

Setting Aside Records of Conviction/Arrest Oregon Revised Statute 137.225

This packet is meant to instruct you on the procedure to file a request to set aside a conviction/arrest, not to advise you on Oregon law. Molalla Municipal Court staff cannot give you legal advice. You do not need to hire an attorney to complete this process; however, an attorney should be consulted for any legal advice and to assist in individual situations.

You may refer to the online version of the Oregon Revised Statutes at www.leg.state.or.us/ors.

FEES

- You must pay a \$252 filing fee to the Molalla Municipal Court for each case. Checks should be made payable to Molalla Municipal Court.
- You must pay an \$80 fee to the Oregon State Police. A cashier's check or money order, payable to the Oregon State Police, is required (cash or personal checks are not accepted).
- You will need to have a complete set of fingerprints taken. Most police agencies offer this service for a fee of \$15-\$20.

WHAT IS A MOTION TO SET ASIDE A CONVICTION/ARREST?

A Motion to Set Aside a Conviction/Arrest, if granted by the court, sets aside the records of conviction/arrest and the applicant is deemed not to have previously been convicted or arrested.

The court orders the records of the conviction/arrest, and any other official records in the case, to be sealed. In the eyes of the law, the violation that led to the conviction/arrest did not occur and the records do not exist. Law enforcement agencies are required to seal their investigative reports of the incident.

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

A brief summary of eligibility requirements is provided below. It does not include specific advice about your case. You may wish to consult an attorney who will review your criminal history and advise you regarding applicable laws and how to proceed with this motion. Refer to ORS 137.225 to determine what requirements must be met to set aside a record of conviction.

- Class "B" felony (exceptions listed in ORS 137.225)
- Class "C" felony (exceptions listed in ORS 137.225)
- Misdemeanor, including any violations of county or city ordinances (exceptions listed in ORS 137.225)
- Crime punishable as either a misdemeanor or felony at the discretion of the court (exceptions listed in ORS 137.225)
- Violation (under state or local law)
- Crimes involving marijuana (when punishable as a felony only)

- An offense committed before January 1, 1972, which present law would classify under the categories listed, except for any sex crime or any crime which would constitute child abuse as defined in ORS 419B.005: Criminal Mistreatment I (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?

- Convictions for Class A and B felonies may not be set aside.
- Convictions for state or municipal traffic offenses may not be set aside.
- Convictions for criminal mistreatment in the first or second degrees, if the victim was 65 or older at time of incident, may not be set aside.

You should consult an attorney for advice if you have any questions whether a conviction/arrest is eligible to be set aside.

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

If you have only one conviction:

- (a) You must wait three years from the date of the conviction.
- (b) You must have fully complied with and performed the sentence of the court.
- (c) You must not have any pending criminal charges.

If you have more than one conviction, but including any convictions for conduct associated with the conviction sought to be set aside:

- (a) You must wait ten years preceding the filing of this motion.
- (b) You must not have had any conviction set aside within the ten-year period preceding the filing of this motion.

The court will determine if the circumstances and behavior of the applicant from the date of the conviction/arrest merit the granting of an order to set aside the conviction/arrest.

WHAT ARE THE STEPS FOR CLEARING A RECORD

Review the attached forms which you are to fill out. Call the Molalla Municipal Court at 503-829-7711 to request copies of court documents in your case which will give you the information needed to fill out the forms. There may be a fee associated with this request.

Fill in the blanks of the three forms attached (Motion, Affidavit, and Order). Look at the blue "EXAMPLE" forms to help you determine what lines need to be filled in.

You must sign the Affidavit in Support of Motion to Set Aside Records of Conviction and Arrest in front of a notary public or the municipal court clerk (if mailing your documents, you must personally sign before a notary public). Please read the Affidavit carefully before signing as you are swearing to its contents. (Note: A notary public commissioned in Oregon may only notarize documents signed in Oregon, Washington State notary public may only notarize documents signed in Washington State, etc.)

You will also need to submit a card containing a complete set of your fingerprints. Most police agencies offer this service for a fee. The agency will provide a fingerprint card to you, and the person taking 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 it is signed. The reason given for fingerprinting is *Motion to set aside conviction/arrest*.

