

SETTING ASIDE AN ARREST

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.

You may qualify to have an arrest removed from your record if:

You were arrested and no charge was ever filed against you. (You must wait one year from the date of arrest to be eligible to set aside the arrest.)

A charge was filed, but it was dismissed or you were acquitted. (You may apply to set aside an arrest at any time after dismissal or acquittal.)

You have not been arrested for any other offense, excluding motor vehicle violations, within the 3-year period immediately preceding the filing of your motion.

You have not been convicted of another offense (excluding motor vehicle violations) within the 10-year period immediately preceding the filing of your motion.

If you feel your arrest 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 the Court.

Get fingerprinted at the Sheriff's Office. The Baker County Sheriff's Office will only fingerprint on Tuesdays and Thursdays, 8:00 a.m. to 5:00 p.m. You need to be fingerprinted for the purpose of setting aside arrest on a special "Applicant Form," even if you were fingerprinted at the time of your arrest.

Give the completed Motion and Affidavit that has your actual signature on it to the Court. Also give the court the Order to Set Aside Arrest that you have filled out for the judge's signature.

Give a copy of the same Motion, Affidavit, and Order to the District Attorney.

Give the completed fingerprint card to the District Attorney.

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

Baker Circuit Court
1995 Third Street Suite 220
Baker City, Oregon 97814

Baker County District Attorney's Office
1995 Third Street Suite 320
Baker City, Oregon 97814

When the District Attorney's Office receives your paperwork and fingerprint card they 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 arrest removed from your record. The District Attorney will not know whether or not a record can be set until your CCH is received from Salem. **This process may take several months depending on the back log at the ID Bureau.**

If the District Attorney determines that your arrest is eligible to be set aside, the court will be notified that the District Attorney does not oppose your Motion. Your Motion, Affidavit and Order will then be submitted to a judge for signature. Once the judge has signed the Order, the arrest 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 is not eligible to be set aside, the court will be notified that the District Attorney opposes 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 arrest will remain on your CCH.

Neither the District Attorney's Office nor the Circuit Court can provide legal advice or assist you in filling out the paperwork. However, if you have a general question, you may call this office at (541) 523-6303 extension 15.

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

STATE OF OREGON,

Plaintiff,

vs.

,

Defendant.

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)
)
)
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Case No.: _____

**MOTION FOR SETTING ASIDE
ARREST**

COMES NOW the above named defendant and moves the Court for an Order Setting Aside the record of arrest for the following matter:

Full Name:	
Date of Birth:	Social Security No.:
State ID No.:	Date of Arrest:
Arrest Charge:	Arrest Agency:

THIS MOTION is based on ORS 137.225 and defendant's affidavit attached, marked "Exhibit 1" and by this reference made a part hereof.

DATED this _____ day of _____, 20_____.

Defendant's Signature

Submitted by:

Defendant's Name (Type or print)

Address

City State Zip Phone

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

STATE OF OREGON,)	
)	Case No.: _____
)	
vs.)	AFFIDAVIT IN SUPPORT OF
)	MOTION
)	FOR SETTING ASIDE ARREST
_____)	(Exhibit "1")
)	
Defendant.)	

STATE OF OREGON)	
)	ss.
County of Baker)	

I, _____, being first duly sworn on oath, depose and say that:

1. I am the defendant in the above entitled matter. I submit this affidavit in support of the attached Motion to Set Aside Arrest.
2. I was arrested on (date) _____ for the offense of _____.
3. The arrest should be set aside because (check one):
 - _____ No accusatory instrument was filed in connection with the arrest. At least one (1) year has elapsed since the date of arrest.
 - _____ I was acquitted of the charge brought against me in connection with the arrest.
 - _____ The charge brought against me in connection with the arrest was dismissed.
4. I have no criminal cases presently pending against me in any court.
5. I have not been convicted of another offense, excluding motor vehicle violations, within the ten (10) year period immediately preceding the filing of this motion;
6. I have not had a conviction set aside within the ten (10) year period immediately preceding the filing of this Motion;
7. I have not been arrested for another offense, excluding motor vehicle violations, and excluding arrests for conduct associated with the same criminal episode that caused my arrest in this matter, within the three (3) year period immediately preceding the filing of this motion;
8. The above referenced court would have jurisdiction of the offense for which I was arrested.

Defendant's signature

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__.

Notary Public – State of Oregon

My Commission expires: _____

Submitted by:

Defendant's Name (Type or print)

Address

City State Zip Phone

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

STATE OF OREGON,

Plaintiff,

vs.

Defendant.

Case No.: _____

**ORDER SETTING ASIDE
ARREST**

THIS MATTER having come before the Court upon the Motion of the Defendant for an Order Setting Aside Arrest pursuant to ORS 137.225, the State of Oregon appearing by and through the District Attorney for Baker 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 Baker County.
2. The Oregon State Police Bureau of Identification and Information has made positive identification of the Defendant and Defendant is further identified by:

Full Name:	
Date of Birth:	Social Security No.:
State ID No.:	Date of Arrest:
Arrest Charge:	Arrest Agency:

3. The arrest should be set aside because (check one):

_____ No accusatory instrument was filed in connection with the arrest.
At least one year has elapsed since the date of arrest.

_____ Defendant was acquitted of the charge brought against him/her in connection with the arrest.

_____ The charge brought against Defendant in connection with the arrest was dismissed.

4. Defendant is not now under charge of commission of any crime;

5. Excluding motor vehicle violations, the defendant has not been convicted of any other offense within the ten (10) year period immediately preceding the filing of his/her motion to set aside the conviction in this case;
6. It appearing to the court that the circumstances and behavior of defendant from the date of the arrest to the date of the hearing on this motion so warrant, and being fully advised in the premises;

IT IS HEREBY ORDERED that the above arrest be, and the same is, hereby set aside, and for purposes of the law the defendant is hereby deemed not to have been previously arrest of said offense;

IT IS FURTHER ORDERED that the arrest is deemed not to have occurred, and the defendant may according answer any questions relating to their occurrence as if it had not occurred;

IT IS FURTHER ORDERED that the record of arrest and any other official records in the case be sealed, including investigation reports of involved law enforcement agencies concerning the alleged criminal episode; and

IT IS FURTHER ORDERED that the clerk of the court forward a certified copy of this order to the Bureau of Identification and Investigation, Department of Oregon State Police; Baker County Sheriff's Department; Baker City Police Department; Baker County Department of Community Corrections; and the Baker County District Attorney's Office.

DATED this ____ day of _____, 20_____.

Circuit Court Judge

Submitted by:

Defendant's Name (Type or print)

Address

City State Zip Phone

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER**

STATE OF OREGON,

Plaintiff,

vs.

,

Defendant.

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Case No.: _____

**CERTIFICATE OF DOCUMENT
PREPARATION**

You are required to truthfully complete this certificate regarding the documents you are filing with the court. Check all that apply and complete any blanks:

_____ I selected this document for myself, and I completed it without paid assistance.

_____ I paid, or will pay, money to _____
for assistance in preparing this document.

DATED this _____ day of _____, 20_____.

Signature

Print Name

Address

City

State

Zip

Telephone