

PROCEDURES FOR SETTING ASIDE ARREST RECORD OR CONVICTION

1. Make an appointment with the Benton County Sheriff's Office to have your fingerprints taken. If you are not a resident of Benton County, go to your local law enforcement agency.
2. If you were **CONVICTED** of the charge **OR** if the charge was **DISMISSED**: Fill in the blanks on the Affidavit, Motion and Order to Set Aside the **CONVICTION**. Make two (2) copies of each of the documents. You can obtain the case number, etc., from the clerk of the Court where you were convicted. If you were **ARRESTED** and there was no charge filed, complete a Motion to Set Aside **ARREST ONLY**. Deliver the **ORIGINAL** of each document to the **COURT**. Deliver a copy of the Motion, Affidavit, and Order to the District Attorney's Office with your **ORIGINAL** fingerprint card attached and a cashiers check made payable to **THE OREGON STATE POLICE (ONLY IF CONVICTED OF CHARGE). IT IS NOT NECESSARY TO FILL OUT BOTH SETS OF DOCUMENTS.**
3. If the District Attorney agrees with the Expungement application, you will receive a Waiver of Appearance. If the DA objects to the requested Expungement, an appearance will be set and you will be allowed to argue before the Court.
4. Always retain a copy of all documents for your records.
5. Be certain to **SIGN** all documents where your signature is required. **YOU MUST SIGN THE AFFIDAVIT IN THE PRESENCE OF A NOTARY PUBLIC DO NOT SIGN THE AFFIDAVIT IF YOU HAVE BEEN CONVICTED OF A CRIME WITHIN THE PAST TEN (10) YEARS OR THIS WILL BE CONSIDERED FALSE SWEARING AND WILL RESULT IN A CRIMINAL PROCEEDING.** Make sure that your name and address appear in the blanks provided. The Expungement process usually takes 6-8 weeks minimum to remove from your record.
6. When the Judge has signed the order, you will receive a copy from the Court. The Court will distribute certified copies of the Order to the appropriate agencies who will then comply by sealing their records.
7. If you have **ANY** questions about this procedure, please contact the District Attorney's Office at (541) 766-6815 or (541) 766-6699.

CONDITIONS OF EXPUNGEMENT

1. **YOU MAY NOT HAVE BEEN CONVICTED OF ANY OTHER CRIME WITHIN THE PAST 10 YEARS. IF YOU SIGN THE AFFIDAVIT AND HAVE BEEN CONVICTED OF A CRIME, IT WILL BE CONSIDERED FALSE SWEARING WHICH WILL RESULT IN A CRIMINAL PROCEEDING;**
2. Must be over three (3) years from the date of **CONVICTION**;
3. Class C Felony or less;
4. Only one **CONVICTION** every ten (10) years can be **EXPUNGED**;
5. All arrests that resulted in our **TAKING NO ACTION MUST WAIT ONE (1) YEAR FROM THE DATE OF ARREST**;
6. Dismissed cases do not have to wait to apply for Expungement;
7. **TRAFFIC CASES CANNOT BE EXPUNGED**;
8. **A CASHIERS CHECK** in the amount of **\$80.00** made payable to the **OREGON STATE POLICE** must accompany the papers that are delivered to the District Attorney's Office;
9. **THERE IS NO CHARGE FOR DISMISSED OR NO ACTION CASES;**
10. You **CANNOT** be on any form of probation for the **CONVICTION** that you are applying for Expungement.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

STATE OF OREGON, <p style="text-align: center;">Plaintiff,</p> v. _____, <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">MOTION FOR ORDER SETTING ASIDE CONVICTION</p> Case Number: _____
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COMES NOW the Defendant and respectfully moves the Court for an Order setting aside the **CONVICTION** in the following matter:

Full Name:	Date of Birth:
Social Security Number:	Arrest Charge:
Date of Arrest:	Arresting Agency:
Conviction Charge:	Sentencing Date:
Disposition:	

This Motion is based upon ORS 137.225 the records and files contained herein and the attached Affidavit.

Dated: _____

Defendant's Signature

Prepared by:

Name:
Address:
City: State: Zip:
Telephone: ()

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

STATE OF OREGON,

Plaintiff,

v.

Defendant.

AFFIDAVIT IN SUPPORT OF
MOTION FOR ORDER SETTING
ASIDE CONVICTION

Case Number: _____

STATE OF OREGON,)

)

County of Benton)

I, _____ being of first duly sworn on oath, depose and say:
(Defendants Name)

1. That I am the Defendant in the above-entitled matter. I submit this Affidavit in support of the attached Motion to Set Aside **CONVICTION**;
2. The information pertaining to this matter as set out in the Motion is true to the best of my knowledge and belief;
3. More than three (3) years have elapsed since the date of pronouncement of judgment;
4. I have fully complied with and performed the sentence of the Court;
5. I HAVE NOT BEEN CONVICTED OF OR ARRESTED FOR AN OFFENSE PUNISHABLE AS A FELONY, MISDEMEANOR OR VIOLATION, EXCEPT AS SPECIFIED HEREIN;
6. I do not have any criminal charges pending against me at this time;
7. I have not previously had a conviction set aside by order of any Court.

Dated: _____

Defendant's Signature

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20 ____.

