

SETTING ASIDE AN ARREST RECORD IN WASHINGTON COUNTY

You do not have to hire a lawyer to complete this process, but only a lawyer can give you legal advice. Court clerks cannot give you legal advice. A lawyer may be needed to help in some cases. This packet is meant to instruct you on the process of setting aside an arrest record, not to advise you on Oregon law.

- You can find the Oregon law on setting aside an arrest record in the Oregon Revised Statutes online at https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx or by going to the Washington County Law Library at 111 NE Lincoln Street, Ste. 250-L, Hillsboro, OR 97124.

WHAT IS A MOTION TO SET ASIDE AN ARREST?

If the court grants a person's Motion to Set Aside an Arrest, then it sets aside the record of that person's arrest and the person requesting the set aside is no longer considered to have been arrested in the eyes of the law. The court orders the record of the arrest and any other official records in the case to be sealed and the violation that led to the arrest is considered by law to have never happened. Law enforcement agencies are required to seal their investigative reports of the incident and court records are also sealed. Oregon does not allow for full expungement of an arrest record. Reference is made to setting aside the arrest. For your purpose, the two expressions are nearly the same.

WHAT ARRESTS MAY BE SET ASIDE?

If a person was arrested, but no formal charges were filed, or the case was later dismissed, or the person was not convicted at trial, then the arrest may be eligible to be set aside. An arrest related to a conviction which was expunged is also sealable. Arrests for traffic offenses may be set aside only if they do not result in conviction. Arrests for Driving Under the Influence of Intoxicants cannot be set aside if the charge was dismissed as a result of a successful completion of a diversion program. If you need to expunge both a conviction and an arrest, please request the information packet for expunging convictions.

WHAT ARE THE OTHER REQUIREMENTS FOR A MOTION TO SET ASIDE?

- If your case was dismissed or you were found not guilty at trial, you can immediately file a motion to set aside the arrest record after that takes place.
- If no formal charging instrument is filed (your case results in a "no complaint"), you must wait one (1) year from the date of your arrest to file a motion to set aside. That one-year period does not include any time during which you made yourself unavailable for arrest.
- You cannot set aside your arrest if you have any pending criminal charges.
- You cannot have had any other arrests within a three (3) year period prior to the filing of the motion to set aside. This does not include arrests for conduct associated with the same episode that resulted in the arrest that is being sought to be set aside. Arrests previously set aside are also not included.
- You must not have had any criminal convictions within a ten (10) year period prior to the filing of a motion to set aside. This does not include violation level traffic offenses. Convictions that have previously been set aside or for conduct associated with the conviction you are now trying to set aside do count if they occurred within the ten (10) year period.

WHAT ARE THE STEPS TO CLEARING A RECORD?

Look at and fill out the enclosed forms. Call the expungement clerk at 503-846- 6058 to request an “Expungement Information Sheet” for your case. This will give you the information you need to fill out the forms.

If no complaint or formal charging instrument was filed with the court, you will only need a copy of the citation that was written at the time of arrest. **If you do not have a copy of the citation you must get it from the police agency that arrested or cited you.** Because no charges were filed with the court, the court will not have a copy of this citation.

Fill in the blanks of the three forms enclosed in this packet (Motion, Declaration, and Order). Look at the “*EXAMPLE*” form to help you determine what lines need to be filled in.

You will need to have a complete set of fingerprints taken. 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 sign. The reason given for fingerprinting is for expunction.

After completing the forms, **make two copies of the Motion, Declaration and Order** and file the documents as follows:

File the original forms (the ones with your original signature) in person or by mail to:

Expungement Clerk
Washington County Circuit Court - Law Enforcement Center
215 S.W. Adams
Hillsboro, OR 97123

Write **certified true copy** at the top of the district attorney’s copy then date and sign it. File **one** of the copies of the forms, along with your fingerprint card with the Washington County District Attorney’s Office in person or by mail to:

Washington County District Attorney
150 North First Avenue, MS 40
Hillsboro, OR 97124

The second copy of the documents is for your records. If you drop off your documents personally, a clerk in the district attorney’s office can initial your copy as proof that you have submitted it.

If you have any questions about the process or filling out your forms, please contact the expungement clerk at 503-846-6058.

You have now filed your motion. **The entire process will take approximately three to four months from the time of filing before the order is signed by a judge and your records are sealed assuming the set aside is successful.**

If the district attorney has no objection to your application, the Order will be forwarded to the judge for signature. You will receive a certified copy of the signed Order. Upon receipt of the signed Order, you will know that your record(s) will be sealed.

