

What is Expungement?

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Expungement is the common phrase used to describe changing your criminal history for the better. We will describe exactly how it does that, what it does not do, and how it may benefit you.

Expungement Defined

1203.4 PC states that “(a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has 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, be permitted by the court 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; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code.”

What does that mean?

In other words, when you ask the court to expunge your conviction (or: Petition for Dismissal), you are asking the court to allow you to withdraw your plea of guilty or no contest, or set aside your guilty verdict, and allow you to re-enter a not guilty plea, and then dismiss the charge(s).

If you were to look up your criminal case history for a charge that resulted in a conviction, the “Disposition” of the case would show your conviction status, like in the example below. This may not be your Disposition - this is just one example for the point of illustration.

Charges/Dispositions						
Count	Type	Code	Section	Charge Description	Charge Disposition	Disposition Date
001	M	PC	148	** NOT AVAILABLE **	PLED GUILTY	02/23/04



Effect of Expungement

The effect of a successful expungement is to change the Charge Disposition from a conviction to a dismissal, so that you can honestly say that you were not convicted of the crime. The goal is to turn a conviction into a dismissal, like in the images below.

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What Expungement is NOT

- Expungement is not a way to modify or terminate probation.
- Expungement is not a way to remove convictions from your record if you went to prison, with certain limited exceptions.
- Expungement is not a way to seal a record of an arrest.
- Expungement is not a way to modify a jail or prison sentence.
- Expungement is not an unlimited license to state you have never been convicted of any crimes.
- Expungement is not a shield from future prosecution for new offenses.

Why bother with Expungement?

The primary benefit of expungement is that you may now *generally* tell employers that you have never been convicted of the crime, once your charge is dismissed.

There are some exceptions where expungement does not excuse you from disclosing your conviction. They are 1) If you are applying to work with the California State Lottery Commission, 2) If you register to run for public office, and 3) If you are applying for licensing through a California state license (e.g., the State Bar of California). Otherwise, you *generally* do not have to disclose your old conviction to new employers.

If you are still uncertain as to whether you should or should not disclose an expunged conviction, consult with a criminal defense attorney.

Summary - Expungement

Expungement effectively undoes a conviction and replaces it with a dismissal. It does not excuse you in all circumstances, forever, from disclosing your conviction.

For most of the jobs for which you will apply, you do not have to report a conviction if you have had it expunged. Once you petition for dismissal, and a judge orders your conviction dismissed, you open up a wide variety of job opportunities you might not otherwise have had.

There are no real downsides to petitioning for dismissal. The worst that may happen is the court may deny your petition.