

THE EXPUNCTION PROCESS FOR ADULT CONVICTIONS AND ARRESTS

This packet is meant to provide a brief overview of the process for having a conviction or an arrest record set aside, commonly known as an EXPUNCTION. A Motion to Set Aside is a legal proceeding for sealing a record of a criminal arrest and/or conviction. After such a motion is granted, all official records of the arrest and conviction are sealed. In the eyes of the law, the arrest or conviction did not occur and the record does not exist. This is beneficial for job and school applications, acquiring bonding, and other situations that question an individual's records. The process, while not complicated, is lengthy. This brief explanation is meant to inform, not advise, on Oregon Law. **AN ATTORNEY SHOULD BE CONSULTED ABOUT INDIVIDUAL SITUATIONS.**

A Motion to Set Aside is not automatically granted. The District Attorney's Office may oppose your Motion. You are not required to hire an attorney for the process. Court staff is prohibited by law from giving you **advice on legal matters**, including how to fill out the Motion and Affidavit. If you need help, you will have to research the law yourself, or consult an attorney. If the Motion does not comply with the law or your papers are filled out improperly, your Motion may be opposed by the District Attorney and denied by the Court.

The following is a general outline for the process:

1. If you do not have an attorney to do this work for you, fill out a Motion to Set Aside a conviction or arrest record and supporting Affidavit. The Motion and Affidavit are legal forms, which you may purchase at any legal stationery store. The Stevens-Ness Publishing Company prints these legal forms. If you cannot find the forms at a stationery store, you can call (503) 223-3137 or use website www.stevensness.com to obtain these forms. You must have the Affidavit notarized or you must bring it to the courthouse and in the presence of a deputy clerk of the court, swear to the truth of what you have written and sign the Affidavit in the presence of the clerk. Make sure that your current mailing address is on the forms.
 - a. You will need the case number (for a conviction, dismissed charge or acquittal), the arrest number of the arresting agency or the citation in lieu of custody number if there was an arrest with no charging instrument (Complaint, information or indictment) ever being filed. The case number can be located in the Clackamas County Circuit Court File Room. The arrest information can be provided to you by the arresting agency. If you do not know which police agency arrested you, you can call the Oregon State Police at (503) 378-3070 to obtain a copy of your criminal history. There may be a fee for this service.
2. You will need to complete and fill out the Oregon State Police Request for Set Aside Criminal Record Check which can be found on our website; this form requires:
 - a. Fingerprints taken on a fingerprint card form and;

- b. A check or money order in the amount of \$33.00, payable to Oregon State Police; this ONLY applies to convictions, there is no fee for setting aside an arrest
3. Submit the original Motion and Affidavit to the Court at the Information Center on the first floor of the Clackamas County Courthouse, 1000 Courthouse Road, Oregon City, Oregon, 97045.
4. Submit a copy of the original Motion and Affidavit to the District Attorney's Office, Clackamas County Courthouse, 1000 Courthouse Road, Oregon City, OR 97045.
5. After the District Attorney responds to your Motion, the court may grant your Motion without a hearing. If a hearing is to be held, you will be notified by mail of the date, time and location. Generally, the hearing will be held 90 days after you submit your Motion to the Court. Unless waived by the Court, your appearance at this hearing will be required. If a hearing is necessary, and you fail to appear, your Motion may be denied or dismissed. If the court grants your Motion without a hearing, you will be notified by mail of the court's decision. If you filed your Motion and Affidavit without the assistance of an attorney, the District Attorney's Office may prepare a final Order to be signed by the appropriate judge. You will receive a copy of the order. Certified copies of this order will be mailed to the police agencies.

WHAT TYPES OF CONVICTIONS OR ARREST QUALIFY FOR A MOTION TO SET ASIDE?

You must review of ORS 137.225, to determine if your conviction qualifies to be set aside. A copy of this statute has been included with this packet.

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

The legal requirements to file a motion to set aside a conviction are set out in ORS 137.225. You should also review this statute to determine what requirements must be met to set aside a Record of dismissal, acquittal or arrest.

WHO SHOULD PREPARE THE LEGAL PAPERS AND ADVISE ME?

An attorney is recommended. If you do not have a regular attorney, you can call the Oregon State Bar Lawyer Referral Services at (503) 684-3763. Outside the Portland area call toll free 1-800-452-7636. As in other legal proceedings, you have the right to represent yourself without an attorney. This may be unwise, particularly if the State intends to oppose your Motion to set-aside.

CAN THE RECORD BE REOPENED?

The setting aside of an arrest or a conviction does not absolutely close the records. The court could be asked to unseal your record, but only exceptional circumstances would justify this.

MOTION TO SET ASIDE ADULT ARRESTS OR CONVICTIONS

Oregon Revised Statute 137.225 outlines when you are eligible to bring a motion to set aside your adult arrest or conviction; and, the type of arrest or conviction that qualifies for a motion to set aside.