After completing and signing the forms, **make two copies of the Motion, Affidavit and Order** and distribute the documents as follows:

Original: Submit the original forms (the ones with your original signature) and \$240 filing fee to the Molalla Municipal Court in person or by mail:

Molalla Municipal Court
117 N. Molalla Ave.
PO Box 248
Molalla, OR 97038

First copy/City Attorney: Write **Certified True Copy** at the top of the City Attorney's copy then date and sign it. Submit this copy, along with your fingerprint card and \$80 cashier's check or money order, to the Molalla City Attorney's Office in person or by mail:

City Attorney's Office
117 N. Molalla Ave.
PO Box 248
Molalla, OR 97038

If you drop off your documents personally, an employee with the City Attorney's Office can date stamp your copy as proof that you have submitted it.

Second copy: This copy is for your records.

If you have any questions about the process or filling out your forms, please contact the Molalla Municipal Court at 503-829-7711.

You have now filed your motion. **The entire process may take several months from the time of filing before an order is signed by the Municipal Court Judge and your records are sealed.**

WILL A COURT HEARING BE SCHEDULED?

Objection: If the City Prosecutor objects to your Motion, a hearing will be scheduled before the Municipal Court Judge. You will be notified by mail of the hearing date. You should be prepared to state why you believe you are eligible to have your records sealed. The City Prosecutor will argue why you may not be eligible. The Municipal Court Judge will then decide whether or not your records can be sealed. You may represent yourself or hire an attorney for this hearing. The court does not appoint attorneys for these matters.

No objection: If the City Prosecutor has no objection to your application, the Order will be forwarded to the Municipal Court Judge for signature without a formal hearing. You will receive a certified copy of the signed Order in the mail. Upon receipt of the signed Order, you will know that your records will be sealed.

HOW DO MY RECORDS GET SEALED?

Upon receipt of the signed Order, the Municipal Court clerk enters the Order, seals the court records and removes them from 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 conviction/arrest records do not absolutely eliminate the records. The court could be asked to unseal your records, but only exceptional circumstances would warrant this request. A court order is required to unseal the records.

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
 Plaintiff,) No. _____
 v.)
)
 _____,) AFFIDAVIT IN SUPPORT OF
) MOTION TO SET ASIDE RECORDS OF
 Defendant.) CONVICTION AND ARREST

STATE OF _____)
) ss.
 County of _____)

I, _____, do hereby depose and say that:

1. I am the defendant herein, and I am filing this affidavit in support of the motion to set aside records of conviction and arrest pursuant to ORS 137.225.
2. This conviction occurred more than three 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.

7. Attached hereto is a copy of the full set of my fingerprints to be served on the City Attorney's Office along with a copy of the motion to set aside records of conviction and arrest and affidavit in support of the motion.

DATED this ____ day of _____, 20____.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20____.

Notary Public of _____ / Court Clerk
My Commission expires: _____

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)	
)	
Plaintiff,)	No. _____
v.)	
)	
_____,)	MOTION TO SET ASIDE RECORDS OF
)	CONVICTION AND ARREST
Defendant.)	

Pursuant to the provisions of ORS 137.225, the above-named defendant hereby moves the Court for an Order Setting Aside the Records of Conviction and Arrest herein and sealing the official records in this case.

This motion is based upon the record herein and upon the facts set forth in the Affidavit filed herein.

DATED this _____ day of _____, 20_____.

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
 Plaintiff,) No. _____
 v.)
)
 _____,)
 Defendant.) ORDER SETTING ASIDE RECORDS OF
) CONVICTION AND ARREST

THIS MATTER having come before the Court upon the Motion of the defendant for an Order Setting Aside Records of Conviction and Arrest, pursuant to ORS 137.225, and the Court having reviewed the records and file herein, and now being fully advised, the Court finds as follows:

1. That the defendant was arrested and convicted as follows:

Original Arrest Date: _____

Original Arrest Charge: _____

Arresting Agency: _____

Date of Conviction: _____

Conviction Charge: _____

2. That positive identification of the defendant has been established as follows:

FBI Identification Number: _____

Oregon State
Identification Number: _____

Arresting Agency Number: _____

3. That the circumstances and behavior of the defendant since the date of conviction are found to warrant setting aside records of that conviction and arrest.

