

1 **Qualifications and Procedures for Setting Aside (Expunging) a Conviction or an Arrest Record**

2
3 **NOTE:** A fee is assessed when you file this document with the Court. See the amount associated with the category
4 titled **EXPUNCTION APPLICATION FILING FEE** on the **Fee Schedule** on this web site.

5
6 [Oregon Revised Statutes Section 137.225](#) provides that persons who meet certain qualifications can have a
7 misdemeanor conviction, or a conviction for certain lesser felonies set aside in a process sometimes called
8 expungement. The law also provides that persons who meet certain qualifications can have a record of arrest set
9 aside.

10
11 Please read the two situations below which describe qualifications that you must meet in order to be eligible to
12 participate in the set aside (expungement) process.

13
14 You may also read the [Oregon State Bar](#) information associated with the article **Clearing Your Record**. In the search
15 box type “set aside” then click the Search button.

16
17 **Qualifications For Setting Aside A CONVICTION**

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19 The offense you wish to set aside must be one of the following: a. a class C. felony; b. the class B. felony crime of
20 possession of marijuana more than 1 ounce; c. a misdemeanor, or; d. a violation (such as possession of less than an
21 ounce of marijuana, or, minor in possession of alcohol which does not carry a jail sentence).

22
23 The set aside process does not apply to traffic offenses such as driving under the influence of intoxicants, driving
24 while suspended, etc.

25
26 You will be disqualified from having a conviction set aside if any of the following applies to the situation: a. you were
27 convicted within a ten-year period immediately preceding the filing of the motion to expunge, of any other offense,
28 excluding motor vehicle violations, whether or not the other conviction is for conduct associated with the same
29 criminal episode that caused the conviction which is sought to be set aside; b. previously, you had a conviction set
30 aside; c. you have other criminal charges pending against you at the time of your motion to set aside a conviction, or;
31 d. you attempt to set aside the conviction on which you are currently serving probation . If you sign the affidavit in
32 support of your motion to set aside a conviction, and a district attorney discovers that you have been convicted of an
33 offense in this previous ten year time period it will be considered false swearing, which will result in a criminal
34 proceeding against you.

35
36 At least three (3) years must have elapsed from the date of the conviction to be set aside, and you must have fully
37 complied with the sentence of the conviction.

38
39 Dismissed cases do not have a waiting period to begin the set aside process. There is no charge for setting aside
40 dismissed, or, no action cases.

41
42 If you are not sure whether your conviction is eligible for expungement after reading the qualifications above please
43 call the Office of the Yamhill County District Attorney.

44
45 **Qualifications for Setting Aside an ARREST**

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47 There are no limitations as to the type of offense to which this set aside process may apply;

1 One (1) year must have elapsed from the date of the arrest, and no complaint was filed regarding the arrest;

2
3 The court must have entered an order of acquittal or dismissal of the charge;

4
5 You must not have any other previous arrest record set aside;

6
7 There are no limitations as to the type of offense to which this may apply;

8
9 You must not have been convicted within the ten-year period immediately preceding the filing of the motion of any
10 other offense;

11
12 You cannot have charges pending against you when you file your motion to expunge an arrest;

13
14 You must not have been arrested within the three-year period immediately preceding the filing of the motion for any
15 offense, excluding minor motor vehicles violations and excluding arrests for conduct associated with the same
16 criminal episode that caused the arrest that is sought to be set aside.

17
18 **Procedures To Set Aside A CONVICTION**

19
20 If you meet the qualifications above for setting aside a conviction contact the Office of the Yamhill County Sheriff
21 and schedule an appointment to have your fingerprints recorded. If you are not a resident of Yamhill County schedule
22 an appointment with your local law enforcement agency to have your fingerprints recorded.

23
24 Complete the form titled motion and affidavit of defendant to set aside arrest/conviction. Case specific information
25 can be obtained from a clerk of the Yamhill County Circuit Court. Make two (2) copies of the motion and affidavit of
26 defendant to set aside arrest/conviction. After your fingerprints have been recorded on the fingerprint card serve the
27 fingerprint card, **a copy** of the motion and affidavit of defendant to set aside arrest/conviction, and a check payable to
28 the Oregon State Police on the Office of the Yamhill County District Attorney. Oregon Revised Statutes 137.225
29 requires the processing fee and the staff in the Office of the Yamhill County District Attorney will inform you of the
30 current cost. As you serve the **copy** of the motion and affidavit of defendant to set aside arrest/conviction on a staff
31 member in the Office of the Yamhill County District Attorney, complete the portion of the motion and affidavit of
32 defendant to set aside arrest/conviction, which refers to the name of the person who was served in this office, along
33 with the date, and time. If you send all of the above by mail you should record the date your documents were mailed
34 on the motion and affidavit of defendant to set aside arrest/conviction.

35
36 File the **original** motion and affidavit of defendant to set aside arrest/conviction with a clerk of the court. You may
37 choose to mail the this document instead.

38
39 If the Office of the Yamhill County District Attorney agrees with your motion and affidavit of defendant a district
40 attorney will prepare an order recommending that your motion be granted without a hearing. If a judge signs the order
41 recommending that the conviction be set aside, a district attorney will send a copy of the order to you and to law
42 enforcement agencies listed in the order, instructing them to seal all records associated with the conviction. At that
43 time you may consider the conviction to not have occurred. The Office of the Yamhill County District Attorney will
44 distribute certified copies of the order setting aside conviction to the appropriate agencies, who will in turn seal their
45 records.

