convictions for persons who have completed their sentences. As discussed below, juvenile offenders are also eligible for retroactive relief under Prop. 64 based on the reclassification of juvenile marijuana-related offenses as infractions.

Under the initiative, persons convicted of the following marijuana-related offenses are eligible for relief:

- Possession under Health and Safety Code section 11357;
- Cultivation under Health and Safety Code section 11358;
- Possession for sale under Health and Safety Code section 11359; and
- Unlawful transport under Health and Safety Code section 11360.

(See Health & Saf. Code, § 11361.8(a), (e).)

The initiative directs the Judicial Council to promulgate and make available all necessary forms to enable the filing of the petitions and applications to resentence, dismiss, and seal prior eligible convictions as newly authorized by the proposition. (See Health & Saf. Code, § 11361.8(l).) Because the new resentencing and redesignation provisions went into effect on November 9, 2016, the day after the state election, courts had an immediate need for forms to implement the procedures. In response, the committees developed the proposed optional forms and placed them on the California Courts public website, where they have been publicly available since the effective date of the initiative. The forms are currently not identified as official Judicial Council forms. However, if the Judicial Council approves the attached recommended forms, they will be official optional forms.

Criminal forms for use by adults

The adult resentencing and dismissal provisions of Prop. 64 apply to persons currently serving a sentence for an eligible offense and those who have completed their sentence. (See Health & Saf. Code, § 11361.8(b), (f).) The request must be made before the trial court that entered the judgment of conviction in the case. (See Health & Saf. Code, § 11361.8(a), (e).) For persons currently serving a sentence, if the petition satisfies the criteria for resentencing or dismissal of

⁴ See Health & Saf. Code, § 11361.8.

⁵ See Health & Saf. Code, § 11361.5.

⁶ See Bus. & Prof. Code, Div. 10.

sentence, the court must grant the petition unless the court determines that granting it would pose an unreasonable risk of danger to public safety. (Health & Saf. Code, § 11361.8(b).) If the court grants a request to redesignate an eligible offense as a misdemeanor or an infraction, the conviction is to be treated as a misdemeanor or an infraction for all purposes. (See Health & Saf. Code, § 11361.8(h).)

Proposition 64 also provides for the sealing of records of convictions dismissed under the proposition of persons who have completed their sentence. The court must “*seal the conviction as legally invalid as now established under [Proposition 64].*” (Health & Saf. Code, § 11361.8(f).)

The committees propose two optional criminal forms for use in cases involving adults: (1) a Petition/Application, and (2) an Order After Petition/Application, under Health and Safety Code section 11361.8(b), (f).

The *Petition/Application* (form CR-187) may be used by persons currently serving eligible sentences and persons who have completed eligible sentences. This form allows the petitioner/applicant to:

- Identify one or two eligible convictions;
- Identify his or her age at the time of the conduct that gave rise to the conviction;
- Identify the nature of the substance that resulted in the conviction;
- Identify the quantity of the substance that resulted in the conviction;
- Request the desired relief;
- Waive the statutory requirement under section 11361.8 that the matter be heard by the original sentencing judge; and
- Waive his/her appearance.

It also requires the petitioner/applicant to serve the prosecuting agency with a copy of the petition/application, which contains an area for that agency to object to the request and/or to request a hearing on the matter. Proof of service on the prosecuting agency is not expressly required by Prop. 64. However, it does require that the court grant the petition unless “the party opposing the petition” proves by clear and convincing evidence that the petitioner/applicant does not satisfy the criteria of section 11361.8(a), (f). Therefore, the proposition requires that the prosecuting agency receive the petition/application before the court may grant the requested relief. The integrated proof of service is intended to help petitioners/applicants document service of the petition/application on the prosecuting agency and to provide the court with information as to whether the prosecuting agency has been made aware of the petition/application.

