HOW TO SET ASIDE (EXPUNGE) AN ARREST / ACQUITTAL / DISMISSAL RECORD
FOR CLACKAMAS CIRCUIT COURT

You do not need to hire an attorney to complete this process; however, an attorney should be consulted for any legal advice and to assist in individual situations. Court clerks ***cannot*** give you legal advice. This packet is meant to instruct you on the set aside procedure, not to advise you on Oregon law

Please refer to the Oregon Revised Statutes at:
https://www.oregonlegislature.gov/bills_laws/ors/ors137.html

WHAT IS A MOTION TO SET ASIDE AN ARREST?

A Motion to Set Aside an Arrest, if granted by the court, sets aside the record of arrest and the applicant is deemed not to have been previously arrested. The court orders the record of the arrest and any other official records in the case to be sealed. In the eyes of the law, the violation that led to the arrest did not occur and the record does not exist. Law enforcement agencies are required to seal their investigative reports of the incident.

WHAT TYPES OF ARRESTS QUALIFY FOR A MOTION TO SET ASIDE?

An arrest for any type of crime, in which no accusatory instrument was filed, or which resulted in either a dismissal or an acquittal, may be eligible to be set aside. An arrest related to a conviction which is expunged is also sealable. If you need to set aside a conviction and an arrest, please review the packet for setting aside convictions.

WHAT ARE THE ELIGIBILITY REQUIREMENTS?

A brief summary of eligibility requirements is provided below. It does not include specific advice about your case. You may wish to consult an attorney who will review your criminal history and advise you regarding applicable laws and to proceed with this motion. Refer to ORS 137.225 to determine what requirements must be met to set aside a record of conviction.

- If your case resulted in an acquittal or a dismissal, you can immediately file a motion to set aside the arrest record;
- You must not have any pending criminal charges;
- If your case resulted in no accusatory instrument – for example, a No Complaint – being filed, you must wait one (1) year from the date of your arrest to file a Motion to Set Aside. The one-year period does not include the time during which you may have made yourself unavailable for arrest;
- You must not have any other arrests within a three (3) year period preceding the filing of a Motion to Set Aside, except arrests for conduct associated with the same episode that resulted in the arrest that is being sought to be set aside, and arrests which have already been set aside.
- You must not have had any convictions for any other offenses within a ten (10) year period preceding the filing of a Motion to Set Aside. This does not include motor vehicle violations, and you may have one (1) other violation in that time period. Convictions that have been previously set aside, or were part of the same incident as the conviction presently being set aside, are counted.
- The arrest you want set aside is not a state or municipal traffic offense;
- The arrest you wish to set aside is not one for driving under the influence of intoxicants, which has been dismissed upon completion of a diversion program;
- You will need to have your fingerprints taken on a fingerprint card. Most police agencies offer this service for a fee. The agency will provide a fingerprint card to you, and the person that takes your fingerprints will sign and date the card. That person should fill out the address of the agency in the section for employer and address, below the signature blank where they will sign the card. The reason given for fingerprinting is: Motion to Set Aside Arrest.

WHAT ARE THE STEPS TO SETTING ASIDE A RECORD?

Look at the Set Aside forms which are at the end of these instructions. Make sure your current mailing address is on the form. Look at the Example form to help you determine what needs to be filled in.

You will need the case number of the case which you are requesting to be Set Aside, or a copy of the Judgment of Dismissal or Acquittal associated with the case. The case number can be found by going to the Records Center, Room 12, on the ground floor of the Clackamas Courthouse. There will be a charge of $.25 per page for any copies of court records. There is an additional $5.00 fee if you want the document certified. Please check for the hours of operation before making a trip to the courthouse.

If no complaint was filed with the court, you will need a copy of the citation that was written at the time of arrest. **This citation can only be obtained from the police agency that arrested you.** Because no charges were filed with the court, the court will not have a copy of this citation.

You must sign the Affidavit in Support of Motion to Set Aside Record of Arrest in front of a Notary Public or a court clerk.

You will need to have your fingerprints taken on a fingerprint card. Most police agencies offer this service for a fee. The agency will provide a fingerprint card to you, and the person that takes your fingerprints will sign and date the card. That person should fill out the address of the agency in the section for employer and address, below the signature blank where they will sign the card. The reason given for fingerprinting is**: Motion for Setting Aside Arrest Record**.

After completing the forms, make two (2) copies of the Motion, Affidavit and Order and file the documents as follows:

- File the **original** Motion, Affidavit, Order, a **copy** of the fingerprint card:

In person to:	Or by **mail** to:
Clackamas Circuit Court 807 Main Street – **Room 200** Oregon City, OR 97045	Clackamas Circuit Court Attn: Set Aside Clerk 807 Main Street Oregon City, OR 97045

- Submit a **copy** of the Motion and Affidavit, a **copy** of the Judgment of Dismissal / Acquittal or citation, the **original** fingerprint card to the Clackamas County District Attorney's Office:

In person to:	Or by **mail** to:
Clackamas County District Attorney's Office 807 Main Street, **Room 7** Oregon City, OR 97045	Clackamas County District Attorney's Office Attn: Set Aside Clerk 807 Main Street, **Room 7** Oregon City, OR 97045

- The second copy of the documents is for your records.
- If you have questions regarding the process or filling out your forms, please contact the Set Aside clerk at 503.655.8643, option 1. **Please check the hours of operation for the courthouse before calling or coming to the court.**

You have now filed your motion. The entire process may take approximately 3 to 6 months to process.

A hearing will be scheduled approximately 90 days from the date your Motion is filed. If the District Attorney's Office has no objection to your Motion, the Order will be forwarded to the judge for signature and the hearing will be cancelled.

If the District Attorney's Office objects to your Motion, your appearance at the hearing will be required**. If you fail to appear at the scheduled hearing, your Motion may be denied or dismissed.** At the hearing the judge will decide whether or not your record(s) can be sealed.

If your Motion has been granted, you will receive a certified copy of the signed Order. **Please consult an attorney if you have any questions about your legal rights.**

HOW DO MY RECORDS GET SEALED?

Upon receipt of the signed Order, the court clerk enters the Order, seals the court records and removes them from public records. The clerk then sends a certified copy of the Order to agencies such as the FBI, Oregon State Police, arresting police agency, the Sheriff's office, the Probation office, and any others as directed by the court. These agencies are required to destroy or seal their investigative reports concerning the incident.

CAN THE RECORD BE RE-OPENED?

Setting aside a conviction record does not absolutely eliminate the record. The court could be asked to unseal your record, but only exceptional circumstances would warrant this. A court order is required to unseal the record.