



Set Aside an Arrest Record or Conviction FAQs

➤ What is a set aside?

The Oregon Statute (law) concerning this process is ORS 137.225. You may have heard the word "expungement" used in describing this process. ORS 137.225 does not use the term expungement. Instead it talks about "setting aside." For your purposes, the two expressions are nearly the same, so do not be confused by them.

➤ What kinds of convictions can be set aside?

Generally, misdemeanors, class C felonies and some Class B felonies can be set aside. However, there are exceptions to this including sex offenses and child abuse charges. If you are uncertain whether your case can be set aside you may wish to contact an attorney or further review ORS 137.225.

➤ Where should I file my set aside paperwork?

In order to file your paperwork with the Yamhill County Circuit Court your arrest/charges must have been within the jurisdiction of the Yamhill County District Attorney's Office.

➤ Can traffic tickets be set aside? What about DUIIs?

ORS 137.225 does not allow for traffic violations or crimes to be set aside. This means that your speeding ticket or any other traffic violation or crime is not eligible. It also means that DUII convictions do not qualify for set aside because DUIIs are defined as a traffic offense under Oregon law. The only way to have a DUII set aside is if the case was never filed, the DA dismissed the charges (not through diversion), or you were acquitted of the charges.

➤ What if I completed DUII diversion and my case was dismissed?

Even if you completed your diversion and your DUII was dismissed you still do not qualify for a set aside under Oregon law.

➤ How long do I have to wait to file for a set aside?

If you were acquitted or your case was dismissed (including dismissals through diversion, with the exception of DUII charges) you can file for a set aside at any time.

If you were arrested but the DA declined to charge your case (no actioned) you can file a request at any time. However, if the DA declined to charge your case because there is further investigation pending, you must wait one year from the date of arrest to file.

If you were convicted of the charge you must wait three years from the date of the judgment **as long as** you have complied (completed all probation, community service, paid all your fines, etc.) with *all* terms of your sentence *and* have not been arrested within the last three years. You cannot have any criminal cases pending against you in *any* court. Also, you must have no other convictions, besides certain traffic violations, within the last ten years. You must not have had any other convictions set aside in the ten year period immediately preceding the filing of your motion. If you do not meet all of the applicable requirements your case may not be eligible to be set aside.

➤ *How much is the filing fee?*

There is a non-refundable filing fee to be made payable to the court for each case you are requesting to set aside. Go to www.courts.oregon.gov to get the current filing fee. If you were not convicted there is no fee to the court. These fees are subject to change so you may wish to contact the Circuit Court to verify this amount. If you are filing to set aside a conviction, pursuant to ORS 137.225(2)(a) & (c), you must present an \$80 certified check made payable to the Oregon State Police and a copy of your finger print record from the Yamhill Co. Sheriff's Office. If you are filing to set aside an arrest, you only need to provide a copy of your finger print record to the DA. If you have questions regarding fingerprinting, please contact the Yamhill County Sheriff Office or Oregon State Police.

➤ *Can I get civil judgments set aside from my credit report?*

ORS 137.225 only applies to criminal cases. If you wish to have civil judgments removed from your credit report you should contact the credit bureau or reporting agency and find out if this is possible and what they would require of you to do so.

➤ *How long does the DA have to object to my motion?*

A hearing will be scheduled approximately 90 days from the date your Motion is filed. A Hearing Notice will be mailed to you. Please keep your address updated with the court. The DA has 90 days from the date you served them to file their response to your motion. The court cannot proceed until the DA has filed a response.

➤ *What happens when the DA files their response?*

If the DA does not object an order will be sent to the judge to consider and sign, granting your request. The hearing will be cancelled. You will be mailed a certified copy of the order once it has been signed.

➤ *What happens once the order is signed?*

A certified copy of the order will be mailed to you at the address you provided the court. It is important you keep your address current. The court will also forward copies to the applicable agencies so they can comply with the order.

➤ *How do I know my record has been set aside?*

It is your responsibility to follow up with agencies to ensure that they have complied. You must contact the agencies (i.e. Yamhill Co. Sheriff Office, McMinnville Police Dept, Oregon State Police, etc.) directly to inquire about your record. The court cannot confirm if another agency has complied. You should wait at least 4 weeks *after* you receive your copy of the order before you contact agencies. Contacting them prior to 4 weeks may give you inaccurate responses, as they are entitled time to comply with the order. If you have contacted the agency after 4 weeks and they still have record of your set aside arrest/conviction, please contact the court and we will resend the order to the agency.

➤ *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.

This document is not a substitute for understanding the ORS that applies to your arrests and/or convictions. If you have additional questions you should contact an attorney or further review ORS 137.225. Neither Court staff nor staff from the District Attorney's office can give legal advice; this document is only meant as a brief overview of frequently asked questions and is not all inclusive of the requirements for a set aside, and as such, should not be solely relied upon to answer your inquiries.