

# PETITION/APPLICATION FOR RESENTENCING OR DISMISSAL OR FOR REDUCTION OR DISMISSAL/SEALING PURSUANT TO HEALTH & SAFETY CODE § 11361.8

## SELF-HELP FORM PACKET



SHC-CRIM-12 (Rev. 08/09/2021)

Self-Help Services can review your completed forms before you file them with the Court. To request review of your completed forms:

1. Complete the attached forms in black ink.
2. Scan your completed forms and save as a single PDF file.
3. Go to [\*\*www.occourts.org/self-help\*\*](http://www.occourts.org/self-help) (click the blue button labeled *Click Here to Contact Self-Help Services*), attach the PDF, and complete the online request form. Make sure to select CRIMINAL/TRAFFIC as the case type on the form.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

PETITION/APPLICATION FOR RESENTENCING or DISMISSAL

FOR REDUCTION or DISMISSAL/SEALING

Health & Safety Code §11361.8

**Information and Instructions**

**General Information:**

Under Health & Safety Code § 11361.8, a person currently serving a sentence, or who has completed a sentence for a conviction of a violation of section 11357, 11358, 11359, and 11360 of the Health & Safety Code may be eligible to have the conviction reduced or re-designated as a misdemeanor or an infraction and resentenced, or dismissed as applicable.

**Am I eligible?**

If you were 18 years of age or over when charged with one or more of the violations listed above, you may be eligible to complete the Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing form and file it with the Criminal Operations Division of any Orange County Justice Center. Only one petition/application form should be completed per case.

If you were under 18 years of age when charged with one or more of the violations listed above, contact Juvenile Operations at Lamoreaux Justice Center.

**How do I know which section of the form to fill out?**

*(The definitions below are intended to provide general information and do not attempt to provide legal advice about how to submit your petition/application.)*

<i>If you have been convicted of one of the eligible violations ...</i>	<i>then...</i>
and are currently serving a sentence, under supervision (probation, parole, postrelease community supervision (PRCS), mandatory supervision) or are currently in custody,	for purposes of this form, you may select <b>box 1A</b> and mark the applicable box(es) to indicate the action(s) to be taken on your sentence(s).
and have completed your sentence, are no longer under supervision (probation, parole, postrelease community supervision (PRCS), mandatory supervision) or in custody,	for purposes of this form, you may select <b>box 1B</b> and mark the applicable box(es) to indicate the action(s) to be taken on your conviction(s).

**Where will the petition/application be heard?**

If the petitioner is currently serving a sentence on the violation, a hearing will be scheduled at the Central Justice Center.

If the petitioner is currently in a collaborative court program on the violation, a hearing will be scheduled at the appropriate collaborative court courtroom.

If the applicant has completed his/her sentence on the violation, the matter will be reviewed by a judge without a formal hearing and the petitioner will be notified of the order by mail.

If you were under 18 years of age when charged, contact Juvenile Operations at Lamoreaux Justice Center.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

PETITION/APPLICATION FOR RESENTENCING or DISMISSAL

FOR REDUCTION or DISMISSAL/SEALING

Health & Safety Code §11361.8

**How long does this process take?**

The petition/application process may take between 90-120 days, or longer, depending on the details of the case and the amount of petitions received by the court.

***This information document is for general use and not intended as full and comprehensive instruction governing the laws and rules relating to petitions or applications filed under Health & Safety Code section 11361.8 nor does this information sheet attempt to legally define sentence term phrases. For further information you may refer to Health & Safety Code section 11361.8 or you may wish to seek legal assistance.***

