

## **PACKET A: ARREST BUT NO CHARGES OR CASES WERE FILED WITH THE COURT**

There is **no** filing fee charged by the court for this type of set aside. A case will need to be filed with the Circuit Court. The arrest record is listed on the criminal history record.

### **OVERVIEW:**

**Things you will need to complete this process:**

- ✓ **Determine your eligibility. Carefully read ORS 137.225 as the court is unable to advise you of your eligibility**
- ✓ **Prepare your forms and get a complete set of your fingerprints.**
- ✓ **File the Original forms with the Marion County Circuit Court and get a case number assigned.**
- ✓ **Deliver copies of your forms and fingerprint card to the District Attorney's Office.**

### **ELIGIBILITY:**

You will need to determine if your arrest is eligible to be set aside. For eligibility refer to Oregon Revised Statutes ORS 137.225.

### **PRIOR TO FILING:**

#### **Fingerprints:**

You only need one fingerprint card regardless of the number of cases you are filing at the time.

Fingerprint cards may be obtained Monday through Friday from 8 a.m. to 4:30 p.m. at the Oregon State Police Bureau of Criminal Identification located at 3565 Trelstad Avenue SE, Salem, Oregon. There is a fee for this service. Call (503) 378-3070 to verify the schedule and fee amount.

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

#### **Forms:**

You must submit the original Motion, Affidavit and Order to the Marion County Circuit Court, Accounting Department – 1<sup>st</sup> Floor, 100 High Street NE, Salem, Oregon. You must prepare separate documents for each arrest.

Sign all documents where your signature is required. **You must sign the affidavit in the presence of a Notary Public or a Court Clerk.**

*NOTE: You can find case information via the public kiosks located at the Marion County Circuit Court, 100 High ST NE, Salem, OR 97301.*

**Copies:**

Make two copies of the forms. One to serve to the District Attorney's Office. One for your records.

**Service on the District Attorney:**

A copy of the Motion, Affidavit and Order along with the original fingerprint card must be served to the District Attorney's Office located at 555 Court Street, Courthouse Square – 3<sup>rd</sup> Floor, Salem, Oregon.

## WHAT HAPPENS NOW?

The District Attorney's office will forward the fingerprint card to the State Identification Bureau to confirm your identity. It will also be used to determine if there have been any other incidents that would cause them to want to object to your request.

The District Attorney's office will then file an Answer to your Motion and send a copy to you or your attorney. The Court will then decide, based on the documents filed, whether the Order is granted or denied. A copy of the Order will be provided to you or your attorney. If the Order is granted, copies will be sent to the agencies that have your arrest record(s). (The court has no control over the agency timeline to get the arrest removed.) The Order will require the Court file to be sealed.

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

	)	
Plaintiff,	)	Case No. _____
	)	
vs	)	MOTION FOR ORDER TO SET ASIDE
	)	AND SEAL ARREST
STATE OF OREGON,	)	
Defendant.	)	

Comes now the Plaintiff in this matter, and respectfully moves the Court for an Order setting aside and sealing the **arrest** records in the following matter.

Full Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

*List all charges related to arrest or citation to be set aside (one incident per Motion).*

Arrest/Charge	Arrest Date	Agency

This motion is based on ORS 137.225, the records and files contained herein, and the attached affidavit.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Prepared by:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

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

\_\_\_\_\_, )  
Plaintiff, ) Case No. \_\_\_\_\_  
)  
vs )  
) AFFIDAVIT IN SUPPORT OF MOTION  
) TO SET ASIDE AND SEAL ARREST;  
STATE OF OREGON, ) CERTIFICATE OF SERVICE  
)  
\_\_\_\_\_, )  
Defendant. )

I, \_\_\_\_\_, do hereby depose and say that:

1. I am the Plaintiff in the above entitled matter. I submit this Affidavit in support of my Motion to Set Aside and Seal Arrest.
2. A copy of this Affidavit along with the Motion to Set Aside and Seal Arrest has been served on the District Attorney of Marion County.
3. A complete set of my fingerprints has been served on the District Attorney of Marion County.
4. This arrest occurred more than one (1) year ago and no formal written complaint or other accusatory instrument has been filed against me, or I have been found not guilty or acquitted of the charge(s), or the charge(s) have been dismissed.
5. I have not been arrested for any other offense with in the three (3) year period immediately preceding the filing of this motion.
6. I have no criminal convictions in the ten (10) year period immediately preceding the filing of this motion, excluding motor vehicles violations.
7. I have not had a conviction set aside within the ten (10) year period immediately preceding the filing of this Motion and have no other similar motions pending in this or any other court.
8. I am not now charged with the alleged commission of any crime.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk of the Court / Notary Public of Oregon  
My Commission Expires: \_\_\_\_\_

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

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

This matter having come before the court on Plaintiff's Motion for Order to Set Aside and Seal Arrest in the following matter:

Full Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

*List all charges related to arrest or citation to be set aside.*

Arrest/Charge	Arrest Date	Agency

The Court, having reviewed the records and being fully advised, finds the following:

1. A certified copy of the Plaintiff's Motion, Affidavit and complete set of fingerprints were served on the District Attorney for Marion County.
2. The Department of the State Police has made positive identification of this Plaintiff.
3. The circumstances and behavior of the Plaintiff since the date of arrest warrant setting aside the arrest.

**IT IS HEREBY ORDERED** that:

1. The above **ARREST** is set aside;
2. The records of the arrest in this case shall be sealed, together with the other official Court records in this case; including the arrest resulting in the criminal proceeding;
3. The Clerk of the Court is directed to forward a certified copy of this Order to the arresting agency named above and all other appropriated criminal justice agencies. The public agencies receiving a copy of this Order shall seal their records and order the arresting agency to seal its records.

\_\_\_\_\_