

## Section C:

### Arrested and convicted of charge(s)

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

- The necessary forms to request this action
- A complete set of your fingerprints
- Certified check for \$80 made payable to Oregon State Police
- A clear understanding of the law in the matter. Carefully read ORS 137.225
- Documentation confirming that you fully complied with and completed all conditions imposed in your sentence
- The Court filing fee
- **Effective July 1, 2011**, the District Attorney's Office will begin charging \$100 for processing the paperwork for a 'Section C' expungement/setting aside action. Please provide the payment in cash, certified check, or money order, made out to the Benton County District Attorney's Office.

### PRIOR TO FILING

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

Complete the forms and have your signature on the Affidavit notarized or the Court Clerk at the Benton County Courthouse can witness your signature on the Affidavit. **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 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 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's 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. With their copies, also provide the set of your fingerprints and the certified check for the Oregon State Police along with the \$100.00 processing fee for the District Attorney's Office. You also may wish to submit any copies of documentation that confirm your compliance with the terms of your sentence. These could include records of payments and/or certificates of completion.

## **FILING YOUR PAPERS**

Submit your original documents in the Benton County Courthouse, Room 104, located at 120 NW 4<sup>th</sup> Street, Corvallis, 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 by mail if the Court denies your request, or if a hearing will be scheduled to consider your Motion.

**Fingerprints** - Fingerprinting is done at the 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 from 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 Conviction."

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

STATE OF OREGON, )  
 )  
 ) Plaintiff, )  
 vs. )  
 )  
 ) Case No. \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 )  
 ) Defendant. )

Comes now the Defendant in this matter, and respectfully moves the Court for an Order setting aside the conviction 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.

Date 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, )  
 )  
 ) Plaintiff, )  
 )  
 ) vs. )  
 )  
 )  
 )  
 ) Defendant. )

AFFIDAVIT IN SUPPORT OF MOTION  
TO SET ASIDE CONVICTION AND SEAL  
RECORDS OF ARREST

Case No. \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ) ss  
County of \_\_\_\_\_ )

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

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

This conviction occurred more than three [3] year ago. I have no criminal cases presently pending against me in any court. I have no criminal convictions in the ten [10] year period immediately preceding the filing of this motion, excluding motor vehicles violations. I have not had another 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.

I have fully complied with and performed all provisions of the sentence herein.

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

A complete set of my fingerprints, along with a certified check made payable to the Oregon State Police for their processing costs, has been served on the District Attorney of Benton County.

The arrest that I am seeking to have set aside occurred on \_\_\_\_\_.

The charge[s] that I was arrested for on the above date was [were] \_\_\_\_\_

\_\_\_\_\_.

Arresting agency and incident number \_\_\_\_\_.

The charge[s] that I was convicted of was [were] \_\_\_\_\_.

The date of my conviction was \_\_\_\_\_.

This conviction was not a Class A felony, or a Class B felony [excluding possession or delivery of a controlled substance].

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

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

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

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

