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## MOTION TO TERMINATE PROBATION

# End Your Probation Early

*This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at:*

[www.saclaw.org/motion-term-probation](http://www.saclaw.org/motion-term-probation)

### BACKGROUND

[California Penal Code § 1203.3 \(a\)](#) provides in part: “The court may at any time when the ends of justice will be subserved thereby, and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation, and discharge the person so held.”

Ordinarily, a defendant who has either satisfactorily completed the probation period or has been discharged before its termination is entitled to have his or her guilty plea expunged and the accusations dismissed. [California Penal Code § 1203.4](#).

Before any term or condition of probation can be modified, a hearing must be held in open court before a judge. The prosecuting attorney must be given two days written notice and an opportunity to be heard on the matter. If there is a modification, the judge must state the reasons for that modification on the record. Before issuing an order terminating probation, the court or its clerk must notify the probation officer in writing of the court’s intention to terminate probation.

### STEP-BY-STEP INSTRUCTIONS

#### Step 1: Evaluate If You Qualify

Typically, the defendant will need to establish that he or she has completed the court-ordered sentence, paid all fines and restitution, and finished all counseling requirements. This includes any additional terms imposed at the time of the conviction. For more information on evaluating whether you qualify for termination of probation, see *California Criminal Defense Practice* [KFC 1155 C342](#) Chapters 90.06-90.12.

#### You may need

For more information on Criminal Records Expungement, see the guide on our website at [www.saclaw.org/expungement-guide](http://www.saclaw.org/expungement-guide)

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

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## Step 2: Complete the Required Forms

At the end of this guide are samples of the required forms. The forms needed to terminate probation are:

- Notice of Motion and Motion to Terminate Probation
- Points and Authorities in Support of Motion to Terminate Probation
- Declaration in Support of Motion to Terminate Probation
- Order Terminating Probation

In Sacramento, the Notice of Motion and Motion **must** include the paragraph from Local Rule 1.06 (D) ([www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf)) informing the parties of the tentative ruling system. That language is included in the samples included in this Guide.

## Step 3: Make Copies

Make a minimum of three (3) copies of your documents. One of these copies is to be served on the District Attorney, one of the copies is to be served on the Probation Department, one copy will be kept for your own records, and the original will be for the court.

Staple each of the copies, but leave the original unstapled. Sacramento County Superior Court uses an electronic filing system in which documents are scanned in electronically. Stapled originals are not accepted because the staple will jam in the scanner, damaging both the document and the scanner.

## Step 4: File Your Documents

File your documents at the [Gordon D. Schaber Courthouse](#) at 720 Ninth Street downtown in Room 102, windows 1-6. At this time, the fee for filing a motion is \$60.00, unless your fees are waived.

Current fees are available on the [Sacramento County Superior Court's website](#). If you qualify for a fee waiver, you may file a request with the court at the same time. For more information, see the Step-by-Step guide on Fee Waivers on our website at [www.saclaw.org/pages/fee-waiver.aspx](http://www.saclaw.org/pages/fee-waiver.aspx).

## Step 5: Have Your Documents Served

After you file your documents with the court, the clerk will give you stamped copies of your papers. These stamped copies must be served on the District Attorney and Probation Department. Service should be performed early enough, so that the District Attorney and Probation Department receive a minimum of 2 days' notice. [Penal Code § 1203.3b1](#).

The person who is serving your Motion for you must complete a proof of service form, typically, either a Proof of Personal Service form or a Proof of Service by First Class Mail form. For more information on these Proofs of Service, see the guides on our website at [www.saclaw.org/pages/personal-service.aspx](http://www.saclaw.org/pages/personal-service.aspx) and [www.saclaw.org/pages/pos-mail.aspx](http://www.saclaw.org/pages/pos-mail.aspx), respectively.

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## Step 6: Attend the Hearing

When your papers are filed with the court, the clerk will set a time for hearing. At the hearing, the judge must state the reasons for any modification on the record. Before issuing an order terminating probation, the Court or its clerk must notify the probation officer in writing of the Court's intention to terminate probation.

