

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

SPR11-29

Title	Action Requested
Criminal Procedure: Petition and Order for Dismissal	Review and submit comments by June 20, 2011
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms CR-180 and CR-181	January 1, 2012
Proposed by	Contact
Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair	Arturo Castro, arturo.castro@jud.ca.gov , 415-865-7702

Summary

The proposed revisions to *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) would delete certain personal identifying information of petitioners and add an advisement to the order form to clarify that dismissals do not relieve petitioners of sex offender registration requirements.

Discussion

The Criminal Law Advisory Committee proposes two revisions to the petition and order forms (forms CR-180 and CR-181) used by courts and petitioners to facilitate the dismissal procedure authorized by Penal Code sections 1203.4 and 1203.4a.

First, the committee proposes deleting from the headings of both forms the data field for entry of petitioner's driver's license number and last four digits of petitioner's social security number. Driver's license and social security information is personal in nature and subject to identity theft. The information is also unnecessary on the forms because courts only require the petitioner's name and date of birth to properly process the dismissals.

Second, under Penal Code section 290.007, dismissals under Penal Code section 1203.4 do not relieve defendants of sex offender registration requirements unless the defendant obtains a certificate of rehabilitation and is entitled to relief under Penal Code section 290.5. To enhance the information contained in the order form, the committee proposes to add the following advisement regarding sex offender registration to item 5.b. of the order form:

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

5. If this order is granted under the provisions of Penal Code section 1203.4:

...

b. Dismissal of the conviction ... (ii) does not relieve a person from the requirement to register as a sex offender unless the person obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT Not Approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	
PETITION FOR DISMISSAL (Pen. Code, §§ 17, 1203.4, 1203.4a)	CASE NUMBER: _____
DEFENDANT'S INFORMATION CII: _____ DATE OF BIRTH: _____	

1. On (date): _____ the defendant in the above-entitled criminal action was convicted of a violation of section(s) (specify): _____ of the (specify): _____ Code.
2. The offense was a misdemeanor felony.
 Felony offense (Pen. Code, § 17):
 The offense listed above is a felony that may be reduced to a misdemeanor under Penal Code section 17.
3. Offense with probation granted (Pen. Code, § 1203.4):
 Probation was granted on the terms and conditions set forth in the docket of the above-entitled court; the defendant is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the defendant (check one):
 - a. has fulfilled the conditions of probation for the entire period thereof;
 - b. has been discharged from probation prior to the termination of the period thereof; or
 - c. should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice by completing and attaching the optional Attached Declaration (form MC-031).)
4. Offense with sentence other than probation (Pen. Code, § 1203.4a):
 Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. The defendant has complied with the sentence of the court and is not serving a sentence for any offense nor under charge of commission of any crime, and since said pronouncement of judgment has lived an honest and upright life and conformed to and obeyed the laws of the land.

 Petitioner requests that defendant be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section 1203.4 or 1203.4a of the Penal Code.

 Petitioner requests that the felony charge be reduced to a misdemeanor under Penal Code section 17.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: _____ (DATE) ▶ _____ (SIGNATURE OF PETITIONER OR ATTORNEY)

 (ADDRESS OF DEFENDANT) (CITY) (STATE) (ZIP CODE)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF — STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <p style="text-align: center;">DRAFT Not Approved by the Judicial Council</p>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	
ORDER FOR DISMISSAL (Pen. Code, §§ 17, 1203.4, 1203.4a)	CASE NUMBER:
DEFENDANT'S INFORMATION CII: DATE OF BIRTH:	

1. The court denies the petition.
2. The court grants the petition. The court finds from the records on file in this case, and from the foregoing petition, that the defendant is eligible for the relief requested.
3. a. The court reduces the felony offense to a misdemeanor.
 b. The court denies the request to reduce the felony offense to a misdemeanor.
4. It is ordered that the plea, verdict, or finding of guilt in the above-entitled action be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed.
5. If this order is granted under the provisions of Penal Code section 1203.4:
 - a. The defendant is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency or for contracting with the California State Lottery.
 - b. Dismissal of the conviction (i) does not permit a person prohibited from holding public office as a result of that conviction to hold public office, and (ii) does not relieve a person from the requirement to register as a sex offender unless the person obtains a certificate of rehabilitation and is entitled to relief from registration under Penal Code section 290.5.
 - c. The defendant may also be eligible to obtain a certificate of rehabilitation and pardon under the procedure set forth in Penal Code section 4852.01 et seq.
6. If the order is granted under the provisions of either Penal Code section 1203.4 or 1203.4a, the defendant is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 12021 and 12021.1 and Vehicle Code section 13555. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 12021 or 12021.1.
7. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17, 1203.4, or 1203.4a does *not* release defendant from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if defendant was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

Date: _____
 (JUDICIAL OFFICER)

FOR COURT USE ONLY

Item SPR11-29 Response Form

Title: **Criminal Procedure: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: www.courts.ca.gov/policyadmin-invitationstocomment.htm

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.