The *Order After Petition/Application* (form CR-188) provides the court with the ability to:

- Grant the relief;
- Deny the relief and to state the reasons for the denial;

- Provide notice that any redesignation to a misdemeanor or an infraction shall thereafter be a misdemeanor or an infraction for all purposes;
- Relieve the petitioner from any applicable registration requirements for narcotics offenders; and
- Seal the record of conviction as applicable.

Juvenile forms designed for use by younger petitioners

Prop. 64 does not entirely decriminalize marijuana offenses for minors, but rather provides that they are all infractions that can be sanctioned only with court-ordered drug education or counseling and community service. Because juvenile offenses will remain as infractions, application of the adult resentencing and redesignation provisions to juveniles will not require dismissal or sealing of the conviction record. The committees propose two optional juvenile forms: (1) a Request to Reduce Juvenile Marijuana Offense, and (2) a Juvenile Order After Request to Reduce Marijuana Offense, under Health and Safety Code section 11361.8(m).

The *Request to Reduce Juvenile Marijuana Offense* (form JV-744) allows juvenile marijuana offenders to petition the court to obtain a new disposition, or to have their offenses redesignated as infractions under section 11361.8. This form is modeled on the proposed criminal *Petition/Application* (form CR-187). However, because the users of the juvenile form will primarily be either minors or young adults, the Family and Juvenile Law Advisory Committee sought to use plainer language and to streamline the form to require only the information that the offender is likely to be able to obtain. As a result, form JV-744 does not require the offender to specify the amount of marijuana involved in the offense, but only the dates and the Health and Safety Code violation for which the child was adjudicated. It also structured so that a separate form must be completed for each eligible offense a person is requesting be redesignated under Prop. 64. It includes one additional item not on the adult petition/application to allow the petitioner to request a hearing. This item was added because section 11361.8 provides that a hearing is required if requested by the petitioner. In addition, consistent with juvenile court practice in other contexts, the form is designed to be routed by the court clerk to the probation department and prosecuting attorney after filing, rather than requiring the petitioner to serve the request on the prosecuting agency.

The *Juvenile Order After Request to Reduce Marijuana Offense* (form JV-745) provides courts with the ability to make the relevant orders on the requests for relief under section 11361.8 for juvenile offenses. The form is consistent with the proposed criminal *Order After Petition/Application* (form CR-188) and adds content specifically relevant to juvenile offenders, including an option for the court to order drug education or counseling and community service when ordering a new disposition for the offense as those sanctions are allowed by Prop. 64 for offenses committed by minors.

Comments, Alternatives Considered, and Policy Implications

Comments

Because these proposed forms are still circulating for public comment, there are no comments at this time.

Alternatives Considered

The committees considered making the forms mandatory but determined that optional forms would allow courts the flexibility of developing their own forms to fit their unique needs, while still providing the convenience of a standard form for those courts that choose to use them. Courts will still be required to accept petitions/applications submitted on the proposed optional Judicial Council forms even if they develop their own forms, under California Rules of Court, rule 1.35(a).

The committees considered proposing these forms through the regular cycle for Judicial Council approval, in order to have circulation for public comment prior to council review. However, due to the immediate need, the committees determined that approval of the forms under the regular cycle would not satisfy the needs of the courts for immediate guidance under the new law.

The committees also considered creating a single form to accommodate both adult and juvenile petitions and applications. However, the Family and Juvenile Law Advisory Committee found that the terminology and the legal provisions were sufficiently distinct that it would be confusing to try to accommodate both case types on one set of forms, thus necessitating the creation of separate forms for criminal and juvenile courts.

The committees considered creating an attachment form to allow petitioners to include multiple offenses. However, they concluded that such a form might create problems for the courts issuing the orders because the relief allowed under Prop. 64 is tied to the nature of the offense, whether the offender is currently subject to a sentence/disposition and whether the offender has completed that sentence/disposition.

