



CRIMINAL EXPUNGEMENT IN OREGON

This is not intended as legal advice. Please contact an attorney for specific information.

How is my criminal record hurting me? There are over 1,000 provisions in Oregon law that can create barriers to: housing, employment, education, occupational/professional license and certification, recreational licenses, and political and civil involvement.

What is expungement? Record sealing in Oregon (ORS137.225) removes the offense from the Oregon eCourt Case Information and means the person is “...deemed not to have been previously convicted, or arrested...” Once expunged, you can legally say no to questions about that arrest or conviction on employment and housing applications.

What can be expunged? Arrests, acquittals, dismissals, and some convictions can be expunged. Certain crimes, such as mistreatment of children and the elderly, sex crimes, and traffic crimes are not expungable. Federal crimes and crimes outside of Oregon cannot be expunged in Oregon.

What can impede an expungement?

- No pending criminal charges anywhere.
- All court fines and fees must be paid, regardless of the county.
- There are statutory waiting periods depending on the level of offense.
- If probation was revoked, must wait 3 years from revocation to apply for expungement.

What is the process to expunge a criminal record?

1. File a Motion with the court in the county where the arrest, acquittal, dismissal, or conviction happened, using the criminal case number. You will need to provide a fingerprint card and an \$80 fee payable to the Department of State Police. Some counties also require an accounting statement.
2. The prosecutor may object by notifying the court within 120 of the filing date of the motion.
3. If an objection is received to an expungement motion, the court shall hold a hearing.
4. The victim shall be allowed to make a statement.
5. To deny expungement, the court must find in writing, *by clear and convincing evidence*, that the circumstances and behavior of the person, from the date of the conviction to the date of the hearing on the motion, create a risk to public safety.
6. Upon the entry of the order, the person, for purposes of the law, shall be deemed not to have been convicted, arrested, or charged for that offense.
7. Once a person receives an order granting expungement, they can notify the Foundation for Continuing Justice at www.continuingjustice.org. They can apply online or by mail-in a form along with a copy of the Order to Set Aside signed by the judge. After they apply, the Foundation will update their criminal record clearinghouse database, which is accessed by over 500 independent companies nationwide. It will take several months for the process to be completed. This service is completely free and it can really help.

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How do I know if I am eligible for criminal expungement? The law specifies certain waiting periods for applying for expungement. Here are the waiting periods:

CONVICTIONS	WAIT AFTER LATER OF CONVICTION DATE OR RELEASE FROM IMPRISONMENT
CLASS B FELONY (Non-person, Non-firearm)	7 YEARS (before January 2022, 20 years)
CLASS C FELONY	5 YEARS
CLASS A MISDEMEANOR	3 YEARS
CLASS B or C MISDEMEANOR, VIOLATION, CONTEMPT	1 YEAR

ARRESTS WITHOUT CONVICTION	WAIT TIME (As of January 2022, no longer blocked by others)
NO COMPLAINT	60 DAYS FROM DATE THE STATE ELECTS NOT TO PROCEED WITH CHARGE (before January 2022 was 1 year)
DISMISSAL OR ACQUITTAL	ANY TIME AFTER ACQUITTAL/DISMISSAL

Where can I get more information or assistance with the forms? For more information or to see if you qualify, contact your local legal aid office.

Albany Regional Office – LASO (541) 926-8678
Serves Linn and Benton Counties

Bend/Central Oregon Regional – LASO (541) 385-6944 / (800) 678-6944
Serves Crook, Deschutes, Jefferson Counties & the Warm Springs Reservation

Hillsboro Regional Office – OLC (503) 640-4115 / (877) 296-4076
Serves Washington County

Klamath Falls Regional Office – LASO (541) 273-0533
Also serves Lake County

Lincoln County Office – LASO (541) 265-5305 / (800) 222-3884

Pendleton Regional Office – LASO (541) 276-6685 / (800) 843-1115
Serves Gilliam, Morrow, Umatilla, Union, Wallowa, Wheeler Counties

Portland Regional Office – LASO (503) 224-4086 / (800) 228-6958
Serves Clackamas, Hood River, Multnomah, Sherman, Wasco Counties

Douglas County Office – LASO (541) 673-1181 / (888) 668-9406

Salem Regional Office – LASO (503) 581-5265
Serves Marion & Polk Counties



OTHER EXPUNGEMENTS IN OREGON

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Juvenile Expunction (ORS 419A.260)

What can be expunged? Generally, information about a child's behavior that resulted in contact with law enforcement, juvenile court/department, Psychiatric Security Review Board, Department of Human Services and Oregon Health Authority, may be expunged, with some exceptions. Appellate court records and certain serious crimes can't be expunged.

When can juvenile records be expunged?

- When the person is at least 18 years old and was never under the court's jurisdiction; or
- The court finds expunction is in the best interests of the person and the public; or
- At least 5 years since the case was dismissed; and
 - There are no pending juvenile or criminal proceedings;
 - Juvenile department is aware of no pending law enforcement investigation; and
 - The person has not been convicted of a felony or Class A misdemeanor since the juvenile case was dismissed.

Contact the Oregon State Bar to be referred to an attorney: <https://www.osbar.org/public/ris/> or call 503-684-3763 or toll-free in Oregon at 800-452-7636.

Eviction Expungement (ORS 105.163, as amended by SB 282)

What can be expunged? Evictions can be expunged if:

- The final court judgment is at least 5 years old and the tenant doesn't owe money;
- The judgement is based on claims between April 1, 2020 and March 1, 2022 and tenant doesn't owe any money included in the judgement;
- The landlord and tenant made a court agreement and tenant complied with all terms; or
- The eviction was dismissed before or after trial.

What is the process to expunge an eviction record?

1. Tenant fills out the Motion to Set Aside Residential Eviction Judgment and files it with the county court where the eviction happened. Use the case number for the eviction you are trying to expunge. There are no filing fees.
2. Tenant mails a copy of the form to the landlord in the eviction case.
3. Landlord has 30 days, from the date that the tenant mails the form, to object to the expungement.
4. If the landlord files an objection, the court must schedule a hearing. If the landlord does not object, the court must enter an appropriate order setting aside the judgment and sealing the official record of the eviction. When this order is entered, the eviction judgment is officially deemