

ERRONEOUSLY CONVICTED PERSON (ECP) CLAIM FORM

VCB-41-00002 (Rev. 07/2024)



California Victim Compensation Board
P.O. Box 350, Sacramento, CA 95812-0350
Email: HearingOfficer@victims.ca.gov

For Official Use Only

The California Victim Compensation Board (CalVCB) processes claims from persons seeking compensation as an erroneously convicted felon pursuant to Penal Code sections 4900, et seq. The attached Informational Sheet describes the requirements for relief and provides an overview of the administrative procedure for deciding these claims. To submit a claim, please carefully review and complete this form, attach all supporting documentation, and return it to CalVCB at the above address by either regular mail or email. A CalVCB representative will contact you once your submission has been received and considered.

Section A. Claimant Information

Claimant's Name: _____ Date of Birth: _____

CDCR Inmate Number: _____ Gender: _____

Email Address: _____ Telephone Number: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

It is your ongoing duty to provide a current address to CalVCB. (Cal. Code Regs., tit. 2, § 616.2.)

Section B. Attorney/Representative Information (if applicable)

Name of Attorney/Representative: _____

Email Address: _____ Telephone Number: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Signature: _____ Date: _____

An attorney or representative is not required in this administrative proceeding. If you are represented, your representative has an ongoing duty to provide a current address to CalVCB. (Cal. Code Regs., tit. 2, § 616.2.)

CALIFORNIA VICTIM COMPENSATION BOARD

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Section C. Erroneous Conviction(s) Information

1. County of Conviction: _____ Case Number: _____

2. List the criminal offense for all erroneous felony conviction(s) and the prison term imposed for each.
(Attach additional pages as needed.)

Felony: _____ Code Section: _____ Sentence: _____

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(Example: Murder, Penal 187, 25 years to life)

Relief is available only for felony convictions for which a term of imprisonment was imposed. (Pen. Code, § 4900.) Relief is not available for misdemeanor convictions, felony charges that did not result in a conviction, or felony convictions for which probation was granted without imposition of any term of imprisonment. (Cal. Code Regs., tit. 2, § 642.)

State prison(s) where sentence was served: _____

3. Complete the following information about the length of your incarceration for the erroneous conviction(s).

Date of Arrest: _____ Date of Conviction: _____

Total Sentence Imposed: _____ Days Actually Served: _____

Date of Release from Imprisonment: _____

Date of Discharge from Parole/Supervision (if applicable): _____

Date of Dismissal or Acquittal of Charges on Retrial (if applicable): _____

Date Pardon Granted (if applicable): _____

Amount of Compensation Requested (calculated at \$140 per day of erroneous incarceration):

\$ _____

You must attach supporting documentation to confirm your conviction, imprisonment, and release from custody for the erroneous offense. (Cal. Code Regs., tit. 2, § 640, subd. (a)(2).) Please note that a claim may not be filed unless and until you have been released from custody. To be timely, the claim must be submitted within 10 years after release, dismissal of charges, judgment of acquittal, or pardon granted, whichever is later. (Pen. Code, § 4901.)

Section D. Post-Conviction Relief

Answer each of the following questions concerning the erroneous conviction(s):

1. Was it reversed on direct appeal?
☐ No ☐ Yes (*if yes, attach court decision*)
2. Was it vacated due to a change in the law under Penal Code section 1172.6 or former Penal Code section 1170.95?
☐ No ☐ Yes (*if yes, attach court decision*)
3. Was it vacated by a writ of habeas corpus?
☐ No ☐ Yes (*if yes, attach court decision*)
4. Was it vacated pursuant to Penal Code section 1473.6?
☐ No ☐ Yes (*if yes, attach court decision*)
5. Was it vacated pursuant to Penal Code section 1473.7, subdivision (a)(2)?
☐ No ☐ Yes (*if yes, attach court decision*)
6. If vacated or reversed, were you then acquitted at retrial?
☐ No ☐ Yes (*if yes, attach court decision*)
7. If vacated or reversed, were the charges then dismissed pursuant to Penal Code section 1385?
☐ No ☐ Yes (*if yes, attach court decision*)
8. If vacated or reversed, were the charges then dismissed pursuant to Penal Code section 1203.4?
☐ No ☐ Yes (*if yes, attach court decision*)
9. Did a court find you factually innocent under Penal Code section 851.865 or 1485.55?
☐ No ☐ Yes (*if yes, attach court decision*)
10. Did a court grant your motion for approval of a claim for compensation under subdivision (d) of Penal Code section 1485.55?
☐ No ☐ Yes (*if yes, attach court decision*)
11. Did a court deny your motion for approval of a claim for compensation under subdivision (d) of Penal Code section 1485.55?
☐ No ☐ Yes (*if yes, attach court decision*)
12. Did the Governor grant you a pardon?
☐ No ☐ Yes (*if yes, attach pardon*)

