

PACKET A: Arrest but no charge ever filed in Court

Things you will need to complete this process:

- The necessary forms to request this action
- A complete set of your fingerprints

PRIOR TO FILING

Forms - You may use these forms as examples to either create or purchase your own, or you may use these as your forms to file your request. There should be five forms in the packet: the Motion, the Affidavit, the Order, the Certificate of Document Preparation, and the Certificate of Mailing. This packet is also available for purchase at the Linn County Courthouse, first floor in room 107.

You need to complete the forms and have your signature notarized on the Affidavit. The clerk can witness your signature on the Affidavit. Do not sign the Affidavit until you are in the presence of a Notary or the clerk. Complete all the information on the Motion and the Affidavit, but complete only your name portion of the Order. You will receive a case number to put on all the forms when you actually file the forms.

Fingerprints - You will need 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, Affidavit, and Order that you are filing with the Court. So, when you have completed the forms, make a copy of the Motion, Affidavit, and Order. 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 located in the Linn County Courthouse on the 1st floor. With their copies, also provide the set of your fingerprints.

FILING YOUR PAPERS

Take all the original forms to Linn County Courthouse, first floor, room 107, or by mail to: Linn County Courts, P.O. Box 1749, Albany, Oregon, 97321. Make sure that you have completed all the blanks on the Motion and the Affidavit, except for the case number line, and have filled in your name on the Order form. Make sure that you have signed and have had your signature witnessed on the Affidavit. The clerk will assist you in filing your documents.

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 and the Court, (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. Certified copies will be sent to those agencies that have your arrest records and also to you. The Court will

also order the Court's file which contains your request be sealed. If the Court denies your request, a notice will be sent to you advising you that your request was denied.

Fingerprints - Fingerprinting is done at the Linn County Courthouse on the 3rd floor in the Sheriff's Office. There is a \$20 fee for Linn County Resident (with proper identification) or \$30 for non-residents.

Monday - Friday

8:00 a.m. - 11:00 a.m.

1:00 p.m. - 4:00 p.m.

If you are having your fingerprints taken to comply with Sections A of this process, the fingerprint card should contain the notation in the REASON FINGERPRINTED section, "Motion for setting aside arrest record".

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

Plaintiff,

v.

State of Oregon,
Defendant.

Case Number: _____

Motion to Set Aside Records of Arrest

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. Said arrest occurred on:

_____ and did not result in the filing of an accusatory instrument.

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

AUTHORITY
ORS 137.225

Signature of Plaintiff

Plaintiff's Date of Birth: _____

Plaintiff's Mailing Address

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

_____,
Plaintiff,

Case No. _____

v.
State of Oregon,

ORDER TO SET ASIDE AND
SEAL RECORDS OF ARREST

Defendant.

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 Linn 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 Linn 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 and the arrest, dated _____ be, and same is, hereby set aside and the Defendant 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 FURTHER 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.

IT IS SO ORDERED this _____ day of _____, _____.

Judge

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

Plaintiff,

Case No. _____

**CERTIFICATE OF DOCUMENT
PREPARATION**

State of Oregon,
Defendant.

You are required to truthfully complete this certificate regarding the documents you are filing with the court.

Check all boxes and complete all blanks that apply:

- I selected these documents for myself, and I completed them without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this document.

Dated: _____, 20_____.

Signature

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

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

Plaintiff,

Case No. _____

CERTIFICATE OF SERVICE

State of Oregon,
Defendant.

STATE OF OREGON

COUNTY OF LINN

I, _____, do hereby certify that I have served the foregoing Motion to Set Aside Records of Arrest, Affidavit in Support of Motion to Set Aside Records of Arrest, Order to Set Aside and Seal Records of Arrest, and an original full set of defendant's fingerprints on the following party:

LINN COUNTY DISTRICT ATTORNEY'S OFFICE by delivering copies to:

Linn County District Attorney, Linn County Courthouse, P.O. Box 100, Albany, Oregon 97321 on ____ day of _____, 20__.

Dated this ____ day of _____, 20 __.

Signature of Plaintiff