

Am I eligible for Expungement?

Not everyone is eligible for expungement, but many are.

The following slides describe who is eligible for expungement.

What makes one eligible?

You are likely eligible for expungement of your convictions if you

“ha[ve] fulfilled the conditions of probation for the entire period of probation, or ha[ve] been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense...” (Cal. Pen. Code § 1203.4 (a).)

What does that mean, exactly?

You are likely eligible for expungement of your convictions if you

- 1) Have successfully completed your probation, which means you
 - a. Paid all fines/restitution
 - b. Have not committed any new criminal offenses
 - c. Attended all court appearances (whether personally or represented by counsel)
- 2) You did not serve time in prison for your conviction
 - a. The exception to this is if you served time in prison, but would have served your sentence in County Jail under Prop. 47.

Special Issue - Prop 47

Proposition 47 featured sentencing “realignment” measures which allow a person who served time in prison to petition for Expungement (under PC 1203.42, rather than PC 1203.4).

To qualify under Prop 47’s realignment scheme, the conviction must have been one which would be currently punishable with a sentence in county jail, plus:

- 1) at least two years have elapsed since the defendant completed their sentence, and
- 2) the defendant is not:
 - a) under supervised release for a crime,
 - b) serving a sentence for any offense,
 - c) on probation for any offense, or
 - d) charged with the commission of any crime.

What if I am ineligible?

There are certain offenses for which one is never eligible for expungement.

If you are ineligible for expungement, you may wish to speak to an attorney or contact the Kern County Law Library about the process of petitioning for a Certificate of Rehabilitation.

If you are ineligible for either expungement or a Certificate of Rehabilitation, you should consult with an attorney to determine if any other remedies may be available to you.