

DISCHARGE FROM ACCOUNTABILITY INFORMATION SHEET

I. PURPOSE

Government Code sections 25257-25259.95 authorize and establish the eligibility criteria for discharging court-ordered debt. A discharge from accountability may be completed by the responsible collecting entity for the following case types: infractions, misdemeanors, and felonies.

II. AUTHORITY

The collecting entity, either the court or the county, may discharge debt pursuant to Government Code sections 25257 and 25259.7.

III. REPORTING

Pursuant to Government Code section 25259 (County) and 25259.9 (Court), within 45 days after discharge, the court and county should report to each other all court-ordered debt discharged from accountability.

The report should, at minimum, include the following for each debt discharged:

1. Case number;
2. Case type (infraction, misdemeanor, or felony);
3. Amount discharged; and
4. Number of years since the debt became delinquent or date of last payment.

IV. DISCHARGE TIME PERIOD

Government Code sections 25257 – 25259.95 do not provide a recommended time period for discharging court-ordered debt. The Judicial Council's Revenue and Collections Unit recommends discharging infraction cases at least 5 years from the date of last payment or the date the account became delinquent; and at least 10 years for misdemeanor and felony cases.

Revenue and Collections also recommends discharging debt on an annual basis.

V. APPLICATION PROCESS

Government Code sections 25258 and 25259.8 state that an application must be submitted by the collecting entity, either the court or county, to the Board of Supervisors or Presiding Judge / designee. The application must include the amount owing, the names of the persons liable and the amount owed, the estimated cost of collections that the likelihood of collecting or a specific reference to the official records establishing that the amount owed has been compromised or adjusted. The application shall include any other facts that warrant the discharge and verification by the applicant attesting to the facts.

VI. ELIGIBILITY

1. Discharge from accountability can be ordered for outstanding balances remaining on infraction, misdemeanor, and felony cases when one or more of the following applies:

- a) The balance is too small to justify the cost of collection; or
- b) The likelihood of collection does not warrant the expense involved.

For example: (1) All the required reasonable collection efforts, including Penal Code section 1463.007, have been performed; (2) The debtor is deceased, has no assets, and a copy of the death certificate has been submitted; (3) At least 5 years

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for infractions or 10 years for misdemeanors and felonies has elapsed from the date the debt became delinquent.

VII. RELEASE OF LIABILITY

Pursuant to Government Code sections 25259 and 25259.9 (a), discharge from accountability does not release any person from liability for payment of any amount discharged.

VIII. RECORD RETENTION

The courts should not delete or purge any cases where there is an outstanding balance and must adhere to the record retention policy as outlined in Section 6.1 in the *Record Retention, Judicial Council's Trial Court Financial Policies and Procedures*, located at <http://www.courts.ca.gov/documents/fin-policies-and-procedures-Manual.pdf>
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Counties should consult with their courts to determine if any collection records should be retained according to Section 6.1 in the *Record Retention, Judicial Council's Trial Court Financial Policies and Procedures*, located at <http://www.courts.ca.gov/documents/fin-policies-and-procedures-Manual.pdf>
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IX. CASE ENTRY

Once an order of discharge has been made, the presiding judge of the Superior Court, or authorized judicial officer, shall direct the clerk of the court to enter a record of the discharge in the court case file for each debt.

X. INTERNET POSTING

Once an order of discharge has been made, the presiding judge of the Superior Court, or authorized judicial officer, shall direct the clerk of the court to post a copy of the order of discharge on the court's Internet web site for at least three weeks.