The Criminal Law Advisory Committee considered not including the proof of service requirement on the adult Petition/Application (form CR-187). However, the proposition assumes service on the prosecution by providing that “the party opposing” the petition/application may put forth evidence that it does not meet the criteria for relief. Therefore, the committee determined that the guidance to the defendant and the information gained by the court in terms of notice to the prosecuting agency, outweighed the inconvenience of the additional step. If it is determined that a rule of court would provide needed guidance, the committee will develop a rule at a later time.

Lastly, the committees considered enacting rules of court to set forth uniform timelines and procedures for carrying out the requirements of section 11361.8 but determined that such rules are not necessary given court’s efforts to implement the law, which would be well under way by

the time the rules went into effect. If, however, it is determined that rules of court for those or other reasons would provide needed guidance, the committees will develop such rules at a later time.

Implementation Requirements, Costs, and Operational Impacts

Court staff and judicial resources required to enable the filing of the petitions and applications provided in newly enacted Health and Safety Code section 11361.8 may be significant. Unfortunately, this is unavoidable due to the change in the law. The proposed optional forms are intended to mitigate court burdens by providing forms to help streamline the process.

Attachments and Links

1. Forms CR-187, CR-188, JV-744, and JV-745 at pages 8–16.
2. Prop. 64, available at: [https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20\(Marijuana\)_1.pdf](https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20(Marijuana)_1.pdf).

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	CASE NUMBER: _____
PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) <input type="checkbox"/> FOR RESENTENCING OR DISMISSAL <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING <input type="checkbox"/> (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

INSTRUCTIONS

- Before filing this form, petitioner/applicant should consult local court rules and court staff to determine if a formal hearing on the petition/application will be scheduled.
- If the petitioner is currently serving a sentence for a qualified crime, please fill out sections 1 and 2(a).
- If the applicant has completed the sentence for a qualified crime, please fill out sections 1 and 2(b).
- Complete sections 3 and 4 as necessary.
- Upon the filing of the petition/application, the petitioner/applicant is required to immediately serve the office of the prosecuting agency (the district attorney or city attorney, as appropriate) with a copy of the petition/application. It may be served personally or by mail; the signed Proof of Service, attached to this form, must be filed with the court.

1. CONVICTION INFORMATION

CONVICTION A:

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section 11357 11358 11359 11360, which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
 18 to 20 years of age; 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
 marijuana not in the form of concentrated cannabis; concentrated cannabis; marijuana plants;
 other: _____

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
 not more than 28.5 grams of marijuana not in the form of concentrated cannabis; not more than 4 grams of marijuana in the form of concentrated cannabis; not more than 8 grams of marijuana in the form of concentrated cannabis;
 not more than 6 marijuana plants.

CONVICTION B:

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section 11357 11358 11359 11360, which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
 18 to 20 years of age; 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
 marijuana not in the form of concentrated cannabis; concentrated cannabis; marijuana plants;
 other: _____

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
 not more than 28.5 grams of marijuana not in the form of concentrated cannabis; not more than 4 grams of marijuana in the form of concentrated cannabis; not more than 8 grams of marijuana in the form of concentrated cannabis;
 not more than 6 marijuana plants.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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2. REQUEST FOR RELIEF

a. RESENTENCING/DISMISSAL

Petitioner is currently serving the sentence for the crime noted above, and requests the sentence be recalled and that he/she be resentenced or the charge be dismissed as required by law.

Other: _____

b. REDESIGNATION/DISMISSAL/SEALING

Applicant has completed the sentence for the crime noted above, and requests the sentence be recalled and the conviction be redesignated or dismissed. If the conviction is dismissed, applicant requests the court's record of conviction be sealed.

Other: _____

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 his/her appearance.

Dated: _____



Signature of petitioner/applicant

PROSECUTING AGENCY RESPONSE

The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.

The prosecuting agency requests a hearing and objects to the granting of the petition/application because:

Petitioner/applicant was not convicted of an eligible offense.

