

Summary of Record Clearance Laws – California Convictions

General Terms

Mandatory dismissal (expungement): Judge MUST dismiss the conviction by law. There is no fee to file for a mandatory expungement in Santa Clara County

Discretionary expungement: expungement is up to the judge's discretion. Court appearance and petition to the court to explain why it is fair ("in the interests of justice") to dismiss the conviction.

Summary of Expungement Laws

Law	Applies to	Mandatory / Discretionary
1203.4	Sentences with probation	Mandatory if successfully completed probation or probation terminated early Discretionary if probation violated
1203.4a	Sentences without probation (misdemeanors & infractions only)	Mandatory if 1 year passed w/ no new convictions Discretionary if new conviction w/in 1 year
1203.41 (amended by SB 731, eff 1.1.23)	All felony cases, including cases sentenced to state prison <i>exceptions:</i> felony convictions requiring registration as sex offender; people on lifetime parole	All discretionary People can apply 2 years after termination of sentence
1203.4b	For people who worked in fire camps while in custody	All discretionary Can use law to terminate parole

Felony Reduction Rules

Law	Applies to	Type of Case	Mand/Disc
17b	Jail sentences only	Wobbler - when sentence includes (a) jail/prison OR (b) jail/1170(h) alternatives	Discretionary
P 64 = HSC 11361.8(e)-(f)	Jail/prison/1170(h)	Marijuana: HS code sections 11357-11360	Mandatory
Prop 47* = PC 1170.18	Jail/prison/1170(h)	Drug possession HSC 11350, 11357, 11377 Theft-related offenses under \$950	Mandatory

*Prop 47 lapsed in Nov 2022 but watch SB 749 which would restore Prop 47 in late 2023 or 2024

Certificate of Rehabilitation

Applies to some sex offenses, some child pornography or prison sentences when convictions cannot be dismissed by PC 1203.4 or 1203.41

Check Penal Code 4852.01 when reviewing the RAP sheet for potential ineligible (i.e., serious) convictions