

Appendix 1. California Criminal Record Clearance Sections

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Arrest Relief Sections

Pen. § 851.8	<ul style="list-style-type: none">- (a-b): Arrest with no accusatory pleading or formal court case- (c-d): Accusatory pleading was filed and dismissed- FINDING OF FACTUAL INNOCENCE REQUIRED- Record sealed
Pen. § 851.85	<ul style="list-style-type: none">- Arrest with acquittal at trial- FINDING OF FACTUAL INNOCENCE REQUIRED- Record sealed
Pen. § 851.86	<ul style="list-style-type: none">- Arrest with conviction set aside based on determination of FACTUAL INNOCENCE- Record sealed
Pen. § 851.87	<ul style="list-style-type: none">- Arrest with successful completion of a pre-filing diversion program (administered by a prosecuting attorney in lieu of filing an accusatory pleading)- Record sealed
Pen. § 851.9	<ul style="list-style-type: none">- Arrest with successful completion of a drug diversion program (§ 1000.5) or admission to a deferred entry of judgment program (§ 1000 or § 1000.8)- Record sealed
Pen. § 851.91	<ul style="list-style-type: none">- Arrest with no conviction or arrest that resulted in conviction, but the conviction was vacated or reversed on appeal- Record sealed
Pen. § 851.93 (AB 1076)-Arrests on or after January 1, 2021	<ul style="list-style-type: none">- Arrest with charge dismissal, arrest for which criminal proceedings have not commenced, arrest with completion of diversion program- Record sealed
Pen. § 1000.4	<ul style="list-style-type: none">- Arrest with successful completion of a pretrial diversion program (Special proceedings in narcotics and drug abuse cases Pen. Code § 1000-1000.65)- Record sealed
Pen. § 1001.9	<ul style="list-style-type: none">- Arrest ending with successful completion of a diversion program (Misdemeanor diversion Pen. Code § 1001-1001.9)- Record sealed

Conviction Relief Sections

Pen. § 1203.45	<ul style="list-style-type: none"> - Juvenile Record of conviction and other records, including arrest records - Records sealed
Pen. § 1203.47	<ul style="list-style-type: none"> - Sealing of juvenile records as provided in Welfare and Institutions Code § 781 for violations of Penal Code 647(b) and/or 653.22 (prostitution)
Pen. § 1203.4	<ul style="list-style-type: none"> - Misdemeanor conviction and have completed probation or have been discharged prior to the termination of probation (also applies to felony wobbler convictions, § 17(b) reduction can be done at the same time as dismissal petition) - Person can also obtain relief under Pen § 1203.49 if they were a victim of human trafficking at the time they “committed the crime” - Conviction dismissed <p><i>Discretionary cases:</i> Violation, revocation, or new conviction during probation sentence.</p>
Pen. § 1203.4a	<ul style="list-style-type: none"> - Misdemeanor conviction and was not given probation and all infractions (with exceptions) - Conviction dismissed <p><i>Discretionary cases:</i> -New conviction within one year of judgement.</p>
Pen. § 1203.41	<ul style="list-style-type: none"> - Felony conviction and sent to county jail under § 1170(h)(5) - Conviction dismissed <p><i>Discretionary cases:</i> All.</p>
Pen. § 1203.42	<ul style="list-style-type: none"> - Felony convictions from before the Realignment Legislation that would have been eligible for sentencing under § 1170(h). - Conviction dismissed <p><i>Discretionary cases:</i> All.</p>
Pen. § 1210.1 (Prop. 36)	<ul style="list-style-type: none"> - Nonviolent drug possession convictions (sentenced to probation with drug treatment as a condition of probation) - Conviction dismissed
Pen. § 1203.425 (AB 1076)- Convictions on or after January 1, 2021	<ul style="list-style-type: none"> - Conviction records (no prison time) - Conviction dismissed
Pen. § 1170.18(f,g,h) (Prop. 47)	<ul style="list-style-type: none"> - Felony conviction under HSC §§ 11350, 11357, 11377, Pen. §§ 459.5, 473, 476a, 490.2, 496, 666 reduction to a misdemeanor
HSC § 11361.8 (Prop. 64)	<ul style="list-style-type: none"> - Prop. 64 dismissal and seal or redesignation to lesser offense
Pen. §§ 4800-13, 4853-54 (Governor's Pardon)	<ul style="list-style-type: none"> - Felony conviction and sentenced to state prison or under CDCR authority

