

PROCEDURES FOR SETTING ASIDE ARREST RECORD AND OR CONVICTION

1. Make an appointment with the Benton County Sheriff or local law enforcement agency to have your fingerprints taken.
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 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 NO CHARGES WERE FILED WITH THE COURT, (NO ACTION TAKEN).** Fill in the Motion, Affidavit and order to set Aside the Arrest only. Deliver the Original of each document to the Court, Deliver a copy of the documents with your fingerprint card and cashiers check or money order (payable to the Oregon State Police) to the District Attorney's Office. **THERE IS NO \$80 FEE FOR CASES RESULTING IN A DISMISSAL OR NO ACTION.** Retain a copy for your records.
3. 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 CRIM WITHIN THE PAST TEN YEARS OR THIS WILL BE CONSIDERED FALSE SWEARING.** Make sure that your name and address appear in the blank lines provided. **THE ENTIRE PROCESS CAN TAKE 6 TO 8 WEEKS TO COMPLETE.**
4. If the District Attorney agrees with the Expungment application you will receive a Waiver of Appearance from their office. The next step will be for the Court to sign the order and mail you a copy of that order. If the District Attorney objects to the Expungment, a hearing will be set by the court and you will be notified by mail of the date and time.

Please give the District Attorney and the Court time to process all the paperwork. Wait until at least 8 weeks have elapsed since you turned in your paperwork before calling.

CONDITIONS OF EXPUNGMENT

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 may result in a criminal proceeding.
2. Must be over 3 years from the date of Conviction. Dismissed cases need not wait any time. Cases resulting in an arrest and no action or nothing filed with the court must wait 1 year to apply.
3. Class C Felony or less.
4. Only one Conviction every ten years can be expunged.
5. **TRAFFIC CASES CANNOT BE EXPUNGED.**
6. You cannot be on any form of probation for the conviction that you are applying for Expungment.

IF YOU HAVE ANY LEGAL QUESTIONS ABOUT YOUR EXPUNGMENT, CONTACT AN ATTORNEY. IF YOU HAVE QUESTIONS REGARDING CASE NUMBERS OR DISPOSITION , PLEASE CALL THE DA'S OFFICE AT 541 766-6815.

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

STATE OF OREGON,

Plaintiff)
vs.)
)
)
_____)

MOTION FOR ORDER SETTING ASIDE
CONVICTION

Case No# _____

Defendant,

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 No: _____ **Arrest Charge:** _____

Date of Arrest: _____ **Arresting Agency:** _____

Conviction Charge: _____ **Disposition Date:** _____

Disposition Terms: _____

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

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)
vs.)
)
)
_____)

ORDER SETTING ASIDE **CONVICTION**

Case No# _____

Defendant,

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 No: _____ **Arrest Charge:** _____

Date of Arrest: _____ **Arresting Agency:** _____

Conviction Charge: _____ **Disposition Date:** _____

Disposition Terms: _____

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 and 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

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

STATE OF OREGON,

Plaintiff)
vs.)
)
)
_____)

MOTION FOR ORDER SETTING ASIDE
ARREST

Case No# _____

Defendant,

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 No: _____ **Arrest Charge:** _____

Date of Arrest: _____ **Arresting Agency:** _____

Conviction Charge: _____ **Disposition Date:** _____

Disposition Terms: _____

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

Defendant's Signature

Prepared By:

Name: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Telephone: _____

Motion for Order Setting Aside Arrest

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

STATE OF OREGON,

Plaintiff)
vs.)
)
)
)

AFFIDAVIT

Case No# _____

Defendant,

STATE OF OREGON

COUNTY OF BENTON

I, _____, being first duly sworn on oath, depose and say:
Defendant's 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
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.

Defendant's Signature

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

Notary Public

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 and 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

