



San Diego County Public Law Library

Serving the legal information needs of San Diego County citizens since 1891

www.sdcpll.org (619) 531-3900

Research Guide

Sealing Arrest Records; Expungements; Certificates of Rehabilitation; and Pardons

Last Updated: July 24, 2007

Last Reviewed: July 24, 2007

Scope:

This guide discusses sealing your arrest record, expunging a misdemeanor or felony conviction, seeking a certificate of rehabilitation for a felony conviction, or seeking a pardon, and where to find resources for doing these things.

Sealing Your Arrest Records

If you have been arrested or detained, but were not convicted of a crime, and can prove that you are factually innocent of the crime for which you were held, then you may be able to have your arrest or detention records sealed by the law enforcement agency which arrested you, as well as any other state or local agency which received a record of your arrest. Records will be sealed for three years after your arrest, after which they will be destroyed. If you were an adult at the time of your arrest, you can bring a motion under California Penal Code § 851.8. If you were a minor, then you will make your motion under California Welfare and Institutions Code § 781.5.

For more information on sealing your adult arrest record see: Chapter 11 of *How to Seal Your Juvenile & Criminal Records in California: Legal Remedies to Clean Up Your Past*, by Nolo Press, (KFC 1194.Z9 S5 2000); and San Diego Superior Court forms CRM-220 and CRM-221, available at the San Diego Superior Court website, www.sdcourt.ca.gov; and *Sealing Arrest Records, Expungements, Certificates of Rehabilitation & Pardons* (KFC 1194.A65 S43), at the Reference Desk at our Main Library.

Expungement of Criminal Records

If you:

- have successfully completed probation or been discharged before the end of your probationary period,
 - are not serving a sentence or on probation for any other offense, and
 - have not been charged with any other offense,
- you may petition the court to withdraw your plea of guilt or set aside your conviction and dismiss

the charges against you, pursuant to California Penal Code § 1203.4 or § 1203.4a. If your motion is granted and your original conviction was for a misdemeanor, you may state that you have not been convicted of a crime on many **non-governmental** job applications. But if you are applying for a government job, or a job which requires a government-issued license, or a job which involves security clearance, the conviction will be discovered. The record of the conviction will remain, for many purposes. See “Expungement of Criminal Records” (from the County of San Diego Department of the Public Defender), in *Sealing Arrest Records, Expungements, Certificates of Rehabilitation & Pardons*, (KFC 1194.A65 S43), at the Reference Desk at our Main Library.

For more information about expungement see: Chapters 8 and 9 of *How to Seal Your Juvenile & Criminal Records in California: Legal Remedies to Clean Up Your Past*, by Nolo Press, (KFC 1194.Z9 S5 2000); and the San Diego Superior Court’s “Misdemeanors Expungement Packet” (PKG-26), and “Felony Expungement Packet” (PKG- 27) available at the San Diego Superior Court website, www.sdcourt.ca.gov; and *Sealing Arrest Records, Expungements, Certificates of Rehabilitation & Pardons*, (KFC 1194.A65 S43), at the Reference Desk at our Main Library.

The Department of the Public Defender for San Diego County will assist a San Diego County resident, who is eligible for representation by a Public Defender, in moving the court for an expungement. You can contact the Expungements Clerk for the Department at (619) 338-4700.

Expungement is the first step of the process towards receiving a Certificate of Rehabilitation and, ultimately, a pardon, if you have been convicted of a felony.

Certificate of Rehabilitation

A Certificate of Rehabilitation is a court order which declares that a person who has been convicted of a felony has been rehabilitated. A petition for a Certificate of Rehabilitation is made under California Penal Code §§ 4852.01 *et seq.* If the petition is granted, the petition is then forwarded to the Governor of California as an application for a pardon. A Certificate of Rehabilitation may relieve specific types of sex offenders of the obligation to register as a sex offender, and enhance the ability to receive a license from certain state boards, but it will not seal your criminal record, or eliminate the conviction as a potential prior if you are subsequently convicted of another crime. Forms for applying for a Certificate of Rehabilitation are available at the San Diego Superior Court website, www.sdcourt.ca.gov, (PKG-016), and are available for review in *Sealing Arrest Records, Expungements, Certificates of Rehabilitation & Pardons*, at the Reference Desk of the Main Library, (KFC 1194.A65 S43). In addition, the Department of the Public Defender for San Diego County will assist a San Diego County resident who is eligible for representation by a Public Defender in applying for a Certificate of Rehabilitation. You can contact the Expungements Clerk for the Department at (619) 338-4700.

Pardons

Only the Governor of California can issue a pardon, and restore the right to sit on a jury, to own a firearm (if your original conviction did not involve use of a dangerous weapon), and to seek a position as a county probation officer or state parole agent. It will not seal your criminal record, eliminate the duty to disclose the conviction on job applications when asked, or eliminate the conviction as a prior conviction if you are subsequently convicted of another crime. You can read more about pardons in *Sealing Arrest Records, Expungements, Certificates of Rehabilitation & Pardons*, at the Reference Desk (KFC 1194.A65 S43).