CERTIFICATE OF REHABILITATION

Cleaning Up Felony Convictions when Expungement Is Not Available

This Guide includes instructions and sample forms. The Guide and forms may be downloaded from: saclaw.org/cert-rehabilitation

BACKGROUND

The granting of a Certificate or Rehabilitation restores some of the rights of citizenship that were forfeited as a result of a felony conviction. It may also be used to relieve some persons convicted of sex offenses of their registration requirements (see California Penal Code (PC) § 290.5 for a list of offenses which are not relieved from registration). The granting of a Certificate of Rehabilitation also acts as an automatic application and recommendation for a pardon from the governor.

Receiving a Certificate of Rehabilitation serves as an official document to demonstrate a felon’s rehabilitation; this may enhance the applicant’s employment options, and may be considered by state licensing boards.

It does not erase or seal the applicant’s criminal record or allow the applicant to state on an employment application that he or she has no criminal convictions. Furthermore, it does not prevent the conviction from being considered for later convictions, for example, in sentence enhancements under the “three-strikes” law, and may be rescinded for subsequent criminal acts.

There is no filing fee to file the Petition for Certificate of Rehabilitation and Pardon, and if you are eligible to file, you are entitled to receive assistance from all rehabilitative agencies, including the adult probation officer of the county, state parole officers, and the youth authority (if you are under 30) (PC § 4852.04). You may represent yourself, be represented by the attorney of your choosing, or by the public defender (PC § 4852.01(a)).

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.
STEP-BY-STEP INSTRUCTIONS

Step 1: Obtain Your Criminal Records

To complete the forms, you will need information regarding each felony conviction that you have, including the date of the conviction, the specific charge or charges for which you were convicted, the county of the conviction, and the sentence that was given. In addition, you will need to know the date that you were released from prison or jail and/or discharged from parole or probation.

This information may be obtained through the court in which the conviction(s) took place, or you may obtain a copy of your state criminal record through the California Department of Justice. You may only obtain your own records from the Department of Justice. Information regarding this request may be obtained through the Office of the Attorney General Web site at oag.ca.gov/fingerprints/security. Regardless of the number of convictions, you will be filing only a single petition.

Step 2: Confirm Your Eligibility

You are ineligible for a Certificate of Rehabilitation if any of the following are true:

- You were convicted only of misdemeanors (other than sex offenses defined in PC § 290, which were subsequently expunged); and/or
- Were convicted of any of PC §§ 286(c), 288, 288a(c), 288.5, or 289 (j); and/or
- Are serving mandatory life parole; and/or
- Were sent to state prison under a death sentence, and/or
- Are currently in military service.

Assuming that none of the above criteria render you ineligible, the specific requirements for eligibility are listed in PC § 4852.01, but are summarized below:

- **Release/Discharge Prior to May 13, 1943.** You are eligible if you:
  - Were convicted of a felony, and released from a California prison or other state institution; and
  - Were discharged on completion of your sentence or released on parole prior to May 13, 1943; and
  - Have not been incarcerated in a state prison or other state penal institution since release; and
  - Have three years of residency in California immediately before filing the petition.

Most misdemeanors and “wobblers” (felonies that could have been charged as misdemeanors) may be expunged. Expungement is easier and has more benefits than a Certificate of Rehabilitation. A recent change in the law, Prop. 47, added a number of non-violent felonies to this list. See our guide on Expunging Criminal Records if you think this may apply to you.
Expunged Felony or Misdemeanor Sex Offenses. You may apply for a Certificate of Rehabilitation if you:
  o Were convicted of a felony or misdemeanor sex offense specified in PC § 290, but subsequently expunged the conviction pursuant to PC § 1203.4; and
  o Have not been incarcerated since expungement; and
  o Are not on probation for any other felony, and
  o Have five years plus the additional period of rehabilitation specified in PC § 4852.03 of residency in California immediately prior to the filing of the petition:
    ▪ Two years (for a total of seven years) if convicted of PC §§ 311.2(a)-(d), 311.3, 311.10, or 314;
    ▪ Five years (for a total of ten years) if convicted of any other offense requiring sex offender registration.

