



# San Francisco Leads the Way: Providing Relief Under Proposition 64

Proactively identified stand-alone marijuana convictions since **1975**

**3,038** marijuana misdemeanors will be dismissed and sealed

Up to **4,940** felony marijuana convictions will be reviewed, recalled, and resentenced

Individuals affected by Prop. 64 in San Francisco will **not** need to retain an attorney to file expungement papers or attend a court hearing

The San Francisco District Attorney's Office is proactively applying Proposition 64, which legalized recreational use of marijuana for adults ages 21 years or older, to all eligible misdemeanor and felony marijuana convictions.

## Reviewed 43 Years of Eligible Convictions

The office identified all eligible misdemeanor and felony convictions dating back to 1975.

## Dismissing Misdemeanors and Reviewing Felonies

The office is proactively dismissing and sealing 3,038 marijuana misdemeanors and reviewing, recalling and resentencing up to 4,940 felony marijuana convictions which were sentenced prior to Proposition 64's passage in November 2016. In San Francisco, individuals eligible under Prop. 64 do not have to file a petition or appear in court to initiate the dismissal or declassification of their prior marijuana convictions.

## How can other DA's offices do the same?

The San Francisco District Attorney's Office is taking a multi-step approach.

First, we requested the San Francisco Superior Court run a list of every stand-alone marijuana misdemeanor and felony conviction for Health and Safety Code Sections 11357, 11358, and 11359. The database reflected the names, docket numbers, conviction status, level of conviction, and date of birth for every individual with a qualifying conviction since 1975, as far back as the court management system holds.

We determined, based on Prop. 64., that it was appropriate to dismiss and seal all marijuana-related misdemeanors and infractions on our own motion. In order to facilitate this process, we are utilizing a previous process established with the court under Proposition 47 in which:

- If parties stipulate to the motion, there is no need to calendar the request
- We can complete the motion and file it with the court
- The court will sign and process the motion, sending petitions for dismissal and any relevant information to state actors, without the need for any court appearance

Such a system expedites the process and saves the court the time and resources involved in having to calendar cases, and ensures all entitled to the remedy receive it.

In regards to marijuana-related felony convictions under Prop. 64, we will conduct a case-by-case review, considering an individual's criminal history to rule out any disqualifying prior convictions, the conduct involved in the case under review, and the results of a lab analysis to determine the quantity of marijuana seized in the given case. If a felony conviction qualifies for resentencing, then our office will create a motion to reduce and utilize the same court process described above.

## How does a person know if they are affected by the policy?

If a member of the public believes that his/her prior marijuana conviction should be dismissed or reclassified by our office, they are encouraged to contact us by phone (415-553-1751) or via email (SFDA.Prop64Relief@sfgov.org). Our office will only provide information to those who are calling about themselves. The caller will have to provide his/her name and date of birth before any information can be provided.

If the person's name appears on the list of individuals whose prior convictions have been dismissed, they will be sent an electronic copy of dismissal documents via email if they would like.

Retroactively applying Prop. 64 means **restoring** voting, housing, and employment opportunities for people

Retroactively applying Prop. 64 will **reduce racial and ethnic disparities** in SF's criminal justice system

“While drug policy on the federal level is going backwards, San Francisco is once again taking the lead to undo the damage that this country's disastrous, failed drug war has had on our nation and on communities of color in particular.”

- DA Gascón

If the person's name does not appear on the list but they believe they are eligible for dismissal or reclassification under Prop. 64, their name, date of birth, and a court number (if they have it) will be taken. Our office will further inquire about the person's eligibility and take additional steps to dismiss or reclassify the individual's conviction if appropriate.

### **What if a person does not want their conviction dismissed?**

For those who would like to opt out of having their past conviction(s) automatically dismissed or reclassified, they should contact our office and provide their name, date of birth, and contact information. This information will be processed and the individual will be contacted when appropriate.

For individuals applying to equity programs for cannabis permits, we will make the appropriate documentation available upon request.

### **Who's affected?**

Consistent with Proposition 64, the office's new policy will affect individuals who have suffered a misdemeanor conviction for:

- Possession of 28.5 grams or less of Marijuana pursuant to Health and Safety Code Section 11357; or
- Possession of 8 grams or less of Concentrated Cannabis pursuant to Health and Safety Code Section 11357, when he/she was 21 years or older, may have their record of conviction dismissed.

And individuals who have suffered a felony conviction for:

- Possession with Intent to Sell Marijuana pursuant to Health and Safety Code Section 11359;
- Sales, Furnishing or Transportation of Marijuana pursuant to Health and Safety Code Section 11360; or
- Cultivation of More than 6 Marijuana Plants pursuant to Health and Safety Code Section 11358;

### **What types of felony convictions can be reclassified?**

Individuals may have their felony reclassified as a misdemeanor if:

1. He/she has not suffered a conviction pursuant to Penal Code Section 667(e)(2)(c) (4);
2. He/she is not required to register as a sex offender pursuant to Penal Code Section 290;
3. He/she does not have two or more prior convictions under the same Health and Safety Code Sections of 11358, 1139, or 11360;
4. The conviction did not involve the sale or attempted sale to a person under the age of 18;
5. The conviction did not involve a person under the age of 21 in possessing for sale, selling or cultivating marijuana; and,
6. The conviction did not involve the importation or exportation over state lines of more than 28.5 grams of marijuana.