

# Penal Code § 1203.43

## NEW LAW FOR IMMIGRANTS WITH PRIOR DRUG POSSESSION



A new law in California, Penal Code § 1203.43, will help some immigrants who entered and completed certain rehabilitation programs for drug possession. This new law went into effect on January 1, 2016

### HOW CAN A DRUG OFFENSE AFFECT MY IMMIGRATION CASE?

- A drug conviction is very damaging to immigration status. It can cause a lawful permanent resident (green-card holder) to lose their status and be deported. It can block an undocumented person from ever getting lawful status. If you think you may have a drug conviction, consult an immigration expert before leaving the U.S. or having any contact with immigration authorities.
- The good news is that in some cases, you can erase a drug conviction for immigration purposes. The new law provides a simple way for some people to do that.

### WHO QUALIFIES FOR HELP UNDER THIS NEW LAW?

- People who were charged with possession of a drug, but were given the chance to do a special program called "deferred entry of judgment" and successfully completed the program, are eligible to have their conviction erased under this new law.
- This only works for "deferred entry of judgment." It does not work if you did another kind of drug rehabilitation program called Prop 36. There may be another kind of help to erase just one conviction for drug possessing from before July 15, 2011. Consult an immigration attorney for more information.

Many people don't know that even though an offense is "erased" in criminal court, it can still hurt your immigration case. This new law will help.

### WHAT DO I HAVE TO DO TO GET THE BENEFITS OF THIS NEW LAW?

- First, make sure that you have completed a "deferred entry of judgment" program. If you were assigned to a deferred entry of judgment program, but did not fulfill the requirements, it might be possible for you to finish it now. Consult a public defender.
- Second, contact the public defender, a non-profit re-entry service provider, or an immigration service provider, to help you complete the application for the new law, and file it with the court. You do not have to see a judge to approve your application.

### WHAT HAPPENS NEXT? HOW DO I KNOW THAT MY OFFENSE WAS ERASED FOR IMMIGRATION PURPOSES?

- You should receive notice that the application was granted. This should mean that your deferred entry of judgment no longer triggers immigration consequences.
- You should still get expert immigration advice before you leave the U.S. on a trip or submitting any kind of application to immigration authorities. Any immigrant who has been arrested for a crime needs expert analysis. Don't guess or assume you are safe! Community advocates may be able to help you find a good referral.

