

List of Non-Exemptible, Standard Exemption, and Simplified Exemption Convictions

CATEGORY 1: NON-EXEMPTIBLE <u>HS §1522(g)(2)(A)(i-iii)</u>	Felony conviction for child abuse or neglect
	Felony conviction for spousal abuse
	Felony conviction for crimes against a child, including child pornography
	Felony conviction for crimes involving violence, including rape, sexual assault, or homicide, but not assault and battery
	Felony conviction within the last five years for physical assault, battery or a drug or alcohol related offense
	Penal Code 220: assault with intent to commit to felony
	Penal Code 243.4: sexual battery
	Penal Code 264.1: rape
	Penal Code 273a(a): felony willful injury to a child (Penal Code 273(a), paragraph 1 prior to 1994)
	Penal Code 273ab: willful injury to a child 8 years of age or younger
	Penal Code 273d: corporal punishment to a child
	Penal Code 288: lewd acts with a child under 14
	Penal Code 289: forcible sexual penetration
	Penal Code Any crime listed on 290(c) – sex offender registry – EXCEPT Penal Code 261.5 (stat rape misdemeanor) & Penal Code 314 (indecent exposure misdemeanor)
	Felony charge for Penal Code 368: crimes against elders, dependent adults and persons with disabilities
	Any crime listed in Penal Code 667.5(c): enhancements for violent felonies
	Business and Professions Code 729: sexual misconduct by physician, therapist, etc.
	Penal Code 206: torture
	Penal Code 215: carjacking
	Penal Code 347(a): poisoning
Penal Code 417(b): brandishing a weapon around a school, daycare, etc.	
Penal Code 451(a): arson	
CATEGORY 2: STANDARD EXEMPTION <u>HS §1522(g)(2)(B)(i-ii)</u>	Misdemeanor conviction within the last five years
	Felony conviction within the last 7 years
	Misdemeanor conviction for Penal Code 261.5: statutory rape
	Misdemeanor conviction for Penal Code 314: indecent exposure
	Misdemeanor conviction for Penal Code 368: financial abuse of elder
<p>May grant exemption if Department has substantial and convincing evidence to support a reasonable belief that the person is of present good character necessary to justify the granting of an exemption. <i>HS §1522(g)(2)(B)</i></p> <p>Shall consider all reasonably available information, including but not limited to:</p> <ul style="list-style-type: none"> • Nature of the crime, • Period of time since the crime was committed, • Number of offenses, • Circumstances surrounding the commission of the crime indicating the likelihood of future criminal activity, • Activities since the conviction (including employment, participation in therapy, education or treatment), • Whether the person successfully completed probation or parole, obtained a certificate of rehabilitation or was pardoned, • Any character references or other evidence submitted by the applicant 	

- Whether the person is demonstrating honesty and truthfulness concerning the crime during the application/approval process and made reasonable efforts to assist the Department in obtaining records and documents concerning the crime(s).

[HS §1522\(g\)\(2\)\(C\)](#)

**CATEGORY 3:
SIMPLIFIED
EXEMPTION**

[HS §1522\(g\)\(2\)\(D\)](#)

Misdemeanor convictions not listed in Category 1 or 2 that occurred 5 or more years ago

Felony convictions not listed in Category 1 or 2 that occurred 7 or more years ago

Shall grant an exemption if the person's state or federal criminal history information received from the DOJ independently supports a reasonable belief that the person is of present good character necessary to justify the granting of an exemption.

However, the Department may at its discretion require an exemption after an investigation using the criteria in Category 2, as necessary to protect the health and safety of a child. [HS §1522\(g\)\(2\)\(D\)](#)

Notably, the following Category 3 misdemeanor convictions should be given careful consideration: [Penal Codes 272\(b\)](#): Enticing a child away from home using the internet; 273a: Willful cruelty to a child; 311: Child porn; 647.6: Annoying molesting a child