Other: _____

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.

The prosecuting agency does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated: _____

Signature of prosecuting attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	CASE NUMBER: _____
PROOF OF SERVICE Check Method of Service (only one): <input type="checkbox"/> By Personal Service <input type="checkbox"/> By 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.
 - (1) Name: _____
 - (2) Residence or Business Address: _____
 - (3) Telephone: _____

2. I served a copy of the Petition/Application for Resentencing or Reduction to Infraction on the person or persons listed below as follows:
 - (1) Name of person served: _____
 - (2) Address where served: _____
 - (3) Date Served: _____
 - (4) 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: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.:	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CITY: STATE: ZIP CODE: FAX NO.:	
ORDER AFTER PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)		CASE NUMBER:
<input type="checkbox"/> FOR 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 finds 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(s) and enters the following additional orders:
 - The following crime(s) is/are resentenced as misdemeanor(s) infraction(s): (indicate crime(s)) _____
 - The following sentence is imposed for the commission of the crime(s): _____
- The petitioner is given credit for time served of (days): _____
- Petitioner is required to complete a period of supervision of _____ months/days on
 - parole postrelease community supervision mandatory supervision (Pen. Code, § 1170(h))
 - formal probation informal probation
- The court releases the petitioner from any form of post conviction supervision.
- The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid: _____
- 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(s) and enters the following additional orders:
 - The following crime(s) is/are redesignated as misdemeanor(s) infraction(s): (indicate crime(s)) _____
- The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid: (specify): _____
- Other: _____

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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3. RESENTENCING/REDESIGNATION DENIED

- The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is **DENIED** as to crime(s): _____ for the following reasons:
- The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
- The petitioner's/applicant's age at the time the crime(s) was/were committed makes petitioner/applicant ineligible for the requested relief.
- The nature of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- The quantity of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
- Other: _____

4. MISDEMEANOR/INFRACTION FOR ALL PURPOSES

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

Dated: _____
JUDICIAL OFFICER

PARTY WITHOUT AN ATTORNEY OR ATTORNEY: STATE BAR NO. (if applicable): NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL 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: BRANCH NAME:	
CASE NAME:	
REQUEST TO REDUCE JUVENILE MARIJUANA OFFENSE (Prop. 64–Health and Safety Code, § 11361.8(m))	CASE NUMBER: Date: Time: Department:

INSTRUCTIONS

- Use this form if you went to court for a marijuana-related offense when you were under the age of 18 and you want your record changed. You need to use a different form if you were 18 or older at the time of the offense.
- You need to use a separate form for each juvenile marijuana offense on your record.
- If this form asks for information that you do not have, you can contact your attorney. If you don't have an attorney, the public defender's office or the court in the county where you went to court can probably help you get these records.
- How to fill out the form without an attorney:
 - A. Put your name and contact information in the box at the top of the form and in item 1 below.
 - B. Put the address of the court from your court papers here. This form must be filed in the county where you went to court for this offense.
 - C. Fill out number 2 about the marijuana offense.
 - D. If you are on probation now for the marijuana offense, also check number 3 to ask the judge to make new dispositional orders (a new sentence) based on the new law. The new orders cannot be more severe than your original sentence.
 - E. If you have completed probation for the marijuana offense, check number 4 to ask the judge to redesignate your offense to an infraction. So, if it was a misdemeanor or a felony, it will now be classified like a traffic ticket.
 - F. You can check number 5 if you are willing to have any available judge hear your request. If you check that box the presiding judge may have a different judge hear your request.
 - G. A hearing is not required unless you request it. You can check one of the boxes in number 6 if you want the court to set a hearing.
 - H. You can check number 7 if you do not want to come to court if there is a hearing.

For more information about Proposition 64 and filling out this form, go to www.courts.ca.gov/prop64.htm.

