

Petition for Relief under Penal Code §1203.4 & §1203.4a
Information and Instructions

After successful completion of probation, you may petition the court to dismiss the charges under Penal Code §1203.4. If it is in the interest of justice, the judge may allow you to file the petition before probation ends. You may also petition the court under 1203.4a after conviction of a misdemeanor. The differences of a 1203.4 and 1203.4a petition are listed in Section 2.

Section 1 - General Information:

1. A 1203.4/1203.4a petition must be filed in the same court in which the criminal case was adjudicated.
2. A 1203.4/1203.4a petition allows a person to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty.
3. Disclosure – Granting of this petition does *NOT* relieve you of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.
4. The granting of your request by the court does not eliminate from your record the fact that an arrest occurred or that the charge(s) were brought, only that a conviction occurred.
5. The conviction may still be alleged as a prior conviction in future criminal proceedings.
6. Department of Motor Vehicles – Granting of this petition does *NOT* affect DMV actions or future consequences for crimes involving operation of a motor vehicle.
7. Firearms – Granting of this petition does *NOT* permit you to own, possess, or have in your custody or control any firearm.
8. Sealing – Granting of this petition does *NOT* seal your record. The case, including the conviction will remain public record.
9. Sex Registration – Granting of petition does *NOT* relieve you from any obligation to register under Penal Code §290.

This information is for general use and not intended as full and comprehensive instruction governing the laws and rules relating to relief granted under Penal Code §1203.4. For further information you may refer to Penal Code §1203.4 and 1203.4a or you may wish to seek legal assistance.

Section 2 – Criteria: You may qualify for a Petition for Relief under 1203.4 PC or 1203.4a PC if you meet the following:

Petition for Relief pursuant to 1203.4 PC

- You were convicted of a Misdemeanor or Felony.
- Probation was granted on this case.
- You have fully complied with the conditions of probation for the entire term or you were discharged prior to the termination of probation.
- You are not serving a sentence for any offense.
- You are not on probation for any other offense.
- You are not currently charged with another offense.
- All court ordered restitution or fines have been paid.

Petition for Relief pursuant to 1203.4a PC

- You have been convicted of a Misdemeanor.
- One year has elapsed since the date of pronouncement of judgment (sentencing).
- You were sentenced on this case and probation **was not** granted
- You have fully complied with and performed the sentence for any offense.
- You are not on probation for any other offense.
- You are not currently charged with another offense.
- All court ordered restitution or fines have been paid.

Section 3 - What prohibits someone from filing the petition?

1. Any Infraction violation.
2. Misdemeanor Violations of 42001(b) Vehicle Code.
3. Violations listed under 12021.1 Penal Code (firearms, prior convictions of certain violent offenses).
4. Any felony conviction pursuant to Penal Code 261.5(d).
5. Violations of Penal Code Sections 286(c), 288, 288a(c), 288.5 or 289(j).
6. Case has previously been dismissed.

FILING INSTRUCTIONS ON PAGE 2

Amador Superior Court Filing Instructions:

NOTE: Clerks cannot advise or render assistance in the completion of this petition.

If your case has been destroyed pursuant to Government Code §68153, you must provide the court with either a copy of the probation order or the criminal history record from the California Department of Justice (RAP sheet).

1. Complete the Petition for relief and the Notice of Hearing (the clerk will provide a hearing date when the documents are filed). (*Incomplete forms will not be filed and will be returned for correction.*)
2. **On the first page of all forms**, complete your name, address, and telephone number in the space at the upper-left corner. Under your name in the upper-left corner and under the signature lines, type "In Pro Per" (this indicates you are representing yourself).
3. Complete the Petition for Relief , the Notice of Hearing and the proposed Order as appropriate.
4. File the Petition for Relief and the Notice of Hearing at the clerk's office located at 500 ARGONAUT LANE, Jackson, CA 95642. You may mail the documents to the court for filing, or bring them in person Monday through Friday 9:30 a.m., to 3:00 p.m. For return of your documents you must include a self addressed stamped envelope.
5. If you were on Probation, you must provide the Probation Department with a copy of the Petition for Relief and the Notice of Hearing (as soon as you have filed them), and request they complete the Probation Officer's Declaration.
6. A copy of the petition and the Notice of Hearing must be served on the Office of the District Attorney who prosecuted your case. You personally cannot serve the paperwork, anyone else over 18 can, and they can be served either by mail or in person. The Amador County District Attorney is located at 708 Court Street, Jackson, CA 95642. **(No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief.) Be sure if you are having them served by mail, they will arrive at the Office of the District Attorney more than 15 days prior to the hearing.**
7. The Proof of Service on the Office of the District Attorney must be filed with the court prior to the hearing. **(It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.)**
8. You should be present for the hearing. If you are not going to be present for the hearing, you **must** notify the court in writing, prior to the hearing, you will not be present.
9. Submit a completed Order prior to the hearing, or be sure to bring one with you for the court to sign.
10. A reimbursement cost of up to \$120.00 for a petition can be assessed by the Court at the time of the hearing.