

# SAN BENITO COUNTY SUPERIOR COURT

450 Fourth Street, Hollister, CA 94023  
831-636-4057 [www.sanbenito.courts.ca.gov](http://www.sanbenito.courts.ca.gov)

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## EXPUNGEMENTS

### 1203.4b Dismissal based on Conservation or Fire Camp Participation

**DISCLAIMER:** This information is provided only as a guide and is based on court process for San Benito County. Nothing in this packet is intended as legal advice. It is your responsibility to verify that you are filing the right forms for your situation and following local procedure. If your case is in a different county, you will need to determine how the process is handled in that county. We make no guarantees about the success of your case or the correctness of the information provided herein.

#### WHAT IS A DISMISSAL?

A dismissal, which is also called an expungement, re-opens your criminal case, dismisses and sets aside the conviction, and re-closes the case without a conviction. In effect, you are no longer a convicted person for that case. However, the case record itself will still exist, and the dismissal will appear on your record.

#### WHAT IS COVERED IN THIS PACKET?

- Requests for dismissals where the defendant successfully participated in the California Conservation Camp Program or a local Fire Camp as an individual hand crew member.

#### WHO QUALIFIES?

You may qualify under Penal Code §1203.4b if:

- You successfully participated in a Conservation Camp or as a member of the County incarcerated individual hand crew.
  - Successful participation means that you “adequately performed [your] duties without any conduct that warranted removal from the program”.
- You have been released from custody.
- You have not violated any terms of your probation, parole, or supervised release.
- You are not currently charged with another offense.

#### WHAT IF I AM STILL ON PROBATION, PAROLE OR SUPERVISION?

Even if you are still on one of the above, you may ask the court to dismiss your case. The code section specifically provides that you are not required to complete your term before petitioning for a dismissal. The court has the power to terminate your term early and grant the dismissal.

#### IS THERE A FEE TO ASK FOR A DISMISSAL?

There is no fee to ask the court to dismiss under Penal Code 1203.4b.

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## WHERE DO I FILE MY REQUEST?

Your request needs to be filed in the county where the conviction occurred. If in San Benito County, file at the San Benito Courthouse located at 450 Fourth Street, Hollister, CA 95023.

## WHAT INFORMATION DO I NEED TO GET STARTED?

You can get the information you need from the Court Clerk or you can request a copy of your own RAP sheet through the California Department of Justice.

For each case you need to know:

- Case number
- Date of conviction
- What charges you were convicted of violating

## WHY SHOULD I WRITE A DECLARATION?

The decision to grant a dismissal under this code section is discretionary. When a dismissal is discretionary it is usually best to explain to the judge in a written statement why your request should be granted. A declaration is your chance to do this. Depending upon the seriousness of your convictions, and the circumstances surrounding the crime it may be important to your request to show the court why it is in everyone's best interest to dismiss your case.

## THE PROCESS:

### STEP 1:

- Fill out the following forms:
  - Petition for Dismissal and Supporting Declaration Under Penal Code 1203.4b (optional pleading form)
  - Order for Dismissal Under Penal Code 1203.4b (optional pleading form)

### STEP 2:

- After filling out the forms, you will need to make three (3) additional copies of **ALL** the forms

### STEP 3:

- Separate your originals from your copies.
- Place your originals in the order listed above. Do not staple your originals. Paperclip if necessary to keep them together.
- Separate your copies, so that you have three (3) "packets". Each with one copy of the forms listed above.
  - One copy is for the District Attorney's office.
  - One copy is for the Probation Department
  - One copy is for your records.

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## STEP 4:

- Serve the papers: The District Attorney and Probation Department need to be notified of your request. This can be done two ways; in person or by mail.
  - **In Person:** You may personally deliver a copy of the paperwork (not the originals) in person or have someone else 18 or older deliver the paper work for you to the address below.

District Attorney of San Benito County 419 Fourth Street Hollister, CA 95023 Phone (831) 636-4120	San Benito County Probation Department 400 Monterey Street Hollister, CA 95023 Phone (831) 636-4070
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- **By mail.** You may mail a copy (not the originals) of the paperwork to the DA and Probation or have someone else 18 or older mail the copy to the address above.

## STEP 5:

- Fill out the CR-106 Proof of Service form about who, when and how you served your paperwork. Make a copy of the Proof of Service.

## STEP 6:

- Add the original Proof of Service to your other originals.
- Add your copy of the Proof of Service to your other copies (your “packet”).
- You should now have an original and one copy of each listed below:
  - Petition for Dismissal Under Penal Code 1203.4b
  - Order for Dismissal Under Penal Code 1203.4b
  - CR-106 Proof of Service

## STEP 7:

- File your paperwork with the Court. This can be done two ways, in person or by mail.
  - In person at the San Benito Courthouse, bring your originals and set of copies to the Criminal window. The clerk will keep your originals, file stamp your copies and return them to you.
  - By mail: Mail in your originals and one set of copies to the address below. Make sure to include a self-addressed stamped envelope (with enough postage) for your copy to be returned to you. Once your paperwork has been filed, the copy should be returned to you.

San Benito County Superior Court  
Criminal Department  
450 Fourth Street  
Hollister, CA 95023

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## WHAT HAPPENS NEXT?

- The DA has 15 days to object to your request.
  - If they do object, a hearing will be scheduled. You will receive a copy of the objection in the mail. If you want to argue why your case should be dismissed despite the objection, you need to show up at the scheduled hearing.
  - If the DA does not object, you will receive notification in the mail from the court regarding your request. The judge may grant, deny or set for hearing.
- Should the Court grant your petition a certified copy will be mailed to all appropriate agencies.

## GETTING ASSISTANCE:

Contact the Public Defender's Office to see if you qualify for assistance in completing the forms for this process. You can contact them at (831) 205-5980.

You can also hire a private attorney to assist you with preparing the forms.

## IMPORTANT:

### What prohibits someone from qualifying for a dismissal under 1203.4b?

- Did not successfully participate in the conservation camp program or as a member of the county incarcerated individual hand crew
- Pending criminal charges
- The conviction was for any of the following:
  - Murder
  - Kidnapping
  - Rape PC 261(a)(2), PC 261(a)(6), PC 262(a)(1), or PC 262(a)(4)
  - Lewd acts defined at PC 288
  - Any felony punishable by death or imprisonment in state prison for life
  - Any sex offense requiring registration pursuant to PC 290
  - Escape from a secure perimeter within the previous 10 years
  - Arson

### Are there limits to what a dismissal under 1203.4b can accomplish?

Yes, a dismissal will **NOT**:

- Automatically reinstate your right to possess firearms.
  - Allow you to omit the conviction from applications for Commission on Teacher Credentialing, position as a police officer, public officer, or for contracting with the Ca. State Lottery Commission. (Does not apply to any other application for licensure by the state or local agency)
  - Permit a person prohibited from holding public office as a result of that conviction to hold public office.
  - Seal or remove the court file from public inspection.
  - Prevent the conviction from being used as a "prior" in the future.
  - Remove from your record the fact that an arrest occurred.
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## **Do I have to disclose my criminal conviction on a job application after expungement (dismissal)?**

This question is more complicated than it appears. How you should answer depends upon whether a specific statute covers the issue, what kind of job you are applying for, and how the question is worded. You may get information at <https://legalaidthatwork.org/factsheet/criminal-records/>. However, if you have further questions you should seek legal advice.

## **What if I fill out the forms incorrectly?**

The forms will be returned to you so you can correct them or add any missing information.

## **What if I have changed my name since my conviction?**

Fill out the forms with the name under which you were convicted. Sign the forms with your current name.