1. MY INFORMATION

My name is:
 I was born on (date):

2. OFFENSE INFORMATION

On (date): I was found to come within the jurisdiction of the court under Welfare and Institutions Code section 602 for a violation of Health and Safety Code section (check one)

- 11357—Possession of Marijuana
- 11358—Cultivation of Marijuana
- 11359—Possession of Marijuana for Sale
- 11360—Transportation, Distribution, or Importation of Marijuana

This offense has been reclassified as an infraction when committed by a person under the age of 18 under Proposition 64. At the time of the offense, I was under the age of 18.

CASE NAME:	CASE NUMBER:
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3. REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING)

I am currently subject to a dispositional order (on probation) for the marijuana offense in number 2. I request that the order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(b) so that I will be resentenced.

4. REQUEST FOR REDESIGNATION

I am no longer a ward of the court (probation completed) for the marijuana-related offense in number 2. I request the court's dispositional order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(f) so that the offense will be redesignated as an infraction.

5. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

I know that I have the right to have this matter heard by the judge who originally sentenced me. I am willing to have any available judge hear the case.

6. REQUEST FOR HEARING

I request a hearing if the prosecuting agency opposes my application. I understand that by checking this box, the court will set a hearing only if it is opposed by the Prosecution/Prosecution Agency.

I request that the court set a hearing even if my application is not opposed by the Prosecution/Prosecution Agency.

7. WAIVER OF APPEARANCE

I understand that I have a right to personally attend any hearing held in this matter and argue on my behalf. I give up that right. The case may be heard without my appearance.

Date: _____



SIGNATURE OF PETITIONER

File this form with the court. The court will send a copy to the probation department and to the prosecuting agency to respond.

TO BE FILLED OUT BY THE PROSECUTING AGENCY

8. PROSECUTING AGENCY RESPONSE

The prosecuting agency has no objection to this petition. Petitioner is entitled to the requested relief without a hearing.

The prosecuting agency does not object to the petitioner's eligibility for relief, but requests a hearing on the issue of a new dispositional order.

The prosecuting agency requests a hearing and objects to the granting of the petition because:

The prosecuting agency does not agree that the petition should be granted because the offense for which petitioner was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.

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.

Other : _____

Date: _____

SIGNATURE OF PROSECUTING AGENCY

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: _____	
CASE NAME: _____	
JUVENILE ORDER AFTER REQUEST TO REDUCE MARIJUANA OFFENSE (Prop. 64–Health and Safety Code, § 11361.8(m))	CASE NUMBER: _____
<input type="checkbox"/> FOR NEW DISPOSITION (Health & Saf. code 11361.8(b))	<input type="checkbox"/> REDESIGNATION (Health & Saf. code 11361.8(f))
	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 finds as follows:

1. NEW DISPOSITION GRANTED

- The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls its disposition for the designated offense and makes the following additional orders:
 - The following offense is redesignated as an infraction (indicate offense): _____
 - Petitioner is required to complete:
 - _____ hours of drug education and counseling and/or
 - _____ hours of community service, within _____ days from the date of this order.
 - Wardship and delinquency jurisdiction for this offense is terminated.
 - Other: _____

2. REDESIGNATION GRANTED

- The petitioner is eligible for the requested relief. The application is **GRANTED**. The court hereby redesignates the following offense for which the child was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 as an infraction (indicate offense): _____.

3. NEW DISPOSITION/REDESIGNATION DENIED

- The petitioner is ineligible for the requested relief. The request for a new dispositional order/redesignation is **DENIED** for the following reasons:
 - The offense for which petitioner was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.
 - Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that modifying the petitioner's disposition would pose an unreasonable risk of danger to public safety.
 - Other: _____

CASE NAME:	CASE NUMBER:
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4. INFRACTION FOR ALL PURPOSES

Any offense redesignated as an infraction as a result of this order shall thereafter be an infraction for all purposes.

IT IS SO ORDERED.

Dated: _____
_____ JUDICIAL OFFICER