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CERTIFICATE OF REHABILITATION
Penal Code §§4852.01 - 4853

DISCLAIMER: This information is provided only as a guide and is based on court process for Santa Cruz County. Nothing in this packet is intended as legal advice. It is your responsibility to verify that you are filing the right forms for your situation and following local procedure. If your case is in a different county, you will need to determine how the process is handled in that county. We make no guarantees about the success of your case or the correctness of the information provided herein.

WHAT IS A CERTIFICATE OF REHABILITATION?

A **Certificate of Rehabilitation** ("COR") is a California court-order declaring that a person previously convicted of a felony and or certain misdemeanors has lived an upright, honest life, and is now rehabilitated. The purpose of the COR is to restore civil and political rights of citizenship to ex-felons who have proved their **rehabilitation**.

Basic information on the Certificate of Rehabilitation and Pardon process is online at https://www.cdcr.ca.gov/bph/clemency/ and https://www.gov.ca.gov/pardons/

WHO QUALIFIES?

Generally, someone is eligible if they have a conviction on their record of:

- A felony or
- A felony sex offense listed in Penal Code 290 AND the conviction has been expunged, or
- A misdemeanor sex offense listed in Penal Code 290 AND the conviction has been expunged.

Additionally, you must:

- Have resided in California for at least 5 years, and

- Meet the required rehabilitation time of between 2 and 5 years following the release from custody, probation, or parole.
- A certificate of rehabilitation issued on or after July 1, 2021, does not terminate the obligation to register as a sex offender. Relief must be requested under Penal Code section 290.5.

Penal Code 4852 et seq. goes into more detail about who is eligible and who is ineligible. These codes can be found online at https://leginfo.legislature.ca.gov/faces/home.xhtml

THE PROCESS

You file your request for the Certificate of Rehabilitation in the county where you currently reside, even if this is not where the conviction happened.

- Getting the forms: The forms are included in this packet. You can also find the forms online at https://www.cdcr.ca.gov/bph/clemency/.
    - You need the following three documents:
        - Petition for Certificate of Rehabilitation (Form 1)
        - Notice of Filing Petition for Certificate of Rehabilitation and Pardon and Declaration of Service (Form 2)
        - Certificate of Rehabilitation (Form 3)
- Fill out the Petition and Notice forms, but leave the date, time and department area blank on the Notice. A court date will be set when your paperwork is filed.

Make Copies

- Make additional copies of your paperwork.
    - You will need at least three copies of the Notice (Form 2)
    - You will need at least one copy of the Petition (Form 1)
- Bring the original and copies to Room 120 to file. There is no fee to file this request.
- The Clerk will assign a date that is about 6 weeks away.

Give Notice

After you file your documents and get a court date you must notify the District Attorney where you live and, if different, where each conviction occurred, ***at least 30 days before your court date***. You do this by providing a copy of the Notice of Filing Petition for Certificate of Rehabilitation.

For the District Attorney's Office this may be done in person or by mail. Remember, you may need to serve multiple DA's offices.

Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

By mail: Notice must be done by someone other than you who is at least 18 years old. The person you ask should mail a one copy of the Notice (Form 2) to each agency that you must notify. Then fill out the Affidavit of Service by Mail (page 2 of Form 2). This form needs to be notarized.

In Person: If the paperwork is being hand delivered, there is a space on page 3 of the form for the office that is receiving to fill out. You may deliver a copy to each office yourself.

After notice has been completed. The completed Affidavit(s) should be returned to Room 120 before your court date.

What Happens After Notice

- An investigation may be performed by the District Attorney's office regarding the petitioner's residence, criminal record, conduct during the required rehabilitation period, and any other information deemed necessary to make a determination on the Petition.
- You may hire an attorney to assist you, or you may be entitled to representation from the Public Defender's Office regardless of financial need. 61 Ops. Cal. Atty. Gen. 181, Penal Code §4852.08
- Show up at your scheduled hearing. Bring the Certificate of Rehabilitation (Order) with you.

What do I do after the hearing?

If the judge grants your petition, the Certificate of Rehabilitation (order) will be signed and processed. The court will then forward Certified Copies to the appropriate agencies.
If the judge denies your petition, there is nothing more to do.