## Step 7: Appeal

The defendant may appeal an order denying modification or early termination of probation. For more information on the ability to appeal such an order, see *California Criminal Defense Practice* [KFC 1155 C342](#) Chapters 90.06[4].

## FOR HELP

### VLSP Criminal Records Expungement Clinic

[www.vlsp.org/criminal.asp](http://www.vlsp.org/criminal.asp) 916-551-2155

2411 Alhambra Blvd. Ste. 110

*Services Provided:* Assistance with expunging criminal records, including early termination of probation. Appointments are made for the week on Monday mornings. The office opens at 8a.m., and the line for appointments begins forming at 6a.m.

*Eligibility:* Must be a Sacramento County resident.

## FOR MORE INFORMATION

### *On the Web:*

#### **Sacramento County Probation Department**

<http://www.probation.saccounty.net> 916-875-0300

The Probation Department prepares the definitive investigative reports for both juvenile and adult offenders which assist the Sacramento County Superior Courts in making decisions on the disposition and sentencing of offenders.

#### **Sacramento District Attorney's Office**

<http://www.sacda.org/>

The District Attorney's Office takes seriously its role in the community as a good citizen, and to foster community partnerships, respect multicultural diversity and work with the community toward a safer neighborhood in which to live and work.

### *At the Law Library:*

**California Criminal Law Procedure and Practice** [KFC 1155 .C254](#) §38.31

This book is a comprehensive guide to California criminal law. Coverage includes preliminary hearings, discovery and pretrial motions, plea bargaining, sentencing, appeals, and more.

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

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**California Criminal Defense Practice** [KFC 1155 C342](#) Chapters 90.06-90.12

This practice guide takes you step-by-step through every part of a criminal case from arrest and searches, through preliminary hearings, pretrial procedures, trial preparation, trial, sentencing and post-trial remedies.

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Criminal Practice, Motions, Jury Instructions and Sentencing**

[KFC 1155 .A65 R8](#) Form 58:2.10 and Form 58:2.20 (supplement)

This set includes everything commonly used in the daily practice of criminal law including sample forms and motions, commentary, and references to cases and governing statutes.

**Electronic Access:** On the Law Library's computers, using *WestlawNext*.

**Within California Criminal Law** [KFC 1100 .W4 C34](#) (Ready Reference)

Volume 3, §680 et seq.

This set gives comprehensive coverage of crimes, defenses, punishment and criminal procedure. Includes an index, table of statutes, table of rules, forms, and jury instructions.

**Electronic Access:** On the Law Library's computers, using *WestlawNext*.

*IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.*

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## **ATTACHMENTS: FORMS AND INSTRUCTIONS**

### **FORMS**

There is no Judicial Council form for this procedure. Instead, the relevant documents must be typed on 28-line pleading paper.

Customizable templates may be downloaded from these links:

- *Notice of Motion and Motion*  
[www.saclaw.org/uploads/files/step-by-step/motion-term-prob.rtf](http://www.saclaw.org/uploads/files/step-by-step/motion-term-prob.rtf)
- *Points and Authorities*  
[www.saclaw.org/uploads/files/step-by-step/p-a-term-prob.rtf](http://www.saclaw.org/uploads/files/step-by-step/p-a-term-prob.rtf)
- *Declaration*  
[www.saclaw.org/uploads/files/step-by-step/term-prob-declaration.rtf](http://www.saclaw.org/uploads/files/step-by-step/term-prob-declaration.rtf)
- *Order*  
[www.saclaw.org/uploads/files/step-by-step/order-term-prob.rtf](http://www.saclaw.org/uploads/files/step-by-step/order-term-prob.rtf)

**IMPORTANT: RED** boxes and arrows are instructions, and are not a part of your completed document. Text that appears in **BLUE** is text you will change to fit your case.

