



Judicial Council of California

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courts.ca.gov/policy-administration/invitations-comment

INVITATION TO COMMENT

SPR26-16

Title

Criminal Law: Revisions to the Order for Dismissal for Military Personnel

Action Requested

Review and submit comments by May 18, 2026, to invitations@jud.ca.gov

Proposed Rules, Forms, Standards, or Statutes

Revise form CR-184

Proposed Effective Date

January 1, 2027

Proposed by

Criminal Law Advisory Committee
Hon. Lisa Rodriguez, Chair

Contact

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Executive Summary and Origin

The California Department of Justice (DOJ) suggests removal of an item on *Order for Dismissal (Military Personnel)* (form CR-184/MIL-184) that allows a court to order that the DOJ be notified of a sealing order under Penal Code section 1170.9(h)(4)(D). The Criminal Law Advisory Committee proposes revising the form to remove the item, and to make additional technical amendments to improve readability and replace gendered pronouns.

Background

Penal Code section 1170.9(h)¹ allows a defendant to petition the court for restorative relief from a criminal record if the defendant (1) was, or currently is, a member of the United States military; (2) acquired a criminal record due to a mental health disorder stemming from service in the military; and (3) was granted probation and has substantially complied with the conditions of probation. If the court finds that the defendant satisfies each of the requirements, the court may:

- Deem all conditions of probation, other than court-ordered victim restitution, satisfied and terminate probation prior to the expiration of the term of probation;
- Reduce eligible felonies to misdemeanors under section 17(b); and
- Grant relief in accordance with section 1203.4.

¹ All further references are to the Penal Code unless otherwise specified.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

In addition, a defendant granted a dismissal under section 1170.9(h) is released from all penalties and disabilities resulting from the conviction, with certain exceptions, and:

- The court has discretion to order the sealing of police records of the arrest and court records of the dismissed action, which are thereafter viewable by the public only in accordance with a court order;
- The defendant is not obligated to disclose the arrest or the set-aside conviction when information concerning prior arrests or convictions is requested to be given under oath, affirmation, or otherwise, except in response to a direct question in a questionnaire or application for any law enforcement position; and
- The dismissal is a bar to any future action based on the conduct in the dismissed action, though the set-aside conviction may be pleaded and proved as a prior conviction in any subsequent prosecution or for administratively revoking or suspending the defendant's driving privilege.

Effective January 1, 2016, the Judicial Council approved *Petition for Dismissal (Military Personnel)* (form CR-183) and *Order for Dismissal (Military Personnel)* (form CR-184/MIL-184) to implement relief under section 1170.9(h).

Items 7 and 8 of form CR-184 were included in response to a public comment received in 2015. The commenter expressed concern that veterans granted relief under section 1170.9(h) were improperly being denied jobs based on background checks that indicated prior arrests and convictions. The commenter proposed that form CR-184 include a checkbox for the court to order the sealing of police and court records in the dismissed action and another checkbox for the court to inform the DOJ that the court had ordered the records sealed.² In response, the committee added items 7 and 8 to form CR-184. Item 7 states that the court orders, in accordance with Penal Code section 1170.9(h)(4)(D), the sealing of police records of the arrest and court records of the dismissed action, to be viewable by the public only in accordance with a court order. Item 8 orders the DOJ to be notified of the sealing order.

The California DOJ recently notified trial courts that it is not sealing state summary criminal history information when relief is granted under section 1170.9(h)(4)(D) and has suggested removing item 8 from form CR-184/MIL-184.³ Although item 8 does not require the DOJ to take any action when notified of the section 1170.9(h)(4)(D) sealing order, it appears that the DOJ interprets this notification as an order to seal the state summary criminal history information

² See Judicial Council of Cal., Advisory Com. Rep., *Criminal Procedure: Petition and Order for Dismissal (Military Personnel)* (Oct. 14, 2015), p. 3, <https://jcc.legistar.com/View.ashx?M=F&ID=4093830&GUID=3DE2959C-F7CF-44B3-B8CF-062CBCF9B6EC>.

