

# Prop 47 Frequently Asked Questions

## **1. What is Proposition 47?**

On November 4, 2014, the voters of California passed Proposition 47, a law that changes some low level crimes like drug possession and petty-theft related offenses from potential felonies to misdemeanors. State prison cost savings from the changes will be invested in grants for drug treatment and mental health services for people in the criminal justice system, programs for at-risk students in k-12 schools, and victim services.

## **2. Can I get my felony changed to a misdemeanor?**

You may be able to have your most recent case, and any earlier cases, changed from felonies to misdemeanors if you were convicted of the following charges:

- Shoplifting, i.e. Commercial Burglary of \$950 or less of a Store during Business Hours (PC §459)
- Forgery of \$950 or less (PC §470-476)
- Fraud/Bad Checks of \$950 or less (PC §476a)
- Grand Theft of \$950 or less (PC §487)
- Petty Theft/Shoplifting of \$950 or less (PC §§484, 484/666)
- Possession of Methamphetamine (HS §11377)
- Possession of Controlled Substance (HS §11350)
- Possession of Concentrated Cannabis (HS §11357(a))
- Receiving Stolen Property of \$950 or less (PC §496)

## **3. I am currently incarcerated – can I be resentenced?**

Yes, if you are currently serving a sentence for one of the above offenses, you may be eligible for resentencing and release. Individuals with specific priors and people registered as sex offenders are excluded. You must petition a judge who has discretion to release as long as there is no unreasonable risk of danger to public safety.

## **4. How do I get resentenced?**

Call the public defender's office or the lawyer who represented you so they can file a petition for you.

## **5. Can I have my felony conviction changed to a misdemeanor on my old criminal record, even if I am no longer in the criminal justice system?**

Yes, this law is retroactive. That means that you are eligible to have any qualifying prior felony convictions reduced to misdemeanors no matter how long ago you were convicted. This is true even if you were previously denied a reduction from a felony to a misdemeanor by the court during any pre-conviction court hearing, at sentencing, or after requesting an expungement.

## **6. How do I get my felony record changed?**

In each county that you have a felony conviction for an eligible offense, you can file a request to change your record. You should have an attorney review your form before you submit it. Be sure to submit it to the court clerk and the District Attorney's office for the county.

## **7. Will there be a court hearing?**

There is no requirement for a court hearing, unless there is a need to address a question of your eligibility. If there is any question about whether your felony case should be reduced, there may be a court hearing where you will be represented by a public defender if you qualify financially.

## **8. If I'm in jail and my case is reduced from a felony to a misdemeanor, will I get out of jail?**

The maximum jail time for most misdemeanors is one year in county jail. If you have already served more than the maximum term of confinement, you should be released. If you have not served the maximum term of confinement for the misdemeanor charge(s), the court may hold a hearing to determine if your sentence should be reduced. However, if you have other cases or charges that are holding you in custody, you will not be released even if you receive a reduction on one or more charges.

## **9. If I'm in prison and my case is reduced from a felony to a misdemeanor, will I get out of prison?**

If you have no other charges keeping you in state prison, you may be released from prison. If your case is reduced to a misdemeanor, your maximum sentence is no more than a year in county jail per charge. You cannot be sentenced to prison on a misdemeanor, but you can be sentenced to county jail.

## **10. If my case is reduced from a felony to a misdemeanor, will I be on probation or parole when I am released from jail or prison?**

This will depend on the type of sentence you received before, and the decision will be made by the judge who resentences you. If you are resentenced, you should receive a Minute Order from the court before you are released. Please read it carefully to see if you have been ordered to report to probation or parole when you are released. Please comply with any terms and conditions ordered by the Court. If you think there has been a mistake or have any questions about any of the new terms and condition of your sentence after resentencing, please call the Office of the Public Defender in your county.

## **11. If my case is reduced to a misdemeanor, will I still have to pay restitution?**

Yes. Even if your case is reduced to a misdemeanor, any restitution orders will remain in full force and effect. However, your court fines and fees likely will be decreased if your case is reduced from a felony to a misdemeanor. Please check your Minute Order when you are released to see how much you owe.

**12. I have questions about my cases and Proposition 47. Whom can I call for help?**

Please call the [Office of the Public Defender](#) in your county.

**13. What form do I need to complete to change my record?**

See below for a list of forms created by each county. Please note that the list does not include all counties - if you do not see your county listed below, check with your local courthouse to see if they have created their own form. If your county has not created its own form, you can use the [sample form](#) found here.

The process for resentencing and record change may be different in each county. However, in most instances, you will need to download the Petition, the Response and the Order. In some counties, you will also need to file a Proof of Service. Contact the [Office of the Public Defender](#) in your county or your attorney with any questions regarding these forms.