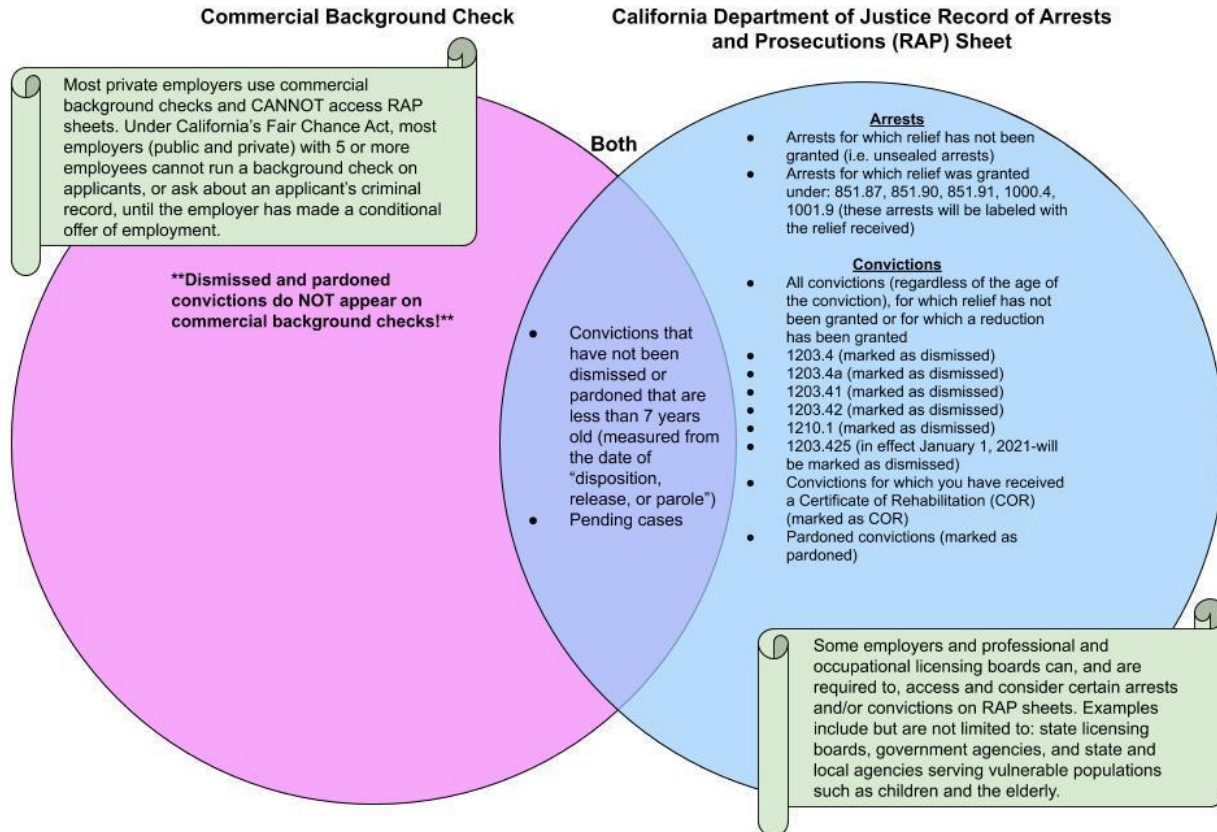
<u>Pen. §§ 4852.01-4852.22</u> (Certificate of Rehabilitation)	- Felony conviction with incarceration (in prison or county jail under § 1170(h))
<u>Pen. § 290.5-July 1, 2021</u>	- Sex offender registration after conviction and serving a sentence for certain sex offenses - Potential removal from the sex offender registry after 10 or 20 years

Note: Unpaid restitution (restitution fine or victim restitution) can play a role in whether a judge chooses to grant a petition for a discretionary dismissal, or can turn an otherwise mandatory dismissal into a discretionary dismissal. However, in cases where the court terminates probation early (PC 1203.3), unpaid victim restitution cannot prevent dismissal under PC 1203.4. *People v. Seymour*, 239 Cal. App. 4th 1418, 192 Cal. Rptr. 3d 113 (2015).

Appendix 2. Implications of arrest and conviction relief for background checks

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Which records appear on commercial background checks and CA RAP Sheets?



Appendix 3. Process for calculating migration and mortality among people with convictions, and the number of people remaining with convictions in 2018. Example using Black men ages 18 and over

Age in 2000	Black men with convictions whose last record was in year 2000	Outmigration	Mortality	Lost	Remaining, carry forward to 2001
18-19	69	*.021=1.45	*.0006=0.04	1.49	68
20-24	257	*.021=5.39	*0.001=0.25	5.64	251
25-34	631	*.021=13.23	*0.001=0.91	14.14	617
35-44	882	*.021=18.49	*0.004=3.31	21.81	860
45-54	673	*.021=14.11	*0.009=5.96	20.07	653
55-64	228	*.021=4.78	*0.019=4.40	9.18	219
65-74	50	*.021=1.05	*0.038=1.91	2.96	47
75-84	11	*.021=0.23	*0.083=0.91	1.14	10
85+	<10	-	-	-	<10

The above process is repeated for each year from 2001-2018, summing people whose last record was in the new year and people carried forward from prior years. Below are the calculations for the final year, 2018.

Age in 2018	Black men with convictions whose last record was in year 2018, plus men carried forward from 2000-2017	Outmigration	Mortality	Lost	Remaining
18-19	206	*0.007=1.43	*0.0003=0.05	1.48	205
20-24	7,353	*0.007=51.03	*0.0004=3.06	54.09	7,299
25-34	46,418	*0.007=322.10	*0.001=32.07	354.17	46,064
35-44	50,805	*0.007=352.54	*0.001=66.15	418.69	50,386
45-54	42,237	*0.007=293.09	*0.003=139.64	432.74	41,804
55-64	37,662	*0.007=261.34	*0.007=253.47	514.81	37,147
65-74	11,472	*0.007=79.61	*0.012=134.90	214.51	11,258
75-84	1,418	*0.007=9.84	*0.024=34.37	44.21	1,374
85+	92	*0.007=0.64	*0.073=6.71	7.35	84

Note: criminal history data for this study included records through May of 2018. Therefore migration and mortality rates for 2018 are multiplied by 0.42, to estimate deaths and outmigration for January-May. Cell counts under 10 are excluded.