³ In 2025, the Department of Justice communicated to trial courts that it determined that relief under section 1170.9(h)(4)(D) does not apply to state summary criminal history information and that it would not process sealing orders under the section. The letter stated that any previously sealed records would be unsealed. The DOJ stated that it conducted a review of section 1170.9(h)(4)(D) in response to the inability of local law enforcement agencies from accessing state summary criminal history information for the purposes of pleading and proving prior convictions in subsequent criminal cases, administratively revoking or suspending a driver's license, verifying DNA, and enforcing firearm prohibitions.

related to the case. However, section 1170.9(h) does not direct the DOJ to seal state summary criminal history information based on an order sealing arrest and court records under section 1170.9(h)(4)(D). This contrasts with other record cleaning statutes that include specific directions on how the DOJ should update its records when a record cleaning remedy is granted.⁴ Additionally, courts have reported that the DOJ now sends back form CR-184/MIL-184 when item 8 is checked and a copy of the order is sent to the DOJ, which may create additional and unnecessary processing work for courts. The committee is also concerned that item 8 may mislead defendants into believing that the DOJ is sealing state-level criminal records that the DOJ has indicated it is not sealing.⁵

The Proposal

The committee proposes removing item 8 from form CR-184, revising the caption at the top of the form to remove the item on date of birth, and additional changes to improve readability and replace gendered pronouns.

Because item 8 is not statutorily required, has led to confusion, and may cause a workload issue for courts, the committee agrees with the DOJ's suggestion to remove item 8. Moreover, the underlying concern about background checks affecting employment even after section 1170.9(h) relief is granted is likely to be addressed in other ways.⁶

The committee also proposes revising the caption at the top of form CR-184/MIL-184. To improve readability, the proposed caption is in title case instead of all caps, which allows the font size to be increased for almost all caption elements. Additionally, the first line of text reads "Party Without Attorney or Attorney" instead of "Attorney or Party Without Attorney" to emphasize that parties without attorneys must fill in the caption. The committee proposes removing the item on date of birth in the caption, as it appears unnecessary and is not a standard item on criminal forms. The committee requests specific comments on whether the date of birth item is helpful for the petitioner when interacting with the military or otherwise.

⁴ See, e.g., § 236.14(k)(1)(B) (court shall order Department of Justice to seal and destroy records if court grants vacatur relief of convictions or arrests); § 236.15(k) (court shall order Department of Justice to seal arrest records within a specified period of time if court grants vacatur relief of convictions or arrests); § 851.92(b)(2)(B) (when an arrest record is sealed pursuant to specific sections, the state summary criminal history shall include a note stating "arrest relief granted"); § 1203.425(a)(2)(B) (if automatic conviction record relief is granted, the state summary criminal history information shall include a note stating "relief granted").

⁵ In contrast to item 8, item 7 of CR-184 follows the statutory language of section 1170.9(h)(4)(D) to allow a court to order sealing of police records of the arrest and court records of the dismissed action.

⁶ Most employment background checks are conducted based on local court records. Under section 1170.9(h)(3)(C), a court may grant relief under section 1203.4 to dismiss the case. Effective January 1, 2023, a court is prohibited from disclosing information concerning a conviction granted relief under section 1203.4 except to the defendant and to authorized criminal justice agencies. (See § 1203.425(a)(3)(A).) These restrictions did not exist at the time form CR-184 was originally approved.

Finally, the committee proposes technical revisions to improve readability in the prelude to the order and proposed items 8 and 9 and replace gendered pronouns in proposed items 8 and 9.

Alternatives Considered

Because item 8 does not require the DOJ to take any action once notified of the sealing order, the committee discussed whether removal was in fact necessary. However, the committee determined that removal provided a more clear and beneficial approach to the courts and court users.