1 [YOUR NAME]  
[Street Address]  
2 [City, State, ZIP]  
[Phone Number (with area code)]  
3

4 [YOUR NAME], IN PRO PER  
5

6  
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SACRAMENTO  
9

10 PEOPLE OF THE STATE OF CALIFORNIA, ) Case No.: [INSERT CASE NUMBER]  
11 Plaintiff, ) C.I.I. No.: [INSERT CRIMINAL  
12 vs. ) IDENTIFICATION NUMBER]  
13 [YOUR NAME], ) NOTICE OF MOTION AND MOTION TO  
Defendant ) TERMINATE PROBATION  
14 )  
15 ) Date:  
16 ) Time: ←  
17 ) Dept:  
18 \_\_\_\_\_

The clerk will give you a date, time and Dept. number after you file your papers.

18 TO THE DISTRICT ATTORNEY OF SACRAMENTO COUNTY AND/OR HIS REPRESENTATIVE:  
19

20 PLEASE TAKE NOTICE that on [INSERT DATE], at [INSERT TIME], or as  
21 soon thereafter as the matter may be heard, in the courtroom of Department  
22 [INSERT DEPARTMENT NUMBER] of the above-entitled court, the defendant will  
23 move for an order terminating the defendant's grant of probation and  
24 discharge the defendant.  
25

26 This motion will be made on the ground that the ends of justice will  
27 be served thereby because the good conduct and reform of the defendant  
28 warrant it.

1 This motion will be based on this notice of motion, the attached  
2 declaration and memorandum of points and authorities served and filed  
3 herewith, on such supplemental declarations, affidavits, memoranda of  
4 points and authorities as may hereafter be filed with the court, on all  
5 the papers and records on file in this action, and on such oral and  
6 documentary evidence as may presented at the hearing of the motion.  
7

8 Pursuant to Local Rule 1.06 (A) the court will make a tentative ruling on  
9 the merits of this matter by 2:00 p.m., the court day before the hearing.  
10 The complete text of the tentative rulings for the department may be  
11 downloaded off the court's website. If the party does not have online  
12 access, they may call the dedicated phone number for the department as  
13 referenced in the local telephone directory between the hours of 2:00 p.m.  
14 and 4:00 p.m. on the court day before the hearing and receive the  
15 tentative ruling. If you do not call the court and the opposing party by  
16 4:00 p.m. the court day before the hearing, no hearing will be held.  
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19 Dated: [INSERT DATE]  
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[Your signature]

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[YOUR NAME]

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II.

THE DEFENDANT'S CONDUCT ON PROBATION AND  
DEMONSTRATED REFORM MERIT TERMINATION

[STATE THE FACTUAL BASIS WHICH JUSTIFY TERMINATING PROBATION EARLY]

Dated: {INSERT DATE}

*[Your signature]*

[YOUR NAME]

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**IMPORTANT:** RED boxes and arrows are instructions, and are not a part of your completed document. Text that appears in BLUE is text you will change to fit your case.

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[Phone Number (with area code)]

[YOUR NAME], IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA, ) Case No.: [INSERT CASE NUMBER]  
Plaintiff, ) C.I.I. No.: [INSERT CRIMINAL  
vs. ) IDENTIFICATION NUMBER]  
)  
[YOUR NAME], )  
Defendant ) DECLARATION IN SUPPORT OF MOTION  
) TO TERMINATE PROBATION  
)  
)  
)  
)

I, [INSERT YOUR NAME], declare:

I am the defendant in the above-entitled case, I was convicted of a violation of \_\_\_\_\_ Code § \_\_\_\_\_, a [FELONY/MISDEMEANOR] on [INSERT DATE OF CONVICTION].

Since my conviction, the following facts have arisen to justify my application for termination of probation: [INSERT FACTS JUSTIFYING TERMINATION OF PROBATION, SUCH AS SUCCESSFUL COMPLETION OF PROBATION SO FAR, PROSPECTS OF BETTER EMPLOYMENT UPON TERMINATION OF PROBATION, AND OR OTHER FACTS CONSTITUTING GOOD CAUSE].

1 I declare under penalty of perjury that the forgoing is true and correct.

2 Executed on [INSERT DATE], at [INSERT CITY], California.

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*[Your signature]*

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[YOUR NAME]

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