SETTING ASIDE A CONVICTION

Oregon Revised Statute ORS 137.225 allows some types of records to be erased from a person's Computerized Criminal History (CCH). You are encouraged to read this statute to help you decide if you qualify to have an item taken off your record.

Certain crimes are not able to be set aside. These include:

- -Sex crimes and crimes against children
- -Class "A" or Class "B" felonies (A conviction for possession of marijuana may be able to be set aside, even if it was a Class "A" or "B" felony)
- -Traffic offenses

Convictions cannot be set aside until 3 years have passed from the pronouncement of judgment.

Convictions cannot be set aside if you are still on probation, parole, or post-prison supervision.

Convictions cannot be set aside if you have been convicted of another crime (excluding motor vehicle violations) within the 10-year period immediately preceding the filing of your motion.

Convictions cannot be set aside if you are currently charged with the commission of any crime.

If you feel your conviction qualifies under Oregon Law (ORS 137.225) to be set aside, you need to complete the following:

Fill out a Motion, Affidavit and Order to Set Aside Arrest. These are available at many stationary stores and on the Court's website at http://www.ojd.state.or.us/til/index.html.

Get fingerprinted at the Civil Department of the Sheriff's Office. You need to be fingerprinted for the purpose of setting aside conviction on a special "Applicant Form," even if you were fingerprinted at the time of your arrest.

Obtain a money order or certified bank check (no cash or personal checks are acceptable) in the amount of $80.00 made payable to "Department of State Police." You do not get this money back if you lose the motion to set aside your conviction.

Obtain a copy of your judgment of conviction from the Tillamook County Courts. Mark the copy of the judgment of conviction as "Exhibit A" and attach it to the Motion for Setting Aside Conviction.

Give the completed Motion with attached judgment of conviction and Affidavit that has your actual signature on it to the Court. Pay the Court filing fee. Also give the Court the Order to Set Aside Conviction that you have filled out for the judge's signature.

Give a copy of the same Motion, attached judgment, Affidavit and Order to the District Attorney's Office.

Give the completed fingerprint card to the District Attorney's Office.

Give the $80.00 fee (made payable to the Department of State Police) to the District Attorney's Office.

You may either mail the paperwork or take it to each of the offices in person.

Tillamook County Circuit Court 201 Laurel Avenue Tillamook, OR 97141	Tillamook County District Attorney's Office 201 Laurel Avenue Tillamook, OR 97141

When the District Attorney's Office receives your paperwork and fingerprint card, and the $80.00 fee , your documents will be sent to the Oregon State Police Identification Bureau in Salem and processed. The ID Bureau will provide the District Attorney with a copy of your CCH and the results of a comprehensive check that will indicate if you qualify to have your conviction removed from your record. The District Attorney will not know whether or not a record can be set aside until your CCH is received from Salem.

If the District Attorney determines that your arrest <u>is eligible</u> to be set aside, the court will be notified that the District Attorney does <u>not oppose</u> your Motion. Your Motion, Affidavit and Order will then be submitted to a judge for signature. Once the judge has signed the Order, the conviction shall be deemed not to have occurred, and you may answer accordingly any questions relating to its occurrence. The Court will send a copy of the signed Order to the ID Bureau and the arrest record will be sealed.

If the District Attorney determines that your arrest <u>is not eligible</u> to be set aside, the court will be notified that the District Attorney <u>opposes</u> your Motion. The court will then set a hearing on the matter. You will be notified of the hearing date and be given the opportunity to appear before a judge. If your Motion is denied by the judge at the hearing, the conviction will remain on your CCH.

Under ORS 137.225, victims of crime have the right to be present at a hearing on motions to set aside convictions for crimes in which they were a victim, and to make a statement if they desire. The Court may consider their statement, along with the circumstances and behavior of the defendant and the requirements of law, in deciding whether to set aside the conviction. Regardless of whether or not you are otherwise eligible to set aside your conviction, a hearing will be set if the victim requests one.

The District Attorney's Office cannot provide legal advice or assist you in filling out the paperwork. However, if you have a general question, you may call this office at (503) 842-2596.