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

IT IS HEREBY ORDERED that the defendant's conviction and arrest herein should be and the same are 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.

IT IS FURTHER ORDERED that the Municipal Court Clerk shall forward a certified copy of this Order to all law enforcement agencies mentioned in the court's file, including the following:

- (a) Federal Bureau of Investigation,
- (b) Oregon State Police,
- (c) State of Oregon Department of Corrections, and
- (d) Molalla Police Department.

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IT IS FURTHER ORDERED that thereafter the records of conviction and arrest shall be sealed together with all other official records in this case, including investigation reports of the involved law enforcement agencies concerning the criminal episode.

DATED this _____ day of _____, 20_____.

Municipal Court Judge

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
Plaintiff,) No. [COURT CASE NUMBER]
v.)
)
[YOUR FULL NAME],) AFFIDAVIT IN SUPPORT OF
) MOTION TO SET ASIDE RECORDS OF
) CONVICTION AND ARREST
Defendant.)

STATE OF [FILL IN])
) ss.
County of [FILL IN])

I, [PRINT FULL NAME], do hereby depose and say that:

1. I am the defendant herein, and I am filing this affidavit in support of the motion to set aside records of conviction and arrest pursuant to ORS 137.225.
2. This conviction occurred more than three 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.

7. Attached hereto is a copy of the full set of my fingerprints to be served on the City Attorney's Office along with a copy of the motion to set aside records of conviction and arrest and affidavit in support of the motion.

DATED this ____ day of _____, 20____.

*[YOUR SIGNATURE **Must be signed in front of a Notary/court clerk]*

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20____.

Notary Public of _____ / Court Clerk
My Commission expires: _____

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
 Plaintiff,) No. [COURT CASE NUMBER]
 v.)
)
 [YOUR FULL NAME],)
) MOTION TO SET ASIDE RECORDS OF
) CONVICTION AND ARREST
 Defendant.)

Pursuant to the provisions of ORS 137.225, the above-named defendant hereby moves the Court for an Order Setting Aside the Records of Conviction and Arrest herein and sealing the official records in this case.

This motion is based upon the record herein and upon the facts set forth in the Affidavit filed herein.

DATED this _____ day of _____, 20_____.

[YOUR SIGNATURE]

[PRINT FULL NAME]

[STREET ADDRESS]

[CITY, STATE, ZIP]

[PHONE NUMBER]

IN THE MUNICIPAL COURT OF THE CITY OF MOLALLA
FOR THE STATE OF OREGON, COUNTY OF CLACKAMAS

STATE OF OREGON,)
)
Plaintiff,) No. [COURT CASE NUMBER]
v.)
)
[YOUR FULL NAME],)
) ORDER SETTING ASIDE RECORDS OF
) CONVICTION AND ARREST
Defendant.)

THIS MATTER having come before the Court upon the Motion of the defendant for an Order Setting Aside Records of Conviction and Arrest, pursuant to ORS 137.225, and the Court having reviewed the records and file herein, and now being fully advised, the Court finds as follows:

1. That the defendant was arrested and convicted as follows:

Original Arrest Date: [FILL IN]

Original Arrest Charge: [FILL IN]

Arresting Agency: [FILL IN]

Date of Conviction: [FILL IN]

Conviction Charge: [FILL IN]

2. That positive identification of the defendant has been established as follows:

FBI Identification Number: [LEAVE BLANK]

Oregon State
Identification Number: [LEAVE BLANK]

Arresting Agency Number: [LEAVE BLANK]

3. That the circumstances and behavior of the defendant since the date of conviction are found to warrant setting aside records of that conviction and arrest.

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

IT IS HEREBY ORDERED that the defendant's conviction and arrest herein should be and the same are 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.

IT IS FURTHER ORDERED that the Municipal Court Clerk shall forward a certified copy of this Order to all law enforcement agencies mentioned in the court's file, including the following:

- (a) Federal Bureau of Investigation,
- (b) Oregon State Police,
- (c) State of Oregon Department of Corrections, and
- (d) Molalla Police Department.

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IT IS FURTHER ORDERED that thereafter the records of conviction and arrest shall be sealed together with all other official records in this case, including investigation reports of the involved law enforcement agencies concerning the criminal episode.

DATED this _____ day of _____, 20____.

Municipal Court Judge