Convicted on or After May 13, 1943. You may be eligible for a certificate rehabilitation if you:
  o Were in state prison on May 13, 1943 for a felony, or convicted of a felony after May 13, 1943, and served time in a state prison or other state institution or agency; and
  o Have five years plus the additional period of rehabilitation specified in PC § 4852.03 of residency in California immediately prior to the filing of the petition:
    ▪ Four years (for a total of nine years) if you were convicted of violating PC §§ 187, 209, 219, 4500, 18755, or California Military and Veterans Code § 1672(a), or any other offense which carries a life sentence (PC § 4852.03(a)(1));
    ▪ Two years (for a total of seven years) for any other offense not described.

Step 3: Complete the Required Forms
Instructions for completing the necessary forms are included at the end of this packet. Two forms are needed to petition for a Certificate of Rehabilitation. They may both be picked up free of charge from the Gordon D. Schaber Courthouse at 720 Ninth Street, Sacramento, in Room 102 at the criminal filing counter, or downloaded from these links.
  • Petition for Certificate of Rehabilitation and Pardon (FORM 1)
  • Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2)

Step 4: Make Copies of the Documents
Make two copies of the Petition for Certificate of Rehabilitation and Pardon (FORM 1) as well as the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2).

Two-hole punch the top of the original, and staple each copy, and place the two copies underneath the original of each document.

Step 5: File Your Documents
File your Petition for Certificate of Rehabilitation and Pardon (and two copies) and present your Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (and two copies) at the criminal filing desk in Room 102 of the Courthouse at 720 Ninth Street. There is no filing fee for filing these documents. The court will assign a hearing date, time, and department, and note these on the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2), or otherwise notify you of the hearing date. The court clerk will stamp and return the copies of the Petition to you.
Applying for a Certificate of Rehabilitation

Step 6: Serve Notice of Filing of Petition for Certificate of Rehabilitation

You must notify (1) the Governor’s Legal Affairs Office and (2) the District Attorney in each county where you were convicted of an offense for which you want a Certificate of Rehabilitation. They must be notified at least 30 days prior to the hearing. This is done by providing each person with a copy of the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon. The Notice may be served by mail, or delivered in person with acknowledgement of receipt, or by a combination of the two. Make additional copies of the filed Petition for Certificate of Rehabilitation and Pardon so that you have enough to provide the Governor’s Office and each District Attorney with a copy.

Service by mail:

To have the Governor’s Office or a District Attorney served by mail, you must have someone over the age of 18 who is not a party to the case (i.e., not you), mail a completed copy of the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2). As a courtesy, a copy of the Petition should be sent as well. Information about the server and the details of the mailing are written on the Affidavit of Service by Mail (page 2 of the Notice). The person who served the Notice and Petition must then the server must sign the Affidavit of Service by Mail in front of a notary, who then also signs the Affidavit of Service by Mail. This allows the court to have confidence that the person who mailed the Notice and Petition is who they claim to be.

If you were convicted of all crimes in Sacramento County, the addresses for service are:

- Governor’s Office
  Attn: Legal Affairs
  State Capitol
  Sacramento, CA 95814

- Sacramento County District Attorney
  901 G St.
  Sacramento, CA 95814

Delivery in person:

Service to the Governor’s Legal Affairs Office or the District Attorney(s) may also be performed in person. Have someone over the age of 18 who is not a party to the case (i.e., not you) deliver a copy of the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2), and preferably a courtesy copy of the Petition, to the office being served, and have the person accepting service acknowledge the delivery on the Notice of Service In Person sheet (page 3 of the Notice).

Step 7: File the Notice of Filing of Petition with Signed Proof of Service

Once the Governor’s Office and the appropriate District Attorney(s) have been served, make two copies of the Notice of Filing of Petition for Certificate of Rehabilitation and Pardon and the attached Affidavit of Service and/or Notice of Service in Person, and file the original plus the two copies with the court at 720 Ninth Street, in Room 102. The court will stamp and return the copies.

Step 8: Attend the Court Hearing

Make sure to attend the court hearing as the judge will make a determination as to whether to grant the Certificate of Rehabilitation. Be prepared to discuss in detail the aspects of your crime, and your life afterward. You may be represented by a private attorney of your choosing, the Public Defender’s Office, or you may represent yourself. It is your responsibility to prove your reformation to the court.
Step 9: Automatic Application for Governor’s Pardon

If you are granted a Certificate of Rehabilitation, it serves as a recommendation for pardon. Your Application and Certificate of Rehabilitation will automatically be forwarded to the Governor’s office for consideration of your request.

