



CRIMINAL SET-ASIDE

A set-aside is sometimes called expungement or expunction. It means that the court record of a criminal case is sealed by the court and will not appear in official court records. You should be aware that set-aside cases can be unsealed in certain limited circumstances.

These procedures are based on ORS 137.225. Court staff is prohibited from giving legal advice. If you have any questions please contact an attorney.

Important Contact Information

- Oregon State Bar Lawyer Referral Service www.oregonstatebar.org
Phone: 503-684-3763 or toll-free in Oregon at 800-452-7636
- If you are deployed or about to be deployed, contact the Oregon State Bar Military Assistance Panel (www.osbar.org/docs/ris/militaryflier.pdf) for information about special rights and rules that may apply to you.

CAN I ASK THE COURT TO ORDER A SET-ASIDE IN MY CASE?

You can file a Motion with the court to ask for a set-aside if you were:

- convicted of a crime or violation
- charged with a crime or cited for a violation that resulted in dismissal or acquittal or
- arrested or cited but not charged

And

- you have fully complied with and completed all elements of your sentence including restitution and probation
- you have not been charged with or convicted of another crime (other than a motor vehicle violation) or found guilty except for insanity of any crime or for more than one violation for the years before filing your motion as listed below
- you do not have any charges pending at the time of filing and
- none of the following exceptions apply:
 - A conviction for a state or municipal traffic offense
 - Actions brought by federal, tribal, or other state's law enforcement
 - Actions brought in a Circuit Court



But the following waiting periods apply: (Note that any prior set-asides granted will be counted when calculating the waiting periods below)

Waiting periods for Convictions:

For charge of:	Years since date of conviction:	Years prior to filing: You cannot have been charged with or convicted of a crime other than a motor vehicle violation or found guilty except for insanity for the previous:
Misdemeanor punishable by a fine not exceeding \$1,000 and imprisonment not exceeding one year. See Medford Municipal Code 5.990(1).	3 years	3 years
Misdemeanor punishable by a fine not exceeding \$1,000 and imprisonment not exceeding six months. See Medford Municipal Code 5.990(3).	1 year	1 year
Misdemeanor punishable by a fine not exceeding \$500 and imprisonment not exceeding 30 days. See Medford Municipal Code 5.990(4).	1 year	1 year
Violation	1 year	1 year

Waiting periods for ARRESTS, CHARGES, or CITATIONS that are not pursued:

- Any time after 60 days from the date the prosecuting attorney indicates that the City will not proceed with prosecution or contempt charge, and
- No convictions for the years prior to filing as specified above



Waiting periods for ACQUITTALS or DISMISSED CHARGES:

- Any time after the acquittal or dismissal, and
- No convictions for the years prior to filing as specified above

HOW DO I ASK FOR A SET-ASIDE?

- 1. Prepare Required Documents:** Fill out the *Motion to Set Aside and Declaration in Support*, including the Certificate of Mailing.

Your case number is the same as the original case number you are wishing to set-aside. If you never had a court case number, leave that line blank.

Parties

If you are filing about an arrest record with no charges filed:

- YOU are the Plaintiff
- The prosecuting attorney is the Defendant

If you are filing for any other reason:

- "City of Medford" is the Plaintiff
- YOU are the Defendant

- 2. Copies:** Make 2 copies of your forms - one for your records, and one to serve on the prosecuting attorney.
- 3. File Documents with the Court:** Submit your original documents to the Medford Municipal Court at 411 W. 8th St., Room 210, Medford, OR 97501. There is no court fee to file this Motion.
- 4. Serve the Prosecuting Attorney:** Mail or deliver copies of all documents to the Medford City Attorney's Office at 411 W. 8th St., Room 260, Medford, OR 97501.
- 5. IMPORTANT: You must also have your fingerprints taken on a fingerprint card (or as specified by the Department of State Police) and**
 - send them to the Department of State Police
 - pay the fee that the department charges for a criminal record check *and*
 - complete the department's Request for Set Aside form

The department will send the results to the prosecuting attorney.

Additional information is available on the department's website:

www.oregon.gov/osp/programs/cjis/Pages/Criminal-Justice-Information-Services.aspx



WHAT HAPPENS NEXT?

The prosecuting attorney has 120 days after you file to notify the court if they object to your Motion. If an objection is filed, the court will hold a hearing. Be sure the court always has contact information where they can reach you. If a hearing is scheduled and you do not appear, you may not be granted a set-aside. If your request is granted the court will send copies of the Order to the necessary agencies. The record of the proceeding you asked to set aside will be sealed, meaning it will not be viewable through official court records or by court staff. Be aware that sealed records can be unsealed under certain limited circumstances. Talk to a lawyer if you are concerned about unsealing records in the future. If your request for set-aside is granted, ORS 137.255(4) states that “upon entry of the order, the conviction, arrest, citation, charge or other proceeding [ordered set aside by the court] shall be deemed not to have occurred, and [you] may answer accordingly any questions relating to its occurrence.”