Your claim may be rejected for failing to provide a complete answer or attach all necessary documents. (Cal. Code Regs., tit. 2, § 640, subd. (a).) Please note a conviction is not erroneous solely due to a change in the law defining the underlying crime (e.g., Pen. Code, § 1172.6) or dismissal after satisfactory completion of the sentence (e.g., Pen. Code, § 1203.4). (Cal. Code Regs., tit. 2, § 642, subd. (a).)

Section E. Statement of Factual Innocence

To present a claim to the Board, you must provide a statement of facts to show that the crime with which you were charged was either not committed at all, or, if committed, was not committed by you. (Pen. Code, § 4901, subd. (a); Cal Code Regs., tit. 2, § 640, subd. (a)(1).) *(Please attach additional paper if needed.)*

Section F. Statement of Injury

You bear the burden to prove, by a preponderance, that you sustained injury as a result of your erroneous conviction. Injury is shown if you would have been free from custody but-for the erroneous conviction. Please either (1) list every conviction and resulting sentence that was imposed at any time during your confinement for the erroneous conviction, or (2) confirm that no other convictions were imposed. (Pen. Code, § 4904; Cal. Code Regs., tit. 2, § 640, subd. (f).) *(Please attach additional paper if necessary.)*

Section G. Disqualification for Certain Guilty Pleas

1. Did you enter a guilty plea to the conviction(s) for which you are seeking compensation under Penal Code section 4900?

☐ No ☐ Yes

2. If yes, did you do so with the specific intent to protect another from prosecution?

☐ No ☐ Yes

3. Please explain the reasons for your decision to enter a guilty plea.

Section H. Declaration Statement

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Printed Name: _____

Signature: _____ Date: _____

Privacy Notice on Collection

1. CalVCB collects this information based on California Penal Code sections 4900 et seq., and California Code of Regulations, title 2, sections 615.1 et seq. and 640 et seq.
2. All proceedings under Penal Code section 4900 are open to the public. Your claim may be listed on CalVCB's website, discussed by the Board during a public meeting, and included in CalVCB's annual report to the Legislature. See victims.ca.gov/legal/pc4900/.
3. All information collected for a Penal Code section 4900 claim is subject to public disclosure pursuant to the Public Records Act. See victims.ca.gov/legal/public-records-requests/.
4. CalVCB may disclose your personal information to another requester, only if required to do so by law or in good faith that such action is necessary to:
 - a. Conform to the edicts of the law or comply with legal process served on CalVCB or the site;
 - b. Protect and defend the rights or property of CalVCB; or,
 - c. Act under exigent circumstances to protect the personal safety of users of CalVCB, or the public.
5. The requested information is collected for the purpose of determining eligibility for compensation under Penal Code section 4900. Individuals are to provide only the information requested.
6. The information provided is voluntary.
7. The consequences of not providing the requested information could delay processing the claim or the claim not being filed or approved.
8. For questions regarding the information collected, please write to the following address: P.O. Box 350, Sacramento, CA 95812-0350, email CustodianOfRecords@victims.ca.gov, call (888) 883-3593, or contact the CalVCB Privacy Coordinator at InfoSecurityAndPrivacy@victims.ca.gov.

INFORMATIONAL SHEET FOR ECP CLAIM FORM

Overview of Penal Code section 4900

Penal Code section 4900 claims are governed by the statutory provisions in Penal Code sections 4900 through 4906 and the regulatory provisions in Title 2 of the California Code of Regulations, sections 640 through 646 (i.e., Article 5), as well as sections 615.1 through 619.7 (i.e., Article 2.5). Relief under section 4900 is limited to claimants who are innocent of – meaning they did not commit – the felony offense, or offenses, they were convicted of and imprisoned for. (Pen. Code, § 4900, subd. (a).) Compensation will be awarded only if the claim is approved by the Board and sufficient funds are available. Compensation is limited to a set rate of \$140 per day of the claimant’s erroneous imprisonment. (Pen. Code, § 4904.)