**NOTE: Clerks cannot advise or give assistance in the completion of this petition.**

**INSTRUCTIONS:**

1. Complete the *Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing*.
2. Mail or personally deliver a copy of the petition/application to the Orange County Office of the District Attorney or other prosecuting agency.
  - a. If mailed, the person performing the mailing must complete the Proof of Service (see page 3 of the Petition/Application).
  - b. If hand delivered, the District Attorney may acknowledge its receipt by stamping the original petition to be delivered to the court.
3. File the original petition/application with the Criminal Operations Division of any Orange County Justice Center.
  - a. Include the completed *Proof of Service*, if prosecutor was notified by mail.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number and address)</i>  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR <i>(NAME)</i> : _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central - 700 Civic Center Dr. West, Santa Ana, CA 92701 <input type="checkbox"/> Harbor - 4601 Jamboree Rd., Newport Beach, CA 92660 <input type="checkbox"/> North - 1275 N. Berkeley Ave., P. O. Box 5000, Fullerton, CA 92838-0500 <input type="checkbox"/> West - 8141 13 <sup>th</sup> Street, Westminster, CA 92683-4593	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: _____	
<div style="text-align: center;"><b>PETITION/APPLICATION</b></div> <input type="checkbox"/> <b>FOR RESENTENCING or DISMISSAL</b> <small>(HEALTH &amp; SAFETY CODE §11361.8(a), (b))</small>	
<input type="checkbox"/> <b>FOR REDUCTION or DISMISSAL/SEALING</b> <small>(HEALTH &amp; SAFETY CODE §11361.8(e), (f))</small>	CASE NUMBER: _____

**1. CONVICTION INFORMATION**

On *(date)* \_\_\_\_\_, Petitioner/Applicant, the defendant in the above-entitled criminal action whose date of birth is \_\_\_\_\_, was convicted of the following  felony or  misdemeanor offense(s) that has/have now been reclassified as  legally invalid,  a misdemeanor, or  an infraction offense(s) *(specify code(s) and section(s))*: \_\_\_\_\_ and was sentenced to *(specify sentence imposed)*: \_\_\_\_\_.

**A.  RESENTENCING or DISMISSAL**

Petitioner is currently serving the above sentence and requests under Health & Safety Code §11361.8(a), (b) that the:

- Felony sentence(s) be recalled and that Petitioner be resentenced to misdemeanor(s).
- Felony sentence(s) be recalled and that Petitioner be resentenced to infraction(s).
- Misdemeanor sentence(s) be recalled and that Petitioner be resentenced to infraction(s).
- Felony/misdemeanor/infraction sentence(s) listed above be dismissed because the sentence(s) is/are now legally invalid.

Custody status:

Petitioner is currently in custody at *(location)* \_\_\_\_\_, inmate number \_\_\_\_\_; and  is  is not requesting to be transported for the hearing.

(Continued on next page)

Defendant Name:	Case Number:
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B.  **REDUCTION or DISMISSAL/SEALING**

Applicant has completed the above sentence and requests under Health & Safety Code §11361.8(e), (f) that the:

- Felony conviction(s) listed above be reduced to misdemeanor(s).
- Felony conviction(s) listed above be reduced to infraction(s).
- Misdemeanor conviction(s) listed above be reduced to infraction(s).
- Felony/misdemeanor/infraction conviction(s) listed above be dismissed and sealed because the prior conviction(s) is/are now legally invalid.

Court Hearing:

- As the applicant, I request a hearing. I understand that by checking this box, the Court will set a hearing whether to grant or deny the application, even if it is unopposed by the Prosecution/Prosecution Agency.
- As the applicant, I request a hearing only in the event that an opposition is filed by the Prosecution/Prosecution Agency.
- As the applicant, I am not at this time requesting a hearing. I understand that the Prosecution/Prosecution Agency may request a hearing or that the Court on its own may decide to set the matter for hearing.

2. I have served a copy of this Petition/Application on the Orange County Office of the District Attorney.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PETITIONER/APPLICANT OR ATTORNEY)

Defendant Name:	Case Number:
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PROOF OF SERVICE

Personal Service       Service by Mail

1. Person serving: I am over the age of 18 and not a party to this action.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

2. I served a copy of the Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing as follows (*check one*):

a. Personal Service: I personally delivered the Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing to the person at the address listed below:

(1) Name of person served: \_\_\_\_\_

(2) Address where served: \_\_\_\_\_

(3) Date served: \_\_\_\_\_

(4) Time served: \_\_\_\_\_  AM  PM

b. Service by Mail: I deposited the Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing in the United States mail, in a sealed envelope with first class postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served: \_\_\_\_\_

(2) Address: \_\_\_\_\_

(3) Date of Mailing: \_\_\_\_\_

(4) Place of Mailing (city and state): \_\_\_\_\_

I declare to the best of my information and belief that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(Signature of Declarant)

