

# HOW TO SET ASIDE A CONVICTION 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 how to set aside a conviction, not to advise you on Oregon law.

- You can find the Oregon law on setting aside a conviction in the Oregon Revised Statutes online at [https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](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.

There are two fees for Setting Aside a Conviction:

- \$281.00 For State of Oregon Filing Fee, made out to "State of Oregon" You can also use debit, credit card or cash.
- \$80.00 for background check, made out to "Department of State Police". You must pay for this background check with a money order.

## **WHAT IS A MOTION TO SET ASIDE A CONVICTION?**

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

## **WHAT TYPES OF CONVICTIONS QUALIFY FOR A MOTION TO SET ASIDE?**

- Most Class C felonies
- Most misdemeanors, including any violations of county or city ordinances
- Most crimes that the court can choose to punish as either a misdemeanor or a felony
- Most violation level offenses (under state or local law)
- Most crimes involving marijuana may qualify, regardless of classification, with the exception of those involving delivery to minors or occurring within 1000' of a school.
  - If you were convicted of a "qualifying marijuana offense" based on the following criteria, you may qualify for an expedited process. You will want to use the forms for Marijuana Conviction Set Aside.
    1. Conduct described in ORS 475B.301 or possession of less than one ounce of the dried leaves, stems, or flowers of marijuana;
    2. Committed prior to July 1, 2015; and
    3. The person has completed and fully complied with or performed the sentence of the court.
- Many class B felonies, including those for unlawful possession of a Schedule 1 controlled substance
- An offense committed before January 1, 1972 which present law would classify under the categories listed above, except for any sex crime or any crime which would constitute child abuse as defined in ORS 419B.005: Criminal Mistreatment 1 (ORS 163.205) or Endangering the Welfare of a Minor (ORS 163.575(1)(A)).

## **WHAT TYPES OF CONVICTIONS *DO NOT* QUALIFY FOR A MOTION TO SET ASIDE?**

- No convictions for traffic offenses may be set aside.
- No convictions for Class A felonies may be set aside with the exception of a conviction for manufacture, delivery or possession of marijuana under some circumstances.
- Class B felonies involving a firearm or classified as person crimes
- Most convictions for sex crimes
- Convictions for crimes constituting child abuse as defined in ORS 419B.005, Criminal Mistreatment 1 (ORS 163.205) if it involves a victim who was 65 or older at the time of the crime or constitutes child abuse as defined in ORS 419B.005, Criminal Mistreatment 2 (ORS 165.200) if it involves a victim who was 65 or older at the time of the crime, and Endangering the Welfare of a Minor (ORS 163.575(1)(A))

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

The other requirements depend on the type of conviction you are asking to have set aside.

If you have only one conviction for a qualifying C felony, misdemeanor, or violation level offense, you must wait three (3) years from your conviction date before you are eligible to have your conviction set aside. If you have been convicted of a qualifying B felony then you must wait twenty (20) years from your conviction date before you are eligible to have your conviction set aside.

In addition, you must have fully complied with and performed the sentence of the court. This means you do not qualify for a set aside of your conviction if you are still on probation, parole, or post-prison supervision. You also cannot have any pending criminal charges.

If you have more than one conviction, including any convictions for conduct associated with the conviction sought to be set aside, you must wait ten (10) years preceding the filing of this motion. Also, you must not have had any conviction set aside within the ten (10) year period preceding the filing of this motion. The court determines if the circumstances and the behavior of the applicant from the date of the conviction warrant an expungement.

If you have questions regarding whether your A felony, marijuana offense, conviction for conduct committed prior to 1972, or other conviction qualifies for a set aside, as well as the requirements for that set aside assuming it qualifies, you should speak with a lawyer to get legal advice.

## **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.

Fill in the blanks of the three forms enclosed in this packet (Motion, Declaration, and Order).

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 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) and the State of Oregon filing fee in person or by mail to:

Expungement Clerk  
Washington County Circuit Court - Law Enforcement Center  
215 S.W. Adams Street  
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 and your \$80.00 certified check or money order, made payable to "*Department of State Police*" 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 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 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.

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

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

**State of Oregon**

v.

**Case Number:** \_\_\_\_\_

**Motion To Set Aside  
Conviction and Arrest Records**

\_\_\_\_\_  
Defendant (*your name at time of conviction*)

\_\_\_\_\_  
AKA

**Def SID #:** \_\_\_\_\_ **FBI #:** \_\_\_\_\_ **Arresting Agency #:** \_\_\_\_\_

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The above-named defendant hereby moves the Court for an Order Setting Aside the Conviction 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

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

State of Oregon

v.

Case No: \_\_\_\_\_

**Declaration in Support of Motion  
To Set Aside Conviction and 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, and I am filing this Declaration in Support of Motion to Set Aside Conviction and Arrest Records pursuant to ORS 137.225.
2. This conviction occurred three or more years ago.
3. I have no criminal cases presently pending against me in any court.
4. I have had no other criminal convictions in the ten-year period immediately preceding the filing of this motion, excluding motor vehicle violations.
5. I have not had another conviction set aside within the ten-year period immediately preceding the filing of this motion.
6. I have fully complied with and performed all provisions of the sentence herein.

**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 1<sup>st</sup> Avenue  
Hillsboro, OR 97124

State of Oregon

v.

Case No: \_\_\_\_\_

**Order Setting Aside Conviction and  
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 the Conviction and 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 and convicted as follows:

<b><u>Setting Aside A Conviction and Arrest Records</u></b>		
Original Offense Date:		
Original Charge Description:		
Arresting/Citing Agency:		
Date of Conviction:		
Conviction Charge(s):		

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 conviction are found to warrant setting conviction and arrest records.

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

**It is hereby ordered** that the defendant's conviction and 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 convicted or 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

B) Oregon State Police

C) Oregon Department of Corrections

D) Washington County Community Corrections

E) Washington County Sheriff's Office

F) Washington County District Attorney's Office

**It is further ordered** that thereafter the record of conviction and 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.