GETTING ASSISTANCE:

Public Defender's Office 420 May St. Santa Cruz, CA 95060 Phone 831-454-5300

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

County Where Petition is Filed

In the Matter of the Application of

Court use only

_____
Type Applicant's Full Name – First, Middle, Last, and Suffix

Date of Birth_____
Month Day, Year

CII Number_____

Criminal Case Number_____
List all applicable Case Numbers

PETITION FOR CERTIFICATE OF REHABILITATION AND PARDON

Pursuant to Penal Code sections 4852.01 and 4852.06

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

FELONY HISTORY

[*All felony convictions must be listed. If you have sustained more than three (3) felony convictions, attach additional sheets following the same format.]*

Most Recent Felony Conviction

On or about_____, I was convicted of the crime of_____,
Month Day, Year Crime and California Code section

in the county of_____, California. My sentence for this offense was:
County of Conviction

[*Check all that apply***]**

☐ Commitment to state prison or other state institution at _____
Name of institution or city where located

☐ Probation with suspended sentence to state prison or other state institution.

☐ Probation, after the sentencing proceedings were suspended.

Thereafter, on or about_____,
Date released from custody

☐ I was discharged from state prison or other state institution after completing my sentence.

☐ I was released on parole, from which I was discharged on _____.
Discharge date

☐ I was released from custody on probation after serving a jail sentence.

☐ I successfully completed my probation on_____, and obtained relief under Penal Code section 1203.4 on_____.
Date probation ended
Date PC 1203.4 granted by the court

☐ My felony conviction was reduced to a misdemeanor (Provide court information):_____.

Second Most Recent Felony Conviction

On or about_____, I was convicted of the crime of_____,
Month Day, Year — Crime and California Code section

in the county of_____, California. My sentence for this offense was:
County of Conviction

[*Check all that apply***]**

☐ Commitment to state prison or other state institution at _____
Name of institution or city were located

☐ Probation with suspended sentence to state prison or other state institution.

☐ Probation, after the sentencing proceedings were suspended.

Thereafter, on or about_____,
Date released from custody

☐ I was discharged from state prison or other state institution after completing my sentence.

☐ I was released on parole, from which I was discharged on _____.
Discharge date

☐ I was released from custody on probation after serving a jail sentence.

☐ I successfully completed my probation on_____, and obtained relief under Penal Code section 1203.4 on_____.
Date probation ended — Date PC 1203.4 granted by the court

☐ My felony conviction was reduced to a misdemeanor (Provide court information):_____.

Third Most Recent Felony Conviction

On or about_____, I was convicted of the crime of_____,
Month Day, Year — Crime and California Code section

in the county of_____, California. My sentence for this offense was:
County of Conviction

[*Check all that apply***]**

☐ Commitment to state prison or other state institution at _____
Name of institution or city where located

☐ Probation with suspended sentence to state prison or other state institution.

☐ Probation, after the sentencing proceedings were suspended.

Thereafter, on or about_____,
Date released from custody

☐ I was discharged from state prison or other state institution after completing my sentence.

☐ I was released on parole, from which I was discharged on _____.
Discharge date

☐ I was released from custody on probation after serving a jail sentence.

☐ I successfully completed my probation on_____, and obtained relief under Penal Code section 1203.4 on_____.
Date probation ended — Date PC 1203.4 granted by the court

☐ My felony conviction was reduced to a misdemeanor (Provide court information):_____.

RESIDENCY HISTORY

I am a resident of the State of California, and I have continuously resided in the State of California from_____, to the present date.
Month Day, Year

APPLICANT'S DECLARATION

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. (Pen. Code, § 4852.05.)

***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.*

_____ _____
Applicant's Signature Month Day, Year

_____
Applicant's Street Address

_____
Applicant's City, State and ZIP Code

_____
Applicant's Driver License Number

_____
Applicant's Email Address

_____
Applicant's Home Phone Number

_____
Applicant's Work Phone Number

_____
Applicant's Cell Phone Number

FORM 1 INSTRUCTIONS

1. Obtain Your Criminal Records

To complete this form, you will need information regarding each of your felony convictions, including the date of each 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 website at https://oag.ca.gov/fingerprints/record-review. Regardless of the number of convictions, you will only need to file one petition.

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 Penal Code section 290, which were subsequently expunged) (Pen. Code, § 4852.01, subd. (b).)
- You were convicted of specific sex crimes involving minor children as enumerated under Penal Code sections 286, subd. (c), 288, 288a, subd. (c), 288.5, and 289, subd. (j). (Pen. Code, § 4852.01, subd. (c).)
- You are serving mandatory life parole. (Pen. Code, § 4852.01, subd. (c).)
- You were sent to state prison under a death sentence. (Pen. Code, § 4852.01, subd. (c).)
- You are currently in military service. (Pen. Code, § 4852.01, subd. (c).)

