

Section A:

Arrest but no charge ever filed in Court

Things you will need in order to complete this process:

- The necessary forms to request this action
- A complete set of your fingerprints
- A clear understanding of the law in the matter. Carefully read ORS 137.225; and
- **NO** Court or District Attorney's Office filing fee

PRIOR TO FILING

Forms - You may download the forms needed to complete this process. They are also available in Room 106 of the Benton County Circuit Court, located at 120 NW 4th Street, Corvallis. Ask for "Set Aside Section A." You may use these forms as examples to create your own, you may purchase forms at a stationery store, or you may use these as your originals to file your request. There should be three forms in the packet: the Motion to Set Aside Record of Arrest, Affidavit to Set Aside Record of Arrest and the Order to Set Aside and Seal Record of Arrest.

Complete the forms and have your signature on the Affidavit notarized, or the Court Clerk may witness your signature. **Do not sign the Affidavit until you are in the presence of a Notary or the Court Clerk.** Complete all the information on the Motion, Affidavit and the Order. You will receive a case number to put on all the forms when you actually file the forms.

Fingerprints - You will need to provide a complete set of your fingerprints. Information on getting your fingerprints taken is on the last page of this information packet.

Copies - In addition to the original forms that you will file with the Court, you are required to serve [give] the District Attorney's Office with a copy of the Motion and the Affidavit that you are filing with the Court. So, when you have completed the forms, make a copy of the Motion and the Affidavit. You may wish to make a copy for yourself as you will be filing the originals with the Court.

Service on the DA - When you have a complete set of your fingerprints, completed the forms, and made copies, take the District Attorney copies to their office on the 3rd floor of the Benton County Courthouse, located at 120 NW 4th Street, Corvallis, Oregon. With the District Attorney's copies, also provide the set of your fingerprints.

FILING YOUR PAPERS

Submit your original documents in the Benton County Courthouse, Room 106, located at 120 NW 4th Street, Corvallis, Oregon, or by mail to: Benton County Courthouse, PO Box 1870, Corvallis, Oregon 97339. Make sure that you have completed all the blanks on the Motion, Affidavit, and the Order. Make sure that you have signed the Affidavit and have had your signature witnessed.

The Clerk will assist you in filing your documents, take the required filing fee, and assign your case a case number.

WHAT HAPPENS NOW?

The District Attorney has a right to object to your request to have the records of your arrest set aside. They will send your fingerprints to the State Identification Bureau to confirm your identity and to see if there have been any other incidents that would cause them to want to object to your request. When the State Identification Bureau has completed their investigation, they will send the results back to the District Attorney. This process can take up to 90 days to complete. The Court will then decide, based on the information, whether to grant or deny your request. If the Court grants your request, a Judge will sign the Order that you submitted and order that copies be sent to those agencies that have your arrest records. The Court will also order that the Court file be sealed. You will be notified if the Court denies your request, or if a hearing will be scheduled to consider your Motion.

Fingerprints – Times and places for fingerprinting:

Benton County Emergency Services 553 NW Monroe Avenue Corvallis, Oregon 97330	Wednesdays	7:00 PM – 8:00 PM
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Benton County Circuit Court 120 NW 4 th Street – Room 114 Corvallis, Oregon 97330	Thursdays Saturdays	6:00 PM – 7:00 PM 8:00 AM – 9:00 AM
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There is a \$20.00 fee per print card and \$5.00 for any subsequent print cards, payable by cash or check.

Please bring with you one piece of picture ID.

The fingerprint card should contain the notation, "Motion for Setting Aside Arrest Record."

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

_____,)
Plaintiff,)
vs.)
STATE OF OREGON,)
Defendant.)

MOTION TO SET ASIDE
RECORD OF ARREST

Case No. _____

Comes now the Plaintiff in this matter, and respectfully moves the Court for an Order setting aside and sealing the arrest records of the Plaintiff, pursuant to ORS 137.225.

This Motion is based upon the record herein and upon the attached Affidavit.

Dated this ____ day of _____, 20____.

Signature of Plaintiff

Plaintiff's Date of Birth

Plaintiff's Mailing Address

Plaintiff's Telephone Number

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

_____,)
Plaintiff,)
v.)
STATE OF OREGON,)
Defendant.)
AFFIDAVIT IN SUPPORT OF MOTION
TO SET ASIDE RECORDS OF ARREST
Case No. _____

STATE OF _____)
County of _____) ss

I, _____, do hereby depose and say that:

I am the Plaintiff herein, and I am filing this Affidavit in Support of my Motion to Set Aside and to seal the records of my arrest.

This arrest occurred more than one [1] year ago. I have no criminal cases presently pending against me in any court. I have no criminal convictions in the ten [10] year period immediately preceding the filing of this motion, excluding motor vehicles violations. I have not had a conviction set aside within the [10] year period immediately preceding the filing of this Motion and have no other similar motions pending in this or any other court.

I have not been arrested for any other matter unassociated with this arrest within the last three [3] years, excluding motor vehicle violations.

A copy of this Affidavit and a copy of my Motion to Set Aside Records of Arrest has been served upon the District Attorney of Benton County.

A complete set of my fingerprints has been served on the District Attorney of Benton County.

I am not now charged with the alleged commission of any crime.

The arrest that I am seeking to have set aside occurred on _____.

The charge[s] that I was arrested for on the above date was [were]: _____
_____.

Arresting agency and incident number _____.

Dated this _____ day of _____, 20____

Signature of Plaintiff

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

Clerk of Court/Notary Public of _____
My commission expires: _____

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

_____,)
Plaintiff,)
v.)
STATE OF OREGON,)
Defendant.)
ORDER TO SET ASIDE AND
SEAL RECORD OF ARREST
Case No. _____

THIS MATTER having come before the Court upon the Motion of the Plaintiff for an Order Setting Aside and Sealing Records of Arrest, pursuant to ORS 137.225; the State of Oregon appearing by and through the District Attorney for Benton County, and the Court having reviewed the records and being fully advised, finds as follows:

1. A copy of the Motion to Set Aside, Affidavit in Support and a complete set of the Defendant's fingerprints were served upon the District Attorney for Benton County.
2. The Oregon State Police Bureau of Identification and Information has made positive identification of this Defendant and further identified this Defendant by:

FBI Identification Number: _____

Oregon State Bureau Number: _____

Submitting Agency Number: _____

Arrested on Charges of: _____

3. That the circumstances and behavior of the Plaintiff, since the date of arrest, are found to warrant setting aside records of that arrest.

NOW THEREFORE IT IS HEREBY ORDERED that the record of arrest maintained by any law enforcement agency regarding the Plaintiff, date of birth: _____, and the arrest for _____ be, and the same is hereby set aside and the Plaintiff herein is deemed not to have previously been arrested for said crime; and

IT IS FURTHER ORDERED that the Clerk of the Court shall forward a certified copy of this order to all appropriate criminal justice agencies.

IT IS FINALLY ORDERED that thereafter the record of this action herein shall be sealed together with other official Court records in this case, including investigation reports of involved law enforcement agencies concerning the alleged criminal episode.

Dated this _____ day of _____, 20_____

Circuit Court Judge

Print, Type or Stamp Name of Judge