If the district attorney objects to your Motion, they may request a hearing. If this occurs, a date for a hearing will be set and you will be notified by mail to appear before the court to contest why you believe you are eligible to have your record sealed. The district attorney will argue why you may not be eligible. The judge will then decide whether or not your records can be sealed. You may represent yourself or hire a lawyer for this hearing. The court does not appoint lawyers for these matters.

Important: If your address changes at any time during the expungement process, you will need to provide your new address to both the court and the DA's office.

HOW DO MY RECORDS GET SEALED?

Upon receipt of the signed Order, the court clerk enters the Order, seals the court records (if any) and removes them from the court's public records. The clerk then sends a certified copy of the Order to agencies such as the FBI, Oregon State Police, the 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 RECORDS BE RE-OPENED?

Setting aside an arrest 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.

If you have any other questions that may not be answered after reading this information, please contact the court's expungement clerk at 503-846-6058, or you may contact the expungement coordinator for the Public Defender's Office at 503-225-9100.

CASE IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON
Washington County Circuit Court
150 North 1st Avenue
Hillsboro, OR 97124

State of Oregon
v.

Case Number: _____

**Motion To Set Aside
Arrest Records**

Defendant (*your name at time of conviction*)

AKA

Def State ID #: _____ **Def FBI #:** _____ **Arresting Agency #:** _____

The above-named defendant hereby moves the Court for an Order Setting Aside the Arrest Record herein and sealing official records in this case, including the records of arrest pursuant to the provisions of ORS 137.225.

This Motion is based upon the record herein and the facts set forth in the Declaration filed.

Date

Signature

Print Name

Mailing Address

City

State

Zip Code

Phone Number

Declaration

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON
Washington County Circuit Court
150 North 1st Avenue
Hillsboro, OR 97124

State of Oregon
v.

Case Number: _____

**Declaration in Support of Motion
To Set Aside Arrest Records**

Defendant (*your name at time of conviction*)

AKA

Def SID #: _____ Def FBI #: _____ Arresting Agency #: _____

I, _____, do hereby declare:

1. I am the defendant herein, and I am filing this Declaration in Support of Motion to Set Aside Arrest Records pursuant to ORS 137.225.
2. This arrest occurred on _____. The charge was dismissed, or an acquittal was entered on _____ or √did not result in the filing of an accusatory instrument.
(Judgment Date)
3. I have no criminal cases presently pending against me in any court.
4. I have not been convicted of any other offense, excluding motor vehicle violations, during the ten-year period immediately preceding the filing of the motion.
5. I have had no other criminal convictions in the ten-year period immediately preceding the filing of this motion, excluding motor vehicle violations.
6. I have not had any conviction set aside within the ten-year period immediately preceding the filing of the motion.
7. I have not had any other arrest within the three-year period immediately preceding the filing of the Motion; excluding motion vehicle violations and excluding arrests for conduct associated with the same criminal episode that caused the arrest that is sought to be set aside.

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Date

Signature

Print Name

Mailing Address

City State Zip Code

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON
Washington County Circuit Court
150 North 1st Avenue
Hillsboro, OR 97124

State of Oregon
v.

Case No: _____

Order Setting Aside Arrest Records

Defendant (*your name at time of conviction*)

AKA

Def SID #: _____ **Def FBI #:** _____ **Arresting Agency #:** _____

This matter having come before the Court upon the Motion of the Defendant for an Order Setting Aside Arrest Records, pursuant to ORS 137.225, and the Court having reviewed the records and file, and now being fully advised, the Court finds as follows:

1). That the defendant was arrested as follows:

<u>Setting Aside Arrest Records</u>		
Original Offense Date:		
Original Charge Description:		
Arresting Agency:		

2) That positive identification of the defendant has been established and is listed above.

3) That the circumstances and behavior of the defendant since the date of arrest are found to warrant setting aside records of arrest.

4) That the defendant has fully complied with and performed all provisions.

It is hereby ordered that the defendant's arrest herein should be and the same is set aside, pursuant to ORS 137.225, and hereafter the defendant, for all purposes of the law, shall be deemed not to have been previously arrested.

☒ If applicable, any previous gun restrictions as a result of this case are hereby terminated.

It is further ordered that the Clerk of the Court shall forward a certified copy of this Order to all law enforcement agencies mentioned in the Court's file, including the following:

- | | |
|-------------------------------------|---|
| A) Arresting Agency | D) Washington County Community Corrections |
| B) Oregon State Police | E) Washington County Sheriff's Office |
| C) Oregon Department of Corrections | F) Washington County District Attorney's Office |

It is further ordered that thereafter the record of arrest shall be sealed together with all other official records in the case, including investigation reports of the involved law enforcement agencies concerning the criminal episode.