

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ CDC or ID number: _____ Date of Birth: _____	
<b>PETITION FOR RESENTENCING BASED ON MENTAL HEALTH PROBLEMS FROM MILITARY SERVICE (Pen. Code, § 1170.91(b))</b>	CASE NUMBER: _____  <b>FOR COURT USE ONLY</b> Date: _____ Time: _____ Department: _____
<b>Instructions:</b> File this petition with the same court where you were sentenced. You will need to file a separate petition for each case in which you are asking for resentencing.	

I (name): \_\_\_\_\_, the defendant in the above-entitled case, declare as follows:

1.  I am currently serving a sentence for the felony conviction listed below.
  - I am currently in jail or prison.
  - I am on supervision because of my conviction (for example, probation, parole, PRCS, mandatory supervision).
2.  On (date of conviction): \_\_\_\_\_, I was convicted of the following felony offenses:

Code	Section	Name of Offense

If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).

- 3A.  I was a member of the United States military. I served in (branch of military) \_\_\_\_\_ from (date of entry into military) \_\_\_\_\_ until (date of discharge) \_\_\_\_\_.
- 3B.  I am currently a member of the United States military. I serve in (branch of military) \_\_\_\_\_ and my entry date was: \_\_\_\_\_.
4.  I believe that as a result of my military service, I was suffering from the following mental health problems at the time I was sentenced (check all that apply):
  - Sexual trauma
  - Traumatic Brain Injury (TBI)
  - Post-Traumatic Stress Disorder (PTSD)
  - Substance Abuse
  - Other Mental Health Problems (list or describe): \_\_\_\_\_
5.  I believe that when I was sentenced, the judge did not consider my mental health problems resulting from my military service as a factor in deciding my sentence.
6.  I was sentenced before January 1, 2015.
7.  If available, attach relevant records or other documents supporting your claim (e.g. military records, conviction documents, mental health treatment records).

Dated: \_\_\_\_\_

▶ \_\_\_\_\_

SIGNATURE OF PETITIONER/DEFENDANT

**Form CR-106 (Proof of Service for criminal cases) may be used to provide proof of service of this petition.** Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. : E-MAIL ADDRESS: ATTORNEY FOR (Name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>CASE NAME:</b>	
<b>NOTIFICATION OF MILITARY STATUS</b>	CASE NUMBER:

**Consult your attorney before submitting this form. You may decline to submit this form to the court without penalty.**

I (*name*): declare as follows:

1.  I am a party in a superior court case.
2.  I am currently a member of the state or federal armed services or reserves. My entry date is: \_\_\_\_\_, and I
  - a.  am on active duty service.
  - b.  have been called or ordered into active duty service.
  - c.  am not on active duty service.
  - d.  other (*please explain*): \_\_\_\_\_
3.  I used to serve in the state or federal armed services or reserves. I was discharged on (*date*): \_\_\_\_\_
4.  I understand that if I submit this form to the court as a defendant in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.
5.  I am filing this form on behalf of \_\_\_\_\_, a party to the above entitled case, whom I am informed and believe is a  member  veteran of the state or federal armed services. I am the  attorney  other (*specify*): \_\_\_\_\_ of this party. My contact information  is provided at the top of this form  follows: Name: \_\_\_\_\_ Address: \_\_\_\_\_ Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_ SIGNATURE

(TYPE OR PRINT NAME)

Local County Veterans Services Office Information (to be provided by local court):	
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**NOTICE**

**Certain provisions of California law apply to current and former members of the U.S. Military who have been charged with a crime when certain conditions are met. Please see the back of this form for more information. To submit this form as a party in a criminal case you must file it with the court and serve it on the prosecuting attorney and defense counsel. Filing of this notification form does not substitute for filing of other forms or petitions that are required by your court case.** If you are requesting consideration or restorative relief under Penal Code section 1170.9, this form alone will not meet the requirement that you assert to the court that the crime you were charged with was a result of a condition caused by your military service. If you are filing for relief from financial obligation during military service, a notification of military deployment and request to modify a support order, or other relief under the Service Members' Civil Relief Act (50 App. U.S.C. §§ 501-597(b)), you must complete the appropriate forms, and completion of this form is not required. Please see form MIL-010 (*Notice of Petition and Petition for Relief From Financial Obligations During Military Service*) and form FL-398 (*Notice of Activation of Military Service and Deployment and Request to Modify a Support Order*).

**YOU SHOULD CONSULT WITH YOUR ATTORNEY ABOUT THE FOLLOWING INFORMATION  
AND BEFORE SUBMITTING THIS FORM.**

If you are a current or former member of any branch of the U.S. Military who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of your military service and charged with a crime, you may be entitled to certain rights under some California laws. Below are brief explanations of some of those laws. You should consult with your attorney to discuss how these and/or other laws may apply to you.

You are not required to have an honorable discharge, to have combat service, or to be accepted into a Veterans Court to be eligible for the rights described in the following statutes.