Minimum Period of Rehabilitation

In order to be granted a certificate of rehabilitation you must satisfy a minimum period of rehabilitation. In every case, you must have resided continuously for **five** years in this state prior to filing the petition. (Pen. Code, § 4852.06) The period of rehabilitation begins to run upon your discharge from custody or upon release on parole or probation, whichever is sooner. (Pen. Code, § 4852.03, subd. (a).) The period of rehabilitation shall constitute **five** years residence in this state, **plus** a period of time determined by the following rules:

- An additional **four** years in the case of any person convicted of violating section 187 (murder), 209 (aggravated kidnapping), 219 (derailing or wrecking a train), 4500 (assault with force likely to cause great bodily injury), or 12310 (use of explosives or destructive devices causing death, mayhem, or great bodily injury) of the Penal Code, or subdivision (a) of section 1672 of the Military and Veterans Code (acting or failing to act so as to cause another person's death), or any other offense which carries a life sentence.
  (Pen. Code, § 4852.03, subd. (a)(1).)
- An additional **five** years in the case of any person convicted of any offense or attempted offense for which sex offender registration is required pursuant to Penal Code section 290, except for convictions for violations of subdivision (b), (c), or (d) of section 311.2 (possession or distribution of media depicting a minor engaging in sexual conduct), or of section 311.3 (sexual exploitation of a child), 311.10 (advertising obscene matter depicting a minor engaging in sexual conduct), or 314 (indecent exposure). For those convictions, two years shall be added to the five years imposed by this section.
  (Pen. Code, § 4852.03, subd. (a)(2).)

- An additional **two** years in the case of any person convicted of committing an offense not listed above and which does not carry a life sentence. (Pen. Code, § 4852.03, subd. (a)(3).)

- Additionally, the trial court hearing your application for a certificate of rehabilitation may add additional years if you served consecutive sentences. The amount of additional time will not exceed the sum of the maximum penalties for all your crimes. (Pen. Code, § 4852.03, sub. (a)(4).)

Felony Probation

If you were released on felony probation and successfully completed probation, you must obtain relief under Penal Code section 1203.4 before applying for a Certificate of Rehabilitation.

3. File Your Documents

After completing the ***Petition for Certificate of Rehabilitation and Pardon***, you must file it with the superior court in the county of conviction or in your county of residency. (Pen. Code, § 4852.06.)

- You are entitled to be represented by an attorney of your own selection, or by the public defender. (Pen. Code, § 4852.08.)

- You are entitled to receive assistance from all rehabilitative agencies including officers from adult probation and parole. (Pen. Code, § 4852.04)

- It is unlawful for anyone, other than an attorney, to accept any fee, money or anything of value for their services in representing you in this proceeding. (Pen. Code, § 4852.2.)

- You are not required to pay filing fees of any kind in connection with this proceeding. (Pen. Code, § 4852.09.)

4. Notice of Filing

When the court sets a hearing date on your petition, you are required to give notice of that date at least 30 days before the hearing. You must formally notify the district attorney for each county in which you have been convicted and the county in which the petition is filed. (Pen. Code, § 4852.07.) For more information on the notice requirements, please reference the ***Notice of Filing of Petition for Certificate of Rehabilitation and Pardon.***

5. After a Certificate of Rehabilitation is Issued

A certificate of rehabilitation is not an automatic pardon; it is an application for a pardon. In the event that a certificate of rehabilitation is issued by a court, subject to criteria established by the Governor, the certificate of rehabilitation shall be reviewed by the Board of Parole Hearings within one year. Thereafter, the Board shall issue a recommendation as to whether the Governor should pardon that individual. (Pen. Code, § 4852.16, subd. (b).)

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

County Where Petition is Filed

In the Matter of the Application of

Court use only

_____
Type Applicant's Full Name – First, Middle, Last, and Suffix

Date of Birth_____
Month Day, Year

CII Number_____

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List all applicable Case Numbers

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[*Check all that apply***]**

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☐ My felony conviction was reduced to a misdemeanor (Provide court information):_____.

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***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.*

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Felony Probation

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3. File Your Documents

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- You are entitled to be represented by an attorney of your own selection, or by the public defender. (Pen. Code, § 4852.08.)

- You are entitled to receive assistance from all rehabilitative agencies including officers from adult probation and parole. (Pen. Code, § 4852.04)

- It is unlawful for anyone, other than an attorney, to accept any fee, money or anything of value for their services in representing you in this proceeding. (Pen. Code, § 4852.2.)

