

## **Section B:**

### **Arrested and charged in Court but later dismissed or acquitted of charge[s]**

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

- \$ The necessary forms to request this action;
- \$ A complete set of your fingerprints; and
- \$ A clear understanding of the law in the matter. Carefully read ORS 137.225;
- \$ Court filing fee.

#### **PRIOR TO FILING**

**Forms** - You may download a packet of forms to complete this process. They are also available in Room 104, located in the Benton County Courthouse. Ask for "Set Aside Section B." You may use these forms as examples to create your own, you may purchase copies at a stationery store, or you may use these as your originals to file your request. There should be three forms in the packet: the Motion to Set Aside Records of Arrest, Affidavit in Support of Motion to Set Aside Records of Arrest, and the Order to Set Aside and Seal Records of Arrest.

Complete the forms and have your signature on the Affidavit notarized, or the Court Clerk in Room 104 may witness your signature. **Do not sign the Affidavit until you are in the presence of a Notary or the Court Clerk.** Complete all the information on the Motion, Affidavit, and the Order. Use the case number in the previously filed criminal case on your forms.

**Fingerprints** - You will need to provide 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 and the Affidavit that you are filing with the Court. So, when you have completed the forms, make a copy of the Motion and the Affidavit. 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 on the 3<sup>rd</sup> Floor of the Benton County Courthouse, 120 NW 4<sup>th</sup> Street, Corvallis, Oregon. With their copies, also provide the set of your fingerprints.

## **FILING YOUR PAPERS**

Submit your original documents in the Benton County Courthouse, Room 104, located at 120 NW 4<sup>th</sup> Street, Corvallis, Oregon, or by mail to: Benton County Courthouse, PO Box 1870, Corvallis, Oregon 97339. Make sure that you have completed all the blanks on the Motion, Affidavit, and the Order, including your case number. Make sure that you have signed the Affidavit and have had your signature witnessed. The Clerk will assist you in filing your documents and take the required filing fee.

## **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. 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 and order that copies be sent to those agencies that have your arrest records. The Court will also order that the Court file be sealed. You will be notified if the Court denies your request, or if a hearing will be scheduled to consider your Motion.

**Fingerprints** - Fingerprinting is done at the Benton County Law Enforcement Center, 180 NW 5<sup>th</sup> Street, Corvallis, Oregon. Currently, the days and times available to obtain fingerprints are as follows:

Wednesday evening from 7:00 PM – 8:00 PM

Thursday evening beginning at 6:00 PM until finished

Saturday morning from 8:00 AM – 9:00 AM

There is a \$10.00 fee, payable by cash, check, or money order. Please bring with you one piece of picture ID.

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

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

STATE OF OREGON,	)	
	)	
vs.	)	MOTION TO SET ASIDE
	)	RECORDS OF ARREST
	)	
_____	)	Case No. _____
Defendant.	)	
	)	

Comes now the Defendant in this matter, and respectfully moves the Court for an Order setting aside and sealing the arrest records of the Defendant pursuant to ORS 137.225.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Defendant's Date of Birth

\_\_\_\_\_  
Defendant's Mailing Address

\_\_\_\_\_  
Defendant's Telephone Number

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

State of Oregon,	)	
	)	ORDER TO SET ASIDE AND
	)	SEAL RECORDS OF ARREST
vs.	)	
	)	
	)	
_____	)	Case No. _____
Defendant.	)	

**THIS MATTER** having come before the Court upon the Motion of the Defendant 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 Benton 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 Benton 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 Defendant, 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, date of birth: \_\_\_\_\_, and the arrest for \_\_\_\_\_ be, and the same is hereby set aside and the Plaintiff 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 FINALLY ORDERED** that thereafter the record of this action herein shall be sealed together with the official Court records in this case, including investigation reports of involved law enforcement agencies concerning the alleged criminal episode.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_  
Print, Type or Stamp Name of Judge

STATE OF OREGON,	)	AFFIDAVIT IN SUPPORT OF MOTION TO
	)	SET ASIDE RECORDS OF ARREST
vs.	)	
	)	
Plaintiff,	)	
	)	
_____	)	Case No. _____
Defendant.	)	

STATE OF Oregon )  
 )  
County of \_\_\_\_\_ ) SS

I am the Defendant herein, and I am filing this Affidavit in Support of my Motion to Set Aside and to seal the records of my arrest.

I have no criminal cases presently pending against me in any court. I have no criminal convictions in the ten [10] year period immediately preceeding the filing of this motion, excluding motor vehicle violations. 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.

A copy of this Affidavit and a copy of my Motion to Set Aside and Seal Records of Arrest have been served upon the District Attorney of Benton County.

Signature of Defendant

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