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**California Penal Code 1170.9:** Consideration for alternative sentencing and restorative relief.

Rights include possibly:

- Receiving treatment instead of prison or jail time for certain crimes
- Having a greater chance of receiving probation
- Having conditions of probation deemed satisfied early, other than any victim restitution ordered, and probation terminated early
- Having some felonies reduced to misdemeanors
- Having the court restore rights, dismiss penalties, and/or set aside conviction for certain crimes

Requirements include:

- For consideration for alternative sentencing:
  - Convicted of certain criminal offenses (some crimes do not qualify)
  - Eligible for probation and court orders probation
- For restorative relief following order of probation:
  - In substantial compliance with conditions of probation
  - A successful participant in and demonstration of significant benefits from treatment and services
  - No danger to the health and safety of others

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**California Penal Code 1001.80:** Diversion in misdemeanor cases.

Rights include possibly:

- *Pretrial* diversion program instead of trial and potential conviction and incarceration
- Dismissal of eligible criminal charges following satisfactory performance in program
- Arrest is deemed to have “never occurred” for most purposes following successful completion of program

Requirements include:

- Application to misdemeanors only, *not* felonies
- Eligible for diversion and court orders diversion
- Waiver of right to speedy trial and consent to diversion
- Satisfactory performance in program

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**California Penal Code 1170.91:** Mitigating factor in felony sentencing.

- The court shall consider these circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could mean a more lenient sentence.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. : E-MAIL ADDRESS: ATTORNEY FOR (Name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>CASE NAME:</b>	
<b>NOTIFICATION OF VETERAN STATUS / MILITARY STATUS</b>	CASE NUMBER:

- I (*name*): declare as follows:
1.  I am a party in a  criminal  family  juvenile  civil/other (*specify*): court case.
  2.  I am a current or former member of the state or federal armed services or reserves. My entry date is:
    - a.  I am on active duty service.
    - b.  I have served in the state or federal armed services or reserves. I was discharged on (*date*):
    - c.  Other (*please explain*):
  3.  I am filing this form on behalf of \_\_\_\_\_, a party to the above entitled case, whom I am informed is a  member  veteran of the state or federal armed services or reserves.  
 I am the  attorney  other (*specify*): \_\_\_\_\_ of this party. My contact information  is provided at the top of this form  follows:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Telephone number: \_\_\_\_\_
  4.  I understand that if this form is being submitted in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

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\_\_\_\_\_

SIGNATURE

Local County Veterans Services Office Information (to be provided by local court):

## YOU SHOULD CONSULT WITH YOUR ATTORNEY ABOUT THE FOLLOWING INFORMATION

**If you are a current or former member of any branch of the US Military, you may be entitled to certain rights under the law.** Filling out the MIL-100 form is one way you can let the court know about your military status. It is an optional form. Letting the court know about your military experience may allow consideration of possible benefits and protections for your case.

**You are not required to have an honorable discharge, to have combat service, or to be accepted or involved in a Veterans Court to be eligible for the possible rights and protections under the law.**

Some examples of benefits for a defendant in a criminal case who is a veteran or is on active duty include possible consideration for alternative sentencing and restorative relief, and diversion in misdemeanor cases. If you are a current or former member of any branch of the US military who may be suffering from sexual trauma-also known as military sexual trauma (MST), traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), substance abuse, or mental health issues as a result of your military service, and charged with a crime, you may be entitled to certain rights under the following California law:

### **California Penal Code 1170.9**

Below is a brief description of possible rights and protections under this code:

- Treatment instead of prison or jail time for certain crimes;
- A greater chance of receiving probation;
- Conditions of probation deemed satisfied early, other than any victim restitution ordered, and early termination of probation;
- Felonies reduced to misdemeanors;
- Restoration of rights, dismissal of penalties, and/or setting aside of conviction for certain crimes

### **California Penal Code 1001.80**

Below is a brief description of possible rights and protections under this code:

- Pretrial diversion program instead of trial and potential conviction and incarceration;
- Dismissal of eligible criminal charges following satisfactory performance in program;
- Arrest deemed to have "never occurred" for most purposes following successful completion of program

### **California Penal Code 1170.91**

Below is a brief description of possible rights and protections under this code:

- The court shall consider circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could result in a more lenient sentence.

**If you submit this form in a criminal case, you must file it with the court and serve a copy of it to the prosecuting attorney and defense counsel.**

**If you are a party to a civil case and are filing any of the following:**

- For relief from financial obligation during military service;
- A notification of military deployment and request to modify a support order;
- For other relief under the Service Members' Civil Relief Act (50 App. U.S.C. §§ 501-597(b))

You must complete the appropriate forms. Please see form MIL-010 (*Notice of Petition and Petition for Relief From Financial Obligations During Military Service*) and form FL-398 (*Notice of Activation of Military Service and Deployment and Request to Modify a Support Order*). Filing of this MIL-100 notification form does not substitute for filing of other forms or petitions that are required by your court case.