Time Limitations

To obtain relief under Penal Code section 4900, the claimant must submit a claim within 10 years after a judgment of acquittal, dismissal of the charges, a pardon being granted, or the claimant’s release from custody, whichever is later. However, the claim cannot be filed until 60 days after a conviction is reversed, habeas petition is granted, or, if a case is pending upon an initial refiling, or until a complaint or information has been dismissed a single time. (Pen. Code, § 4901, subds. (a) & (c).)

Eligibility for Compensation

To be eligible for consideration, the claimant must have been convicted of a felony under California law, for which a prison sentence was imposed, and the claimant must no longer be imprisoned or on parole for that offense. Compensation is barred for claimants who pled guilty to an offense to protect another from prosecution. (Pen. Code, § 4903, subd. (e).)

CalVCB’s Role

CalVCB serves as a neutral adjudicator, similar to a judge or court. **CalVCB does not investigate claims or provide legal advice.** It is the claimant’s responsibility to provide CalVCB with all relevant evidence and argument necessary to approve the claim. The Attorney General may appear as an opposing party and provide relevant evidence and argument to oppose the claim. The parties are expected to familiarize themselves with the applicable law and regulations. The claimant may retain, at their own expense, an attorney or representative of their choosing.

Procedure for Approving a Claim

The process begins with the submission of a completed claim form to CalVCB. A Hearing Officer reviews the claim form to determine whether it complies with Penal Code sections 4900 and 4901, which often takes between 30 and 60 days. Thereafter, the claimant will be notified if any additional information or argument is needed. The claim may be rejected by the Hearing Officer if any identified deficiencies are not timely cured. Otherwise, the claim is filed, and both the claimant and Attorney General will be notified of the next steps, which may include an in-person hearing before the Hearing Officer. Once all evidence and arguments are received, the record closes, and the Hearing Officer will draft a proposed decision to approve or deny the claim. CalVCB's three-member Board makes the final decision whether to approve or deny the claim in a public meeting, after notice to the parties with an opportunity to appear.

Burden of Proof

Generally, the claimant must prove by a preponderance of the evidence that 1) they did not commit the crime they were convicted of and 2) that they were injured by the erroneous conviction. The claimant is entitled to a hearing to prove both innocence and injury, at which the Attorney General may appear. (Pen. Code, § 4903, subd. (a).) There are three limited exceptions that apply only when a court has made certain findings:

- 1. Innocence Finding:** A court found the claimant factually innocent of the erroneous conviction pursuant to Penal Code section 851.865 or 1485.55 based on proof by a preponderance of evidence that the claimant did not commit the crime. If this exception applies, then CalVCB must approve the claim, without a hearing on the issue of innocence, for demonstrated injury within 90 days after the claim is filed. Nevertheless, CalVCB may request additional information from the parties as needed to calculate injury. (Pen. Code, §§ 851.865, 1485.55, subds. (a)-(c) & (g), 4902, subd. (a).)
- 2. PC 4900(b):** A court vacated the conviction by granting a writ of habeas corpus or motion pursuant to Penal Code section 1473.6 or 1473.7, subdivision (a)(2), and the charges were dismissed on remand or resulted in acquittal. If this exception applies, then CalVCB must approve the claim for demonstrated injury, unless the Attorney General timely objects with clear and convincing evidence of the claimant's guilt. If the Attorney General declines to object, then CalVCB must approve the claim within 90 days thereafter for demonstrated injury. (Pen. Code, §§ 4900, subd. (b), 4902, subd. (d), 4903, subd. (b), 4904.)
 - *Please note this exception only applies to vacated convictions under the specified circumstances. It does not apply, for example, to reversals on direct appeal or dismissals pursuant to Penal Code section 1172.6.*
- 3. PC 1485.55(d):** A court granted the claimant's motion for approval of a claim as an erroneously convicted offender pursuant to Penal Code section 1485.55, subdivision (d). If the motion is granted, then CalVCB must, upon application, approve the claim for demonstrated injury within 90 days. (Pen. Code, §§ 1485.55, subd. (d); 4904.)

To submit a claim, complete the Erroneously Convicted Person Claim Form in its entirety, attach all supporting documentation, and return it to CalVCB either by regular mail addressed to P.O. Box 350, Sacramento, CA 95812-0350, or by email addressed to HearingOfficer@victims.ca.gov. A CalVCB representative will contact you once your submission has been received and considered.