



**TUOLUMNE COUNTY PROBATION DEPARTMENT**

465 South Washington Street, Sonora, CA 95370  
TEL 209-533-7500 FAX 209-533-7564

**Dan Hawks**  
Chief Probation Officer

**Change of Plea Application (1203.4 Penal Code)**

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

AKA: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Physical Address (if different): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Primary Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Alternate Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

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

Age: \_\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_

Sex: M F City & State of Birth: \_\_\_\_\_

Driver's License #: \_\_\_\_\_

Social Security # \_\_\_\_\_

Employed: Yes No

Occupation: \_\_\_\_\_

Notes (explain reason for change of plea request): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Rev. 6/1/2020

MIN OR \_\_\_ PET \_\_\_ AUTH \_\_\_ RCPT \_\_\_ PNTS IN \_\_\_ OUT \_\_\_ PKT TO PO \_\_\_ RPT \_\_\_ PKT TO CRT \_\_\_ PKT TO DA \_\_\_



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### **Petition for Dismissal under Penal Code §1203.4, et seq. Information and Instructions**

After successful completion of probation, you may petition the court to dismiss the charges under Penal Code §1203.4 (also including 1203.41, 1203.42, and 1203.45). If it is in the interest of justice, the judge may allow you to file the petition before probation ends. You may also petition the court under 1203.4a after conviction of a misdemeanor. The criteria for dismissal under 1203.4 et seq. is listed in Section 2.

#### **Section 1 - General Information:**

1. A 1203.4 et seq. petition must be filed in the same county in which the criminal case as adjudicated, or if probation was transferred the county which had jurisdiction at the time of termination.
2. A 1203.4 et seq. petition allows a person to withdraw his or her plea of guilty or nolo contendere ("no contest") and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty.
3. Disclosure – Granting of this petition does **NOT** relieve you of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.
4. The granting of your request by the court does not eliminate from your record the fact that an arrest occurred or that the charge(s) were brought, only that a conviction occurred.
5. The conviction may still be alleged as a prior conviction in future criminal proceedings.
6. Department of Motor Vehicles – Granting of this petition does **NOT** affect DMV actions or future consequences for crimes involving operation of a motor vehicle.
7. Firearms – Granting of this petition does **NOT** permit you to own, possess, or have in your custody or control any firearm or ammunition.
8. Sealing – Granting of this petition does **NOT** seal your record. The case, including the conviction will remain public record.
9. Sex Offender Registration – Granting of petition does **NOT** relieve you from any obligation to register under Penal Code §290.

*This information is for general use and not intended as full and comprehensive instruction governing the laws and rules relating to dismissal granted under Penal Code §1203.4 et seq. For further information, you may refer to Penal Code §1203.4 et seq. or you may wish to seek legal assistance.*

\*\* For additional information and other useful websites see the links below:

- <http://www.courts.ca.gov/1070.htm>
- <http://www.saclaw.org/Uploads/files/Step-by-Step/ExpungingCriminalRecords.pdf>

**Section 2 – Criteria: You should qualify for a Petition for Dismissal under Penal Code 1203.4 et seq. if you meet the following:**

- You were convicted of a misdemeanor or felony.
- Probation was granted on this case.
- You have fully complied with the conditions of probation for the entire term or you were discharged prior to the termination of probation.
- You are not serving a sentence for any offense.
- You are not on probation for any other offense.
- You are not currently charged with another offense.
- All court ordered restitution or fines have been paid.

**Section 3 - What prohibits someone from filing the petition?**

1. Any infraction violation.
2. Misdemeanor violations of 42001(b) Vehicle Code.
3. Violations listed under 12021.1 Penal Code (firearms, prior convictions of certain violent offenses).
4. Any felony conviction pursuant to Penal Code 261.5(d).
5. Violations of Penal Code Sections 286(c), 288, 288a(c), 288.5 or 289(j).
6. Case has previously been dismissed.
7. Having served your sentence in state prison or the county jail because you failed probation.

**Tuolumne County Probation Department's 1203.4 et seq. Penal Code Instructions:**

**\*\*\*NOTE: Support staff cannot advise or render assistance in legal advice regarding 1203.4 et seq. \*\*\***

1. Contact the Tuolumne County Probation Department, located at 465 South Washington Street, Sonora, CA 95370, Monday-Friday from 8:00 a.m. to 5:00 p.m. and schedule an appointment to be interviewed by a deputy probation officer. When you schedule the appointment, you will be required to complete a *Change of Plea Application* form.
2. You will be assessed a fee of **\$150.00 per case**, which must be paid at the Tuolumne County Office of Revenue Recovery (ORR), located at 2 South Green Street (2<sup>nd</sup> floor), Sonora, CA 95370, unless your fees are waived based on an inability to pay as determined by the ORR.
3. You are required to appear in person for the scheduled interview at the Probation Department. **Failure to appear will result in no petition being filed on your behalf.**
4. If you currently reside out of the state or live more than 200 miles outside of Sonora, you may request a telephone interview.
5. Following an interview and investigation by a deputy probation officer, a report will be submitted to the Tuolumne County Superior Court judge with a recommendation based on the findings. The judge has the final authority to grant or deny the petition.
6. You will be mailed a copy of the petition and report, which will include the hearing date. It is recommended that you appear at the hearing, but your appearance is not mandatory in order for the court to grant the 1203.4 et seq. dismissal.

**\* Dismissal pursuant to 1203.4 et seq. does NOT include a reduction pursuant to Penal Code 17(b). If you wish to petition the Court to have your conviction reduced to a misdemeanor, contact an attorney as the Tuolumne County Probation Department is not involved in this process.**