FOR HELP

Sacramento County Public Defender
700 H Street, Ste. 0270
(916) 874-6411

Services Provided: Assistance with Certificates of Rehabilitation
FORMS AND INSTRUCTIONS

The forms required to petition for a Certificate of Rehabilitation are:

- Petition for Certificate of Rehabilitation and Pardon (FORM 1)
- Notice of Filing of Petition for Certificate of Rehabilitation and Pardon (FORM 2)

Download the blank forms from these links or pick them up free of charge from the Gordon D. Schaber Courthouse at 720 Ninth Street, Sacramento, in Room 102 at the criminal filing counter.

Sample filled-in forms with instructions are available at the end of this Guide.
Applying for a Certificate of Rehabilitation

INSTRUCTIONS:

a. FORM 1

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF Sacramento

In the Matter of the Application of

Paul Quincy Sample

Date of Birth 5/5/1971
CII Number 01001234
Criminal Case Number(s) 01F12345, 00F67890

PETITION FOR CERTIFICATE OF REHABILITATION AND PARDON

The above-named applicant hereby respectfully represents and shows that:

FELONY HISTORY

On or about 5/19/2001, I was convicted of the crime of PC 246 Discharge Firearm

in the county of Sacramento, California. My sentence for this offense was:

[Check appropriate box]

Commitment to state prison or other state institution at Folsom

Probation with suspended sentence to state prison or other state institution
Probation, after the sentencing proceedings were suspended.

Thereafter, on or about 8/7/2003, I was;

[Check appropriate box]

Discharged from state prison or other state institution after completing my sentence;
Released on parole, from which I was finally discharged on 8/8/2006
Released from custody on probation after serving a jail sentence;
As a condition of my probation, I was released from custody after serving time in jail, and successfully completed my probation on

Date probation ended:

and obtained relief under Penal Code section 1203.4 on

Date 1203.4 granted by the Court:

FORM 1 (Revised 1/2018) This form is prepared by the criminal Division of the Board of Prison Terms pursuant to Penal Code Section 4522.4.
If you had another conviction, complete this section in the same way you completed the information regarding the most recent conviction, but with information regarding your second most recent conviction.

If you had another conviction, complete this section in the same way you completed the information regarding the most recent conviction, but with information regarding your third most recent conviction.

If you had four or more felony convictions, you may continue these on additional pages using the same format. You could duplicate this second page, and change the number of the convictions to "Fourth" and "Fifth" most recent convictions.
b. FORM 2

State the date you most recently began residing in California.

During the period of my rehabilitation, I have lived an honest and upright life, conducted myself with sobriety and industry, and exhibited good moral character. I have conformed to and obeyed all the laws of the land.

WHEREFORE, Your petitioner prays that the Court make its order and decree declaring that the petitioner has been rehabilitated; and for a Certificate of Rehabilitation recommending that the Governor of the State of California grant petitioner a full pardon; and that for such purpose, a time be appointed for the hearing of the foregoing petition, and that other and necessary proper orders may be made in the premises.

Paul Quincy Sample
Applicant's Signature

123 Elm Ave
Applicant's Street Address

Sacramento, CA 95855
Applicant's City, State ZIP Code

Sign and date

Your full address

Write the county of the court
Applying for a Certificate of Rehabilitation

Complete with your identifying information and the number(s) of the criminal case(s)

Write the county where you reside

Write the county of each conviction in the Petition

The date, time, and department of the hearing is filled in here.

Write the day you filed your Petition

Write the city and state where the courthouse is located.

Sign and date
Write the city and county where the affidavit is being made

Write the name of the server

Write the date of service

Identify the person(s) served by mail, including their address and county.

The server is sworn in by a notary, makes the statement under penalty of perjury in front of the notary. The notary then signs and impresses the Affidavit.
The top space is reserved for the Governor's Office.

Each section has a spot for the person accepting service to identify the date the Notice was received, and to print, date, and sign to identify who accepted the Notice.

The remaining spaces are used by District Attorney offices.