

PACKET C: Arrested and Convicted of Charge(s)

Things you will need to complete this process:

- The necessary forms to request this action
- \$252.00 filing fee to State of Oregon Linn County Circuit Court.
- A complete set of your fingerprints
- Certified check for \$80 made payable to the Oregon State Police
- A clear understanding of the law in the matter. Read the attached ORS 137.225 carefully.

PRIOR TO FILING Determine if your conviction is subject to Expungement - Convictions of all Class A felonies and most Class B felonies are **not** subject to expungement. Convictions of traffic offenses are **not** subject to expungement. Convictions of many Class C felonies and Class A misdemeanors are also **not** subject to expungement. Read ORS 137.225(5) carefully to make sure your conviction is subject to expungement. Even if your conviction does qualify, there is a longer waiting period if you were convicted of more than one offense. See ORS 137.225(6). If your conviction is excluded, the court has no authority to grant your motion and it will be denied.

Forms - There is a sample packet of forms to complete this process on this web page that you may download, they are also available at the Linn County Courthouse, first floor, room 107, Cashier counter. Ask for "Set Aside Packet C." You may use these forms as examples to either create or purchase your own, or you may use these as your forms to file your request. There should be five forms in the packet: the Motion, the Affidavit, the Order, Certificate of Document Preparation, and Certificate of Mailing.

You need to complete the forms and have your signature notarized on the Affidavit. The clerk can witness your signature on the Affidavit. Do not sign the Affidavit until you are in the presence of a Notary or the clerk. Complete all the information on the Motion and the Affidavit, but complete only your name and case number portions of 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 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, Affidavit, and Order. 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 in the Linn County Courthouse on the 1st floor. With their copies, also provide the set of your fingerprints and the certified check made payable to the Oregon State Police.

FILING YOUR PAPERS Submit the filing fee and your documents to the Linn County Courthouse, first floor, room 107, or by mail to: Linn County Courts, P.O. Box 1749, Albany, Oregon, 97321. Make sure that you have completed all the blanks on the Motion and the Affidavit, including your case number, and have filled in your name on the Order form. Make sure that you have signed and have had your signature witnessed on the Affidavit.

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 and the Court, (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. Certified copies will be sent to those agencies that have your arrest records and also to you. The Court will also order the Court's file which contains your request be sealed. If the Court denies your request, a notice will be sent to you advising you that your request was denied.

Fingerprints - Fingerprinting is done at the Linn County Courthouse on the 3rd floor in the Sheriff's office. There is a \$20 fee for Linn County Resident (with proper identification) or \$30 for non-residents.

Monday - Friday

8:30 a.m. - 11:00 a.m.

1:00 p.m. - 4:00 p.m.

If you are having your fingerprints taken to comply with Section C of this process, the fingerprint card should contain the notation in the REASON FINGERPRINTED section, "Motion to set aside conviction."

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

State of Oregon.

Plaintiff;

Case No. _____
Motion to Set Aside Records
of Arrest and Conviction

v.

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.

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

Signature of Defendant

AUTHORITY
ORS 137.225

Defendant's Date of Birth: _____

Defendant's Mailing Address

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

State of Oregon,

Plaintiff,

Case No. _____

v.

Affidavit in Support of Motion to
Set Aside Records of Arrest
and Conviction

Defendant.

STATE OF OREGON)

) ss

COUNTY OF LINN)

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 Linn 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 Linn County.

I am not now charged with the alleged commission of any crime.

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

The charge(s) that I was arrested for on the above date were

Arresting agency and incident number (if known): _____.

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 _____, _____.

Signature of Defendant

SUBSCRIBED AND SWORN TO before me this ____ day of _____, _____.

Notary Public of Oregon/Deputy Clerk of Court
My Commission Expires: _____

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

State of Oregon,

Case No. _____

Plaintiff,)

v.

ORDER TO SET ASIDE CONVICTION
AND SEAL RECORDS OF ARREST AND
CONVICTION

_____,
Defendant.

THIS MATTER having come before the Court upon the Motion of the Defendant for an Order Setting Aside Conviction and Sealing Records of Arrest, pursuant to ORS 137.225; the State of Oregon appearing by and through the District Attorney for Linn 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 Linn 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: _____

Convicted on the Charge(s) of: _____

NOW THEREFORE IT IS HEREBY ORDERED that the Defendant's arrest of _____ be, and the same is, hereby set aside and the Defendant herein is deemed not to have previously been arrested of said crime; and

IT IS FURTHER ORDERED that the record of arrest maintained by any law enforcement agency regarding the Defendant and the alleged criminal episode contained herein be, and the same is, hereby set aside and the Defendant 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 FURTHER ORDERED that thereafter the record of the Court and arrest herein shall be sealed together with other official Court records in this case, including investigation reports of involved law enforcement agencies concerning the alleged criminal episode.

IT IS SO ORDERED this _____ day of _____,

Circuit Court Judge

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

State of Oregon,

Plaintiff,

Case No. _____

**CERTIFICATE OF DOCUMENT
PREPARATION**

_____,
Defendant.

You are required to truthfully complete this certificate regarding the documents you are filing with the court.

Check all boxes and complete all blanks that apply:

- I selected these documents for myself, and I completed them without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this document.

Dated: _____, 20_____.

Signature

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

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

State of Oregon,

Plaintiff,

Case No. _____

CERTIFICATE OF SERVICE

_____,
Defendant.

STATE OF OREGON

COUNTY OF LINN

I, _____, do hereby certify that I have served the foregoing Motion to Set Aside Records of Arrest, Affidavit in Support of Motion to Set Aside Records of Arrest, Order to Set Aside and Seal Records of Arrest, and an original full set of defendant's fingerprints on the following party:

LINN COUNTY DISTRICT ATTORNEY'S OFFICE by delivering copies to:

Linn County District Attorney, Linn County Courthouse, P.O. Box 100, Albany, Oregon 97321

on ____ day of _____, 20__.

Dated this ____ day of _____, 20 __.

Signature of Defendant