- You are not required to pay filing fees of any kind in connection with this proceeding. (Pen. Code, § 4852.09.)

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5. After a Certificate of Rehabilitation is Issued

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

County Where Petition is Filed

In the Matter of the Application of

_____

Type Applicant's Full Name – First, Middle, Last, and Suffix

Certificate Number_____

Date of Birth_____

Month Day, Year

CII Number_____

Criminal Case Number_____

List all applicable Criminal Numbers

Court use only

CERTIFICATE OF REHABILITATION

Pursuant to Penal Code Section 4852.13

The petition of_____, presently residing

Type Applicant's Full Name – First, Middle, Last, and Suffix

at_____, heretofore filed, praying for

Type Applicant's Street Address, City, State, and Zip Code

a Certificate of Rehabilitation pursuant to the provisions of Chapter 3.5, Title 6 of Part 3 of the Penal Code of the State of California, came on regularly for hearing on this_____day

Day of the Month

of_____and proof having been made to the

Month, Year

satisfaction of the court that notice of the time of hearing has been regularly given as required by law; and from satisfactory proof taken at said hearing the court finds that all allegations of said petition are true, and that the required period of rehabilitation has elapsed since petitioner's date of discharge from custody due to completion of the term to which the petitioner was sentenced, or upon the release on parole or probation on

_____, that, where appropriate, petitioner has obtained relief pursuant to

Month Day, Year

Penal Code Section 1203.4, and that petitioner has demonstrated by the course of conduct his/her rehabilitation and fitness to exercise all the civil and political rights of citizenship (except as provided in Penal Code Section 485.15); and that petitioner has been_____, time(s) convicted of a felony.

Total Number of Felony Convictions

WHEREFORE, It Is Ordered, Adjudged, and Decreed, and this court does hereby order, adjudge, and decree the petitioner has been rehabilitated and is fit to exercise all the civil and political rights of citizenship (except as provided in Penal Code Section 4852.15), and by virtue thereof, this court recommends that the Governor of the State of California grant a full pardon to said petitioner.

Done in open court this_____day of _____

Day of the Month Month, Year

_____ _____

Judge of said Superior Court – TYPED or PRINTED Judge of said Superior Court – SIGNATURE

State of California

Office of Governor Edmund G. Brown Jr.

How to Apply for a Pardon

Individuals who have been convicted of a crime in California may apply to the Governor for a pardon. A gubernatorial pardon is an honor that may be granted to people who have demonstrated exemplary behavior following their conviction. A pardon will not be granted unless it has been earned. Obtaining a pardon is a distinct achievement based upon proof of a productive and law-abiding life following conviction. Historically, governors have granted very few pardons.

Applications generally will not be considered unless the applicant has been discharged from probation or parole for at least 10 years without further criminal activity during that period. There is no fee for applying for a pardon.

The Governor of California cannot grant a pardon for a conviction from another jurisdiction, such as another state or a federal proceeding. A person convicted in another state must apply for a pardon in that state. Federal pardon information may be obtained from the Pardon Attorney, U.S. Department of Justice, 500 First Street Northwest, Washington, D.C. 20530.

The Application Process

For most people, the first step in applying for a pardon is to obtain a Certificate of Rehabilitation from the Superior Court in the county where the applicant currently lives. People who live outside of California and people who are ineligible for a Certificate of Rehabilitation must use a direct pardon application. The procedure utilized will depend on the circumstances of each applicant.

1. Certificate of Rehabilitation

A Certificate of Rehabilitation is a court order declaring that a person convicted of a crime is now rehabilitated. Generally, any person convicted of a felony who still resides in California may apply to the Superior Court in the county where he or she lives for a Certificate of Rehabilitation, provided that the applicant meets the legal requirements of demonstrated rehabilitation. There are special rules that apply to individuals convicted of sex offenses.

An application for a Certificate of Rehabilitation can usually be obtained from the court clerk, probation department, or public defender's office. Once a petition is filed, the court may require an investigation by the district attorney and will schedule a hearing.

If the Court issues a Certificate of Rehabilitation, the certificate is forwarded to the Governor's Office where it automatically becomes an application for a pardon. The Governor's receipt of a Certificate of Rehabilitation does not guarantee that a pardon will be granted.

2. Direct Pardon

The direct pardon procedure is available to people who are ineligible for a Certificate of Rehabilitation. This procedure is used primarily by people who were convicted of a crime in California and now reside outside the state. The direct pardon procedure is also available to people who are not eligible for a Certificate of Rehabilitation because they have been convicted of specified sex offenses or misdemeanor offenses.

