

**Superior Court of California, County of Placer
Criminal Law Division**

**Information on PL – CR 004:
Petitions for Resentencing //
Petitions for Reduction to a Misdemeanor
(aka Proposition 47 Petitions)**

Updated: January 27, 2015

The purpose of this document is to address local handling of petitions under Proposition 47. For more information on Proposition 47, including eligibility requirements, please visit the Judicial Council’s website (www.courts.ca.gov). A detailed set of frequently asked questions on the scope of the law can be found here: <http://www.courts.ca.gov/documents/Prop47FAQs.pdf>.

What is Proposition 47?

Proposition 47 was passed by voters in November 2014 and implemented three broad changes to felony sentencing laws. First, it reduced specific non-serious and non-violent property and drug offenses to misdemeanors. Second, it allowed defendants currently serving a felony sentence for these specific reduced crimes to apply to the sentencing court to have the felony sentence reduced to a misdemeanor by filing a petition for resentencing. Third, it allowed certain defendants who already completed a specific felony sentence to apply to the sentencing court to have the felony conviction reclassified as a misdemeanor by filing a petition for reduction to a misdemeanor.

What form do I use to submit my petition / a petition for my client?

Please use PL - CR004 – Prop 47 Petition. You can locate this form on our website at: <http://www.placer.courts.ca.gov/forms/PL-CR004-Prop-47-Petition.pdf>

Can I request a resentencing and a reduction to a misdemeanor on the same form?

No. The requests are for separate circumstances so each requires its own petition form. You must indicate whether you are petitioning for resentencing or a reduction to a misdemeanor. If you select both boxes, the clerk will reject your petition at the time you attempt to file.

I have one case where I would like to petition for resentencing and a second case where I would like to petition for reduction to a misdemeanor. Can I use one form?

No. You need to submit a separate petition for each request.

Do I pick a hearing date and time when I file the petition?

No. The hearing date and time, if necessary, will be set by the court. Please see “Will a hearing be set for my petition” below.

Do I need to serve anyone with the petition?

Yes. You need to serve a copy of petition on the District Attorney’s Office after you file it with the court. (Do not serve the petition until you have a file stamped copy back from the court.)

Will a hearing be set on my petition?

Maybe. This depends on the type of petition, your (your clients) custody status, whether the District Attorney objects to your petition, or if the court determines a hearing is necessary.

I (my client) am in custody and petitioning for resentencing -- will a hearing be set?

If you (your client) are (is) currently in-custody at a Placer County correctional facility, the clerk will place your petition on calendar no more than ten (10) days from the date you file your petition. The clerk will add this to the Date/Time/Location portion of the petition at the time of filing.

I (my client) am currently in-custody in a State Prison or am currently serving a sentence out of custody and I am petitioning for resentencing – will a hearing be set?

If you (your client) are (is) currently in-custody in a State Prison facility or are currently serving a sentence out of custody, the clerk will not set a hearing at the time you file your petition. The petition will be held by the clerk for ten (10) days to allow for a response from the District Attorney's Office.

- If the District Attorneys' Office has no objection, the Petition will be sent to a Judge for review.
 - The judge may review and issue a new order without a hearing.
 - If the judge determines a hearing is necessary, the clerk will send you notice of a hearing date.
- If the District Attorney's Office objects to your petition, the court will set the hearing no sooner than ten (10) days from the date the court receives the District objection. The clerk will send you notice of a hearing date.
- If the District Attorney's Office does not respond by the tenth day, the court will set a hearing no sooner than ten (10) days from that date. The clerk will send you notice of a hearing date.

I (my client) have completed my sentence and am petitioning for a reduction to a misdemeanor – will a hearing be set?

If you (your client) have completed your sentence, a hearing will not be set at the time you file your petition. The petition will be held by the clerk for ten (10) days to allow for a response from the District Attorney's Office. However, a hearing will be held if you request one.

- If the District Attorney's Office has no objection or does not respond within ten (10) days, the Petition will be sent to a Judge for review. The judge may issue an order without a hearing. If you requested a hearing when you filed the petition, the court will set a hearing. The clerk will send you notice of a hearing date.
- If the District Attorney's Office has an objection, the court will set the hearing. The clerk will send you notice of a hearing date.