46
47 If the Office of the Yamhill County District Attorney objects to your order to set aside conviction, a court appearance

1 will be scheduled and a notice mailed to the address you write on the motion to set aside. On the scheduled date and
2 time you will be allowed to argue before the court.

3

4 Verify that your full name and current address appear in the areas provided on the forms.

5

6

Procedures To Set Aside An ARREST

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8 If you meet the qualifications above for setting aside an arrest follow the procedures written above which describe
9 setting aside a conviction, with the following exceptions:

10

11 You must sign the affidavit in the presence of a notary public. Do not sign the affidavit if you have been convicted of
12 a crime within the past ten (10) years. If you sign the affidavit in support of your motion to set aside an arrest, and a
13 district attorney discovers that you have been convicted of an offense in this previous ten year time period it will be
14 considered false swearing, which will result in a criminal proceeding against you. Verify that your full name and
15 current address appear in the areas provided on the forms.

16

17 If you have any questions about this procedure please contact the Office of the Yamhill County District Attorney.

18

19 **Note:** If you prefer, a motion to set aside a conviction (form 1131), and an affidavit in support of a motion to set aside
20 a conviction (form 1132) can be purchased from various stationary stores. Also a motion to set aside an arrest (form
21 1247), and an affidavit in support of a motion to set aside an arrest (form 1245) are available at the same stationary
22 stores.

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1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF YAMHILL

3)
4 State of Oregon)

5 Plaintiff,)

6 v.)

Case No. _____)

7)
8 Defendant.)

**MOTION AND AFFIDAVIT TO SET
ASIDE A RECORD OF ARREST**

9 COMES NOW the defendant and respectfully moves the court for an order to set aside a record of arrest in the above matter
10 pursuant to ORS 137.225. This motion is well founded in law and is made in good faith.
11

12 Full name: _____ Date of birth: _____

13 Mailing address: _____

14 Date of arrest: _____ Arresting agency: _____

15 Arrest charge(s): _____
16
17

18
19 _____

Signature of defendant

Signature of attorney for defendant

Bar number

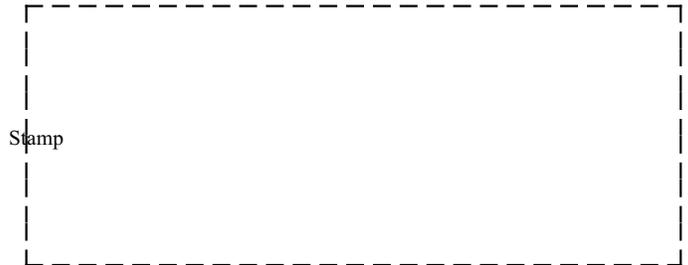
20
21
22 **AFFIDAVIT** I _____ hereby swear or affirm that I am
23 the defendant in the above-entitled matter and that the following is true and submitted in support of my motion to set aside the
24 above-described arrest:

- 25 ● At least one (1) year has lapsed since the date of my arrest and no formal written complaint or other accusatory instrument
26 has been filed against me, OR;
- 27 ● I have been found not guilty or acquitted of the charge(s) OR the charges have been dismissed by the state.
- 28 ● I understand that if there is a victim of the crime for which I was arrested, a copy of this motion will be provided to the
29 victim by the district attorney.
- 30 ● I have not been arrested in connection with any other state, city or federal offense (other than motor vehicle violations)
31 within the 3-year period immediately preceding the filing of this motion. This does not include any other arrest for conduct
32 associated with the same criminal episode that caused the arrest, which I now seek to have set aside.
- 33 ● I am not presently charged with a crime in this or any other state, city, justice or federal court.
34

35
36 Subscribed and sworn before me on the _____

37 day of _____ 2 _____

38
39 _____
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41 Signature of notary public / court clerk



42
43
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45 Printed name of district attorney staff member served

Date served (or mailed)

Time served

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF YAMHILL

3)
4 State of Oregon)

5 Plaintiff,)

6 v.)

Case No.: _____)

7)
8 Defendant.)

**MOTION AND AFFIDAVIT TO
SET ASIDE A CONVICTION**

9 COMES NOW the defendant and respectfully moves the court for an order to set aside the conviction in the above matter,
10 pursuant to ORS 137.225. This motion is well founded in law and is made in good faith.
11

12 Full name: _____ Date of Birth: _____

13 Mailing address: _____

14 Arresting agency: _____ Arrest date: _____

15 Conviction Charge(s): _____ Conviction date: _____

16 Disposition: _____
17
18
19

20 _____
21 Signature of defendant

Signature of attorney for defendant

Bar number

22
23 **AFFIDAVIT** I _____ hereby swear or affirm that I am
24 the defendant in the above-entitled matter and that the following is true and submitted in support of my motion to set aside the
25 above-described conviction:

- 26 • At least three (3) years have lapsed since the date of my conviction.
- 27 • I have fully complied with and performed the sentence of the court.
- 28 • My conviction is one of the offenses which ORS 137.225 allows to be set aside.
- 29 • I have not been convicted of any other state, city or federal offense (other than motor vehicle violations) within the ten-year
30 (10) period immediately preceding the filing of this motion. This includes any other conviction for conduct associated with
31 the same criminal episode that caused the conviction I now seek to have set aside.
- 32 • I have not previously had any other conviction set aside during the ten-year (10) period prior to this motion.
- 33 • I am not presently charged with a crime in this or any other state, city or federal court.

34
35
36 Subscribed and sworn before me on the _____

37 day of _____ 2 _____

Stamp

38
39
40
41 _____
42 Signature of notary public / court clerk

43
44
45 _____
46 Printed name of district attorney staff member served

Date served (or mailed)

Time served