Notary Public

My Commission Expires: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

STATE OF OREGON, <p style="text-align: center;">Plaintiff,</p> v. _____, <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">ORDER SETTING ASIDE CONVICTION</p> Case Number: _____
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COMES NOW the Defendant and respectfully moves the Court for an Order setting aside the **CONVICTION** in the following matter:

Full Name:	Date of Birth:
Social Security Number:	Arrest Charge:
Date of Arrest:	Arresting Agency:
Conviction Charge:	Sentencing Date:
Disposition:	

The Court, being fully advised, makes the following findings of fact:

1. That a certified copy of Defendant’s Motion was served on the District Attorney, who has declined the opportunity to contest the Motion;
2. That positive identification of the Defendant has been established by the Department of the State Police Bureau of Identification, and further identified as to state bureau number or submitting agency number above;
3. The circumstances and behavior of the Defendant from the date of conviction warrant setting aside the Conviction;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The above CONVICTION is set aside;

2. The Clerk of the Court is directed to seal all files and records relating to said proceeding including the record of arrest resulting in the criminal proceeding;
3. The Clerk of the Court is directed to send a copy of this Order to the arresting agency named above and the Central Bureau of Criminal Investigation of the Department of State Police. The public agencies receiving a copy of this Order shall seal their records and order the arresting agency to seal its records. The Central Bureau of Criminal Investigation of the Department of State Police shall request the return of arrest date, including fingerprints from the Federal Bureau of Investigation.

DATED this _____ day of _____, 20_____.

Circuit Court Judge

Submitted by:

Name:
Address:
City: State: Zip:
Telephone: ()

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

STATE OF OREGON, <p style="text-align: right;">Plaintiff,</p> v. _____, <p style="text-align: right;">Defendant.</p>	<p style="text-align: center;">MOTION FOR ORDER SETTING ASIDE ARREST</p> Case Number: _____
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COMES NOW the Defendant and respectfully moves the Court for an Order setting aside the **ARREST** in the following matter:

Full Name:	Date of Birth:
Social Security Number:	Arrest Charge:
Date of Arrest:	Arresting Agency:
Conviction Charge:	Sentencing Date:
Disposition:	

This Motion is based upon ORS 137.225 the records and files contained herein and the attached Affidavit.

Dated: _____

Defendant's Signature

Prepared by:

Name:
Address:
City: State: Zip:
Telephone: ()

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BENTON

STATE OF OREGON,

Plaintiff,

v.

_____ ,

Defendant.

AFFIDAVIT IN SUPPORT OF
MOTION FOR ORDER SETTING
ASIDE ARREST

Case Number: _____

STATE OF OREGON,)

)

County of Benton)

I, _____ being of first duly sworn on oath, depose and say:
(Defendants Name)

1. That I am the Defendant in the above-entitled matter. I submit this Affidavit in support of the attached Motion to Set Aside **ARREST**;
2. The information pertaining to this matter as set out in the Motion is true to the best of my knowledge and belief;
3. (A) _____ More than one (1) year have elapsed since the date of arrest and no accusatory instrument was filed against me based upon said arrest, or
(B) _____ An accusatory instrument was filed against me and has been dismissed, or
(C) _____ An accusatory instrument was filed against me, but I was acquitted of all charges;
4. WITHIN THE THREE (3) YEAR PERIOD IMMEDIATELY PRECEDING THE FILING OF THIS MOTION, I HAVE NOT BEEN ARRESTED FOR ANY OFFENSE, EXCLUDING MOTOR VEHICLE VIOLATIONS, AND EXCLUDING ARRESTS FOR CONDUCT ASSOCIATED WITH THE SAME CRIMINAL EPISODE THAT CAUSED MY ARREST IN THIS MATTER;
5. WITHIN THE TEN (10) YEAR PERIOD IMMEDIATELY PRECEDING THE FILING OF THIS MOTION, I HAVE NOT BEEN CONVICTED OF ANY OTHER OFFENSE, EXCLUDING MOTOR VEHICLE VIOLATIONS;;

- 6. I do not have any criminal charges pending against me at this time;
- 7. I have not previously had a conviction set aside by order of any Court.

Dated: _____

Defendant's Signature

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20 ____.

Notary Public

My Commission Expires: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF BENTON

STATE OF OREGON, Plaintiff, v. _____, Defendant.	ORDER SETTING ASIDE ARREST Case Number: _____
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COMES NOW the Defendant and respectfully moves the Court for an Order setting aside the **ARREST** in the following matter:

Full Name:	Date of Birth:
Social Security Number:	Arrest Charge:
Date of Arrest:	Arresting Agency:
Conviction Charge:	Sentencing Date:
Disposition:	

The Court, being fully advised, makes the following findings of fact:

1. That a certified copy of Defendant's Motion was served on the District Attorney, who has declined the opportunity to contest the Motion;
2. That positive identification of the Defendant has been established by the Department of the State Police Bureau of Identification, and further identified as to state bureau number or submitting agency number above;
3. The circumstances and behavior of the Defendant from the date of arrest warrant setting aside the Arrest;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The above ARREST is set aside;
2. The Clerk of the Court is directed to seal all files and records relating to said proceeding including the record of arrest resulting in the criminal proceeding;

3. The Clerk of the Court is directed to send a copy of this Order to the arresting agency named above and the Central Bureau of Criminal Investigation of the Department of State Police. The public agencies receiving a copy of this Order shall seal their records and order the arresting agency to seal its records. The Central Bureau of Criminal Investigation of the Department of State Police shall request the return of arrest date, including fingerprints from the Federal Bureau of Investigation.

DATED this _____ day of _____, 20_____.

Circuit Court Judge

Submitted by:

Name:
Address:
City: State: Zip:
Telephone: ()