

## Clear Your Record

Being convicted as a sex offender—even if you are innocent—brands you for the rest of your life. You must register every year so that your name and address are available to the public through Megan’s Law. Where you can live, where you can work, and how your family is treated is out of your control.

If you are watching this, you—or someone you know—is painfully aware of this and are looking for an attorney to clear a criminal record.

In 40 years of handling only sex crimes cases, the Innocence Legal Team has become the best in the narrow field of clearing a client’s record, if at all possible. If the Innocence Legal Team decides to take your case, it is because we believe there are legal grounds for relief.

When political ambition mixes with hot-button issues, bad laws are written. And that is the case for most laws governing the defense process, conviction and punishment of people accused of sex crimes. That is how Megan’s Law became enacted, as well as lifetime registration. Despite these laws, there are 3 options available that provide a possibility for clearing your record:

1. petitioning the court for expungement and relief of registration;
2. applying for a governor’s pardon;
3. mounting an attack on a conviction.

Today, the law requires that even misdemeanor offenders must register if convicted of a sex crime. However, by extending registration to misdemeanor offenses, the law has provided the means to clear a limited number of felonies as well as misdemeanors.

Before petitioning the court for relief from registration, the defendant must have

- completed probation successfully;
- registered as an offender for 10 consecutive years;
- and lived in California for 5 years immediately preceding the petition.

Once those requirements are confirmed, there are two court proceedings that can be used to clear your record and relieve you from yearly registration. First, a petition is submitted to expunge the conviction or convictions in order to “remove” the convictions from the formal record. If accepted, the record will show the charges were dismissed. The expungement can be sought as soon as probation is successfully completed.

The second step is filing a Petition for Certificate of Rehabilitation. If the defendant

can show he or she is “rehabilitated,” the court can approve an application for pardon by issuing the Certificate. Rehabilitation is proof that the person applying for the certificate is leading a productive, law-abiding life. This is the minimum requirement. Many judges want to see additional contributions to society. Some will ask, “what have you done to earn you pardon.”

In sex cases, they will also want some evidence that you are no longer a danger to society. This usually takes the form of a letter from a therapist

There is no way to predict how a governor will deal with pardons, especially for sexual offenses. Governors Deukmejian and Davis refused to grant any pardons for political reasons. Governor Schwarzenegger granted only a few. It is a historical fact that most pardons are issued as a governor is about to leave office. Having begun his second term (this term), we can reasonable anticipate that he will address these issues when he prepares to leave office.

The power to pardon allows a governor to correct miscarriages of justice, or to acknowledge a person’s reformation and community service. Innocence is clearly grounds for granting a pardon, but it is nearly impossible to prove long after a case has been tried. The exceptions include cases in which DNA evidence exonerates the defendant.

A governor may also grant a pardon if the petitioner can show the he has reformed his life and is now contributing member of society. In essence the petitioner is asking to be forgiven and rewarded for behavior that goes well beyond obeying the law.

While statistics show that one in four of the pardon applications have been granted on the Federal level, no one can predict how many the current governor—or his successors—will consider.

A post-conviction writ may be used by prisoners or released felons to challenge the outcome of their case. While an attack on conviction can be successful, time and circumstances are against you. Memories fade, evidence deteriorates or disappears. Witnesses move away or die.

If you are still in custody, or on probation or parole, a Petition for Habeas Corpus may be used to challenge the fairness of the proceedings, and possibly win a new trial. You can raise issue outside the record, such as prosecutorial misconduct or ineffective assistance.

If you are no longer on probation or parole, a motion to set aside judgement, in the form of Coram Nobis, can be used to challenge old convictions. Coram Nobis

requires that petitioner prove that he is factually innocent, not merely that the proceedings were unfair. Absent new scientific evidence, such as DNA, this is a substantial burden.

If there are legal grounds to help you, the Innocence Legal Team will give you the best chance possible for clearing your record and seeking relief from mandatory registration. The selection of your attorney when you are attempting to be removed from the sex crime registration requirement is the most important decision. We are your best chance of being removed from Megan's List.