

Summary of Record Clearance Laws – California Adult Convictions

General Terms

Mandatory dismissal (expungement): Judge MUST dismiss the conviction by law.

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.

There are no fees to file for record clearance in any county in California.

Summary of Expungement Laws

Law	Applies to	Mandatory / Discretionary
1203.4	Sentences with probation	<u>Mandatory</u> if successfully completed probation or probation terminated early <u>Discretionary</u> if probation violated
1203.4a	Sentences without probation (misdemeanors & infractions only)	<u>Mandatory</u> if 1 year passed w/ no new convictions <u>Discretionary</u> if new conviction w/in 1 year
1203.41 (amended by SB 731, eff 1.1.23)	Cases sentenced to realignment (AB 109) or state prison <i>exceptions</i> : felony prison convictions that require registration as a sex offender; people on lifetime parole	<u>All discretionary</u> , except: (effective July 2024) DOJ must dismiss felonies if no new felony convictions w/in 4 years. Does not apply serious, violent, 290. People can apply for dismissal 2 years after completion of sentence

*1203.4b permits people who worked in fire camps in custody to dismiss their conviction and (if relevant) to terminate parole

Felony Reduction Rules

Law	Applies to	Type of Case	Mand/Disc
17(b)	Jail sentences only	Wobbler - when sentence includes alternatives in current sentencing law of (1) Jail or prison OR (2) Jail of 1170(h)	<u>Discretionary</u>
Prop 47* = PC 1170.18	All cases (jail/prison/1170(h))	(1) Drug possession HSC 11350, 11357, 11377 (2) Specified theft-related offenses under \$950	<u>Mandatory</u>
P 64 = HSC 11361.8(e)-(f)	All cases (jail/prison/1170(h))	Marijuana: HS code sections 11357 - 11360	<u>Mandatory</u>

*In November 2024, Prop 36 amended Prop 47 to expand penalties for third-time drug possession and third-time petty theft. HSC 11395(b) outlines sentencing for drug possession, PC 666.1(a) for theft. These are wobblers.