Applicants for a direct pardon may obtain the application either by accessing the Governor's website at www.gov.ca.gov, or by requesting an application in writing at the following address:

Governor's Office
State Capitol
Attention: Legal Affairs
Sacramento, CA 95814

The applicant should first complete the Application for Executive Clemency. Then the applicant must send the Notice of Intent to Apply for Executive Clemency to the District Attorney of each county in which the applicant was convicted so that each District Attorney receives the legally-required notice. The District Attorney acknowledges receipt of the Notice of Intent and returns the notice to the Governor's Office. Finally, the applicant should return the completed application to the Governor's Office at the address listed above.

The Review Process

There is no requirement that the Governor take any action on an application for a pardon. Once a Certificate of Rehabilitation or a completed direct pardon application is received by the Governor's Office, the Office typically forwards the application to the Board of Parole Hearings (Board). The Board may conduct a background investigation and make a recommendation on whether a pardon should be granted. The Board may contact the District Attorney, investigating law enforcement agency, and other persons with relevant information on the applicant.

If the applicant has been convicted of more than one felony, the California Supreme Court must recommend granting a pardon before the Governor may do so. However, there is no obligation that the Governor seek a recommendation from the Supreme Court, in the first instance.

The length of time needed to complete the pardon process cannot be predicted. **Once a completed application has been received by the Governor's Office, it is not necessary to contact the Governor's Office to check on the status of an application**. If the Governor takes action on an application, the applicant will be notified. Applicants should notify the Governor's Office in writing if their mailing address changes.

Effect of a Pardon

A pardon does not seal the individual's criminal record or expunge the record of conviction, and the pardon is itself a public record. When a pardon is granted, the California Department of Justice and the Federal Bureau of Investigation are notified so that they may update their records on the applicant. The pardon is filed with the Secretary of State, reported to the Legislature, and is a public record. If a pardon is granted, the Certificate of Rehabilitation or the application for a direct pardon will be reported to the Legislature in an annual report and will become a public record. However, specific personal information will be redacted (hidden) before the Certificate of Rehabilitation or the application is made available to the public.

Please see the attached "Quick Reference for Restoration of Rights" for a detailed description of the effects of obtaining a Certificate of Rehabilitation and a pardon.

CERTIFICATE OF REHABILITATION AND PARDON

QUICK REFERENCE FOR RESTORATION OF RIGHTS

In California, the granting of a Certificate of Rehabilitation or a Governor's pardon restores to the applicant some rights of citizenship that were forfeited as a result of a conviction.

CERTIFICATE OF REHABILITATION	GOVERNOR'S PARDON
DOES:	***DOES:***
• Relieve <u>some</u> sex offenders, as specified, of further duty to register. (Pen. Code, § 290.5.) • Enhance a felon's potential for licensing consideration by a State board. (Pen. Code, § 4853.) • Serve as an official document to demonstrate a felon's rehabilitation, which could enhance employment possibilities. • Serve as an automatic application for a gubernatorial pardon.	• Allow a felon to serve on a jury trial. (Code Civ. Proc., § 203 subd. (a)(5).) • Allow restoration of firearms rights, upon federal approval, to specified offenders who have obtained a certificate of rehabilitation if granted a full and unconditional pardon, ***unless*** the conviction was for a felony involving the use of a dangerous weapon. (Pen. Code, §4852.17.) • Allow a felon to be considered for appointment as a county probation officer or a state parole agent, but not to any other peace officer positions. (Gov. Code, § 1029, subd. (c).) • Allow specified sex offenders still required to register after obtaining a Certificate of Rehabilitation to be relieved of their duty to register if granted a full and unconditional pardon. (Pen. Code, § 290.5.)
DOES NOT:	***DOES NOT:***
• Erase the felony conviction or seal the criminal record. (Pen. Code, § 4852.17.) • Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense. • Allow a felon to answer on employment applications that he/she has no record of conviction. • Give a felon the right to vote, because this right is automatically restored after discharge from parole. • Restore the right to own or possess firearms.	• Seal or erase the record of conviction. (Pen. Code, § 4852.17.) • Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense. • Allow a pardoned person to answer on employment applications that he/she has no record of conviction. • Restore ability to own a firearm to felons convicted of any offense involving the use of a dangerous weapon. (Pen. Code, § 4854.) • Pardon convictions from another state, or federal convictions. • Necessarily prevent deportation.