Fiscal and Operational Impacts

Expected costs include training, case management system updates, and the production of new forms. The revisions should reduce operational demands by reducing correction requests between the DOJ and the courts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is the date of birth item on the current version of the form helpful for the petitioner?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Form CR-184/MIL-184, at pages 5–6
2. Link A: Pen. Code, § 1170.9,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1170.9&lawCode=PEN

Party Without Attorney or Attorney Name: Firm Name: Street Address: City State Zip Code: Telephone No.: Fax No.: Email Address: Attorney for (name):	FOR COURT USE ONLY <p style="text-align: center;">03/11/2026 DRAFT Not approved by the Judicial Council</p>
People of the State of California v. Defendant:	
<p style="text-align: center;">Order for Dismissal (Military Personnel) (Pen. Code, §§ 17(b), 1170.9(h))</p>	Case Number:

The court finds from the records on file in this case, and from the foregoing petition, that granting restorative relief is in the interests of justice, and that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the requested relief. The court **ORDERS** the following:

1. The court deems all conditions of probation, other than victim restitution, to be satisfied, including fines, fees, assessments, and programs.
2. The court terminates probation prior to the expiration of the term of probation, if the term of probation has not yet expired.
3. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and reduces the following felony convictions to misdemeanors:
 - ALL FELONY CONVICTIONS in the above-entitled action; or
 - Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):
4. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) for the following felony convictions:
 - ALL FELONY CONVICTIONS in the above-entitled action; or
 - Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):
5. The court **GRANTS** the petition for dismissal regarding the following convictions in accordance with Penal Code section 1203.4, as specified in Penal Code section 1170.9(h)(3)(C), and it is ordered that the pleas, verdicts, or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed:
 - ALL CONVICTIONS in the above-entitled action; or
 - Only the following convictions in the above-entitled action (*specify charges and date of conviction*):
6. The court **DENIES** the petition for dismissal regarding the following convictions under Penal Code section 1170.9(h):
 - ALL CONVICTIONS in the above-entitled action; or
 - Only the following convictions in the above-entitled action (*specify charges and date of conviction*):



People of the State of California v. Defendant:	Case Number:
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7. The court ORDERS, in accordance with Penal Code section 1170.9(h)(4)(D), the sealing of police records of the arrest and court records of the dismissed action, hereafter viewable by the public only in accordance with a court order.
8. If this order is granted under the provisions of Penal Code section 1170.9(h):
- a. The petitioner is released from all penalties and disabilities resulting from the offense(s) of which they have been convicted in the dismissed action.
 - b. Dismissal of the conviction does not *automatically* relieve a person from the requirement to register as a sex offender under Penal Code section 290. (See, e.g., Pen. Code, § 290.5.)
 - c. The petitioner is not obligated to disclose the arrest on the dismissed action, or the conviction that was set aside when information concerning prior arrests or convictions is requested to be given under oath, affirmation, or otherwise, except when he or she is required to disclose the arrest, the conviction that was set aside, and the dismissed action in response to any direct question contained in any questionnaire or application for any law enforcement position.
 - d. The dismissal of the action shall be a bar to any future action based on the conduct charged in the dismissed action.
 - e. In any subsequent prosecution for any other offense, a conviction that was set aside in the dismissed action may be pleaded and proved as a prior conviction and shall have the same effect as if the dismissal had not been granted.
 - f. A conviction that was set aside in the dismissed action may be considered a conviction for the purpose of administratively revoking or suspending or otherwise limiting the petitioner's driving privilege on the ground of two or more convictions.
 - g. The petitioner's DNA sample and profile in the DNA data bank shall not be removed by a dismissal.
 - h. Dismissal of an accusation, information, or conviction does not authorize the petitioner to own, possess, or have in his or her custody or control any firearm or prevent their conviction pursuant to Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.
9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b) or 1170.9(h) does *not* release the petitioner 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 they were 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).

FOR COURT USE ONLY

Date:

Judicial Officer