IF YOU ARE MOVING TO SET ASIDE A CONVICTION, YOU ARE NOT REQUIRED TO FILE A SEPARATE MOTION TO SET ASIDE THE ARREST THAT RESULTED IN THE CONVICTION.

LOCATING THE CASE NUMBER ON CITATION IN LIEU OF CUSTODY OR CHARGES FILED BY THE DISTRICT ATTORNEY

If you need the Court to search the case number or citation number associated with the charge which you are seeking to set aside, or require a copy of the judgment of conviction, dismissal or acquittal, you must make a search request. These documents are not necessary for your Motion; however, you will need the associated case numbers. A search request must be made in Room 12 of the Clackamas County Courthouse. To initiate the search, court staff must have the following information: 1) Your complete name and any alias names under which you may have been charged; 2) Your date of birth, and any dates of birth associated with any alias under which you may have been charged; and 3) The arrest date on the charge. You must pick up this information in person. If you are not able to pick up this information in person you may make your request in writing. Information will not be provided on the phone. Charges may apply and vary by request.



OREGON STATE POLICE

REQUEST FOR SET ASIDE CRIMINAL RECORD CHECK

(Effective 1/1/2022)

The following information is required to ensure timely completion of your criminal record check request for set aside purposes. Please ensure all information is accurate and the \$33.00 fee is included to avoid delays in processing.

NAME _____
(First) (Middle) (Last)

DATE OF BIRTH _____ PHONE NUMBER _____
MM/DD/YYYY

MAILING ADDRESS _____

OTHER NAMES YOU ARE KNOWN BY (Ex: Maiden Name, Name used at time of arrest):

1. NAME _____
(First) (Middle) (Last)

2. NAME _____
(First) (Middle) (Last)

3. NAME _____
(First) (Middle) (Last)

CIRCUIT OR MUNICIPAL COURT IN WHICH YOU ARE SEEKING A SET ASIDE

(Example: Circuit Court for Wasco County, Municipal Court for City of Springfield)

- | | |
|----------|-----------|
| 1. _____ | 6. _____ |
| 2. _____ | 7. _____ |
| 3. _____ | 8. _____ |
| 4. _____ | 9. _____ |
| 5. _____ | 10. _____ |

Does the motion to set aside include a conviction? YES ☐ NO ☐

THE FOLLOWING MUST BE INCLUDED WITH THIS FORM AND MAILED TO OREGON STATE POLICE:

- ☐ Fingerprint Card Form
- ☐ Fee for set aside of CONVICTION. Include check or money order in the amount of \$33.00, payable to Oregon State Police.

Please note that Oregon law requires the results of the background check be returned to the prosecuting attorney(s) for each county or municipality included within the set aside motion application. This form and the fingerprint card will not be returned to you. OSP will not be contacting you upon completion of the criminal record check.

SET ASIDE CRIMINAL RECORD CHECK SUBMISSIONS TO OSP UNDER ORS 137.225 / ORS 137.223

Effective January 1, 2022 (SB397)

The process to apply for the set aside of a criminal arrest or conviction by a court will change effective January 1, 2022, as a result of Senate Bill 397. The following outlines the steps necessary for submission of fingerprints to Oregon State Police under ORS 137.225 (2)(c) and ORS 137.223(3)(c) as amended by the Oregon Legislature.

1. FINGERPRINTS

- a. Obtain a properly rolled, complete set of your fingerprints using the FBI standard blue applicant fingerprint card (FD-258). An example of this fingerprint card can be viewed at:
<https://www.edo.cjis.gov/artifacts/standard-fingerprint-form-fd-258-1.pdf>
Please contact a local criminal justice agency or public fingerprinting service for information regarding availability and any fee that may apply for these services.
- b. The following are required fields and must be completed on the fingerprint card form in order to avoid rejection of your request.
 - Printed Name of person filing a motion
 - Signature (manual fingerprinting only) of person filing a motion
 - Fingerprinting Official signature and date
 - Date of Birth of person filing a motion
 - Reason Fingerprinted: (must include one of these applicable references)
 - **APPLICATION FOR SET ASIDE ORS 137.225**
 - **APPLICATION FOR SET ASIDE ORS 137.223**

2. SET ASIDE FORM/FEE

- a. Complete all information on the [OSP REQUEST FOR SET ASIDE FORM](#).
Please note that Oregon law requires the results of the background check be returned to the prosecuting attorney(s) for each county or municipality included within the set aside motion application.
- b. The fee for an Oregon fingerprint-based Criminal record check for motions to set aside convictions is \$33.00.

3. MAIL THE COMPLETED PACKET TO OSP

- a. The request must include all of the following items:
 - A completed fingerprint card as noted above.
 - Completed OSP Set Aside Request form
 - Check or money order in the amount of \$33.00, payable to Oregon State Police for motions to set aside convictions.
 - Mail the completed packet to:

Oregon State Police, CJIS – Unit 11

ATTN: SET ASIDE

P.O. Box 4395

Portland, OR 97208-4395