



SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

The Adult Use of Marijuana Act (Proposition 64)

Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing
Health & Safety Code § 11361.8

On November 9, 2016, the Adult Use of Marijuana Act ("Proposition 64") became effective after approval by a majority of California voters. 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 as a misdemeanor or an infraction and resentenced, or dismissed as applicable.

WHO IS ELIGIBLE?

Persons who are currently serving a sentence, or who has completed a sentence for a conviction, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under Proposition 64 may petition for a recall or dismissal of sentence before the Court. If the court determines that the petitioner is eligible for resentencing or dismissal, the court shall grant the petition to recall or dismiss the sentence, "unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety" (HS § 11361.8(b)).

If you were 18 years of age or over when charged with one or more of the violations listed above, you may complete the Petition/Application and file it with the Criminal Division of Butte County Superior Court. 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 the Juvenile Division of Butte County Superior Court.

HOW DO I PETITION FOR RESENTENCING OR A REDUCTION OF CONVICTION?

- Complete the Petition/Application for Resentencing or Dismissal, for Reduction or Dismissal/Sealing attached to this packet.
- Mail or personally deliver a copy of the Petition/Application to the Butte County District Attorney's Office.
 - If mailed, the person performing the mailing must complete the Proof of Service (see page 3 of the Petition/Application).
 - If hand delivered, the District Attorney may acknowledge its receipt by stamping the original petition to be delivered to the court.
- File the completed Petition/Application with Butte County Superior Court located at One Court Street, Oroville, CA 95965.
- The Court will review your Petition. A decision may be made ex parte (which would not require you to appear in court) or it may be placed on the Court's calendar for hearing.
 - If a hearing is required, the Court will send a Notice of Hearing to the mailing address on your Petition/Application.
 - If a hearing is not required, the Court will contact you by mail with the result of your Petition.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

WHICH SECTION OF THE FORM SHOULD BE COMPLETED?

NOTE: The definitions below are intended to provide general information and do not attempt to provide legal advice about how to submit your Petition/Application. Clerks cannot advise or give assistance in the completion of this petition.

If you have been convicted of one of the eligible violations ...	Then...
and are currently serving a sentence, under supervision (probation, parole, post-release community supervision (PRCS), mandatory supervision) or are currently in custody,	for purposes of this form, you may select box 1A 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, post-release community supervision (PRCS), mandatory supervision) or in custody,	for purposes of this form, you may select box 1B and mark the applicable box(es) to indicate the action(s) to be taken on your conviction(s).
and are currently diverted pursuant to Penal Code section 1000,	for purposes of this form, you may select box 1A and mark the applicable box(es) to indicate the action(s) to be taken.

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.

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> : _____	<i>(COURT USE ONLY)</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE One Court Street Oroville, California 95965 (530) 532-7011	
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
<p style="text-align: center;">PETITION/APPLICATION</p> <input type="checkbox"/> FOR RESENTENCING or DISMISSAL (HEALTH & SAFETY CODE §11361.8(a))	CASE NUMBER: _____ <input type="checkbox"/> FOR REDUCTION or DISMISSAL/SEALING (HEALTH & SAFETY CODE §11361.8(e))

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 have now been reclassified as legally invalid, misdemeanor, or 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.

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.

(Continued on next page)

Case Title: People vs.	Case Number:
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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 Butte County District Attorney's Office.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER/APPLICANT OR ATTORNEY)

Case Title: People vs.	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)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE One Court Street Oroville, California 95965 (530) 532-7011	<i>(COURT USE ONLY)</i>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
<p style="text-align: center;">ORDER AFTER PETITION/APPLICATION</p> <input type="checkbox"/> FOR RESENTENCING or DISMISSAL (HEALTH & SAFETY CODE §11361.8(a)) <input type="checkbox"/> FOR REDUCTION or DISMISSAL/SEALING (HEALTH & SAFETY CODE §11361.8(e))	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/post-release 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: _____

3. Petition for dismissal is **GRANTED** for the following conviction(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: _____

Hon.
Judge of the Superior Court