Superior Court of Santa Cruz County
Proposition 47 Frequently Asked Questions

Proposition 47 Overview

PROPOSITON 47 "The Safe Neighborhoods and Schools Act," which went into effect on November 5, 2014, reduces most possessory drug offenses and thefts of property valued under $950 to straight misdemeanors. In addition, the proposition adds Penal Code, section 1170.18, which creates a process for persons previously convicted of these theft and drug offenses as a felony to petition the Court for resentencing as a misdemeanor.

Under Penal Code 1170.18, a person currently serving a sentence, or a person having completed a sentence, for a conviction of a felony violation of Health and Safety Code sections 11350, 11357(a) or 11377 or Penal Code sections 459.5, 473, 476a, 490.2, 496, may be eligible to have the felony conviction designated as a misdemeanor and/or resentenced as a misdemeanor.

1. WHO IS ELIGIBLE?

Anyone who has been convicted of the following crimes may file a petition, as long as they meet the other eligibility criteria.

PC 459 (2nd Degree)	PC 460(b)	PC 470, 470a, 470b
PC 470(a), (b), (c), (d)	PC 471, 471.5	PC 472
PC 473	PC 475	PC 476, 476a
PC 484e, 484f, 484g, 484h	PC 484i(b)	PC 484.1
PC 484/487, 484/487(a)	PC 487(b),(b)(1)	PC 487 (b)(1)(A)
PC 487(b)(1)(B)	PC 487(b)(1)(B)(2)	PC 487(c), (d)
PC 487d, 487i	PC 490.2	PC 496, 496(a)
PC 666	HS 11350	HS 11357
HS 11357(A)	HS 11377	

Note: In order for a theft or property charge to be eligible, value of the property or theft cannot exceed $950

Benefits of Prop 47 are expressly denied to people with prior convictions for designated violent offenses including: 1) any sexually violent offense, 2) any homicide or attempted homicide, 3) solicitation to commit murder, 4) assault with a machine gun on a peace officer of firefighter, 5) possession of a weapon of mass destruction, 6) any serious violent felony punishable in California by life imprisonment or death, and 7) any offense requiring lifetime sex offender registration under PC Section 290(c). This list may not be inclusive of all disqualifying offenses.

2. HOW DO I TAKE ADVANTAGE OF PROP 47?

Currently serving a sentence

If you are currently serving a sentence for an eligible offense, you may petition the Court for a reduction of your sentence. Please complete a petition (Court Form SUPCR 1112) and bring it, and three copies, to the Clerk's Office at Room 120 in Santa Cruz for filing. The Clerk's Office will provide you with a Court date at least 15 days from the date of filing.

Already served a sentence

If you have already completed a sentence for an eligible offense, you may apply to the Court for a redesignation using an application (Court Form SUPCR 1113). File the form, along with three copies, at the Clerk's Office in Room 120 in Santa Cruz. These applications will take approximately 30 court days to review. No hearing is necessary to grant or deny the application unless requested by the defendant.

3. WHAT DO I NEED TO FILE MY APPLICATION OR PETITION?

You will need your original *petition* (if currently serving the sentence) or *application* (if you've already completed the sentence) along with three copies. The Court will keep the original and two copies and you will retain the third copy for your personal records. You must also bring the *Order on Petition or Application* form (Court Form SUPCR 1115) to the Clerk's Office at the time of filing. Please have the top portion of the Order filled in with your personal information.

4. CAN I BE DENIED RESENTENCING OR REDESIGNATION EVEN IF I MEET THE ELIGIBILITY CRITERIA?

Currently serving a sentence

Yes. A judge may take other factors into consideration in determining whether or not to grant a resentencing including the following: 1) the petitioner's criminal conviction history, including the types of crimes committed; 2) the extent of the injury to victims; and 3) the length of prior prison commitments and the remoteness of the crimes. The Court can also look at the petitioner's disciplinary record and record of rehabilitation while incarcerated. Finally, the Court may find that a defendant possesses an "unreasonable risk of danger to public safety" and deny the petition on that basis.

Already served a sentence

No. As long as the defendant is eligible and has completed his or her sentence, he or she will have the felony conviction or convictions designated as misdemeanors.

5. ARE THERE ANY FILING FEES FOR EITHER THE APPLICATION OR THE PETITION?

No. Neither the application or the petition requires payment of a filing fee.

6. WILL I HAVE MY FINES REDUCED IF I AM GRANTED A RESENTENCING OR A REDESIGNATION?

Defendants currently serving a sentence may have their outstanding fines reduced to the amounts associated with the new misdemeanor offense; however, defendants will not be refunded any money for any fines already paid to either probation or the Court even if their felony is reduced to a misdemeanor.

7. WHO WILL MAKE THE DECISION ABOUT MY PETITION OR APPLICATION?

The original sentencing judge will review petitions for resentencing unless they are deemed "unavailable." A judge will be considered unavailable if they are either retired from the bench or if they are no longer assigned to a felony department. If a judge is deemed unavailable, the petition will be assigned to a felony judge assigned to the department where the defendant was originally sentenced.

Applications, on the other hand, will be reviewed by a designated bench officer. He or she will review all applications and make final determination about granting or denying the application.

8. WHAT WILL HAPPEN AT THE HEARING ON MY PETITION?

During or prior to the hearing, the judge will review the defendant's case and ask the District Attorney's Office (DA) if there are any reasons why the defendant should not have their petition granted. The DA may either support or object to the petition.

The DA may present information to the Court regarding a defendant's eligibility and/or they may present information attempting to demonstrate that the amount of the theft or property stolen had a value of more than $950. The DA could also raise questions about the defendant's criminal history and/or recommend that the Court deny the petition because the defendant presents an unreasonable risk of danger to the public.

9. HOW LONG WILL THE PROCESS TAKE?

Petitions will be set for a hearing at least 15 Courts days from the date of filing. Applications will be reviewed and a determination made approximately 30 days after filing but the time may be extended depending on the circumstances of some cases. Processing times might be longer if you file by mail.

10. CAN I FILE MY APPLICATION OR PETITION THROUGH THE MAIL?

Yes. Complete local Court forms SUPCR 1112 (petition) or SUPCR 1113 (application) and mail the original and three copies to the Criminal / Traffic Clerk's Office at Room 120 in Santa Cruz with a self addressed, stamped envelope enclosed.

For the petition, the Court will fill in the Court date on the original and on the copies (at least 20 days from the date the petition is received) and mail a copy (filed) back to you. With regards to the application, the Court will return a copy of the filed form back to you (if a self address, stamped envelope is enclosed)

IS THERE A TIME LIMIT ON FILING A PETITION OR APPLICATION?

Defendants must file petitions and applications prior to November 4, 2020, unless good cause is shown for a later filing date.

11. WHO SHALL I CONTACT IF I HAVE DETAILED QUESTION ABOUT MY CASE?

The Clerk's Office can answer basic questions about the process and direct you to the appropriate court forms. More detailed questions about your particular case should be directed to your defense attorney or the public defender's office. The County Law Library can also address some of your questions.

12. WHERE DO I GO FOR COPIES OF THE COURT FORMS THAT I NEED

All forms can be found on the Court's website at www.santacruzcourt.org . Copies are also available through the County Law Library.