\_\_\_\_\_  
(Printed Name of Declarant)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> JUSTICE CENTER: <input type="checkbox"/> Central - 700 Civic Center Dr. West, Santa Ana, CA 92701 <input type="checkbox"/> Harbor - 4601 Jamboree Rd., Newport Beach, CA 92660 <input type="checkbox"/> North - 1275 N. Berkeley Ave., P. O. Box 5000, Fullerton, CA 92838 <input type="checkbox"/> West - 8141 13 <sup>th</sup> Street, Westminster, CA 92683	<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
<p style="text-align: center;"><b>ORDER AFTER PETITION/APPLICATION</b></p> <input type="checkbox"/> <b>FOR RESENTENCING or DISMISSAL</b> (HEALTH & SAFETY CODE §11361.8(a), (b)) <input type="checkbox"/> <b>FOR REDUCTION or DISMISSAL/SEALING</b> (HEALTH & SAFETY CODE §11361.8(e), (f))	CASE NUMBER:

The court finds from the records on file in this case and from the foregoing petition/application that the petitioner/applicant (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

**A. RESENTENCING or DISMISSAL**

- 1. Petitioner is ineligible for the requested relief for recall and resentencing or dismissal. Petition is **DENIED** for the following reason(s):
  - the specified offense(s) is/are ineligible.
  - the petitioner's age when the conduct occurred makes him/her ineligible.
  - the court finds that the petitioner poses an unreasonable risk of danger to public safety under Health & Safety Code §11361.8(b).
  - other: \_\_\_\_\_

2. Petition for recall and resentencing is **GRANTED**.

- The following felony conviction(s) is/are recalled and reclassified as misdemeanor conviction(s) and any enhancements are dismissed by operation of law:  
\_\_\_\_\_
- The following felony conviction(s) is/are recalled and reclassified as infraction conviction(s) and any enhancements are dismissed by operation of law:  
\_\_\_\_\_
- The following misdemeanor conviction(s) is/are recalled and reclassified as infraction conviction(s):  
\_\_\_\_\_

Resentencing:

- The petitioner is resentenced to misdemeanor conviction(s) with the following sentence:  
\_\_\_\_\_
- The petitioner is resentenced to infraction conviction(s) with the following sentence:  
\_\_\_\_\_

With:

- parole/postrelease community supervision  continuing formal probation
- continuing informal probation  no supervision  credit granted for time served
- fine \$ \_\_\_\_\_  requirement to register pursuant to Health & Safety Code §11590 relieved
- other \_\_\_\_\_

Defendant Name:	Case Number:
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3. Petition for dismissal is **GRANTED** for the following sentence(s):  
\_\_\_\_\_

**B. REDUCTION or DISMISSAL/SEALING**

1. Application for reduction or dismissal/sealing is **DENIED** for the following reason(s):

- the specified offense(s) is/are ineligible.
- the applicant's age when the conduct occurred makes him/her ineligible.
- other: \_\_\_\_\_

2. Application for reduction is **GRANTED**.

- The following felony conviction(s) is/are recalled and reclassified as misdemeanor conviction(s) and any enhancements are dismissed by operation of law:  
\_\_\_\_\_
- The following felony conviction(s) is/are recalled and reclassified as infraction conviction(s) and any enhancements are dismissed by operation of law:  
\_\_\_\_\_
- The following misdemeanor conviction(s) is/are recalled and reclassified as infraction conviction(s):  
\_\_\_\_\_

3. Application for dismissal/sealing is **GRANTED** for the following conviction(s):  
\_\_\_\_\_

Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) of Health & Safety Code section 11361.8 shall be considered a misdemeanor or infraction for all purposes.

Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) of Health & Safety Code section 11361.8, shall be considered an infraction for all purposes.

Records pertaining to the arrest or conviction of any person for a violation, or pertaining to the arrest or conviction of any person under the age of 18 for a violation shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, pursuant to the provisions of Health & Safety Code §11361.5(a).

So ordered.



Date: \_\_\_\_\_  
\_\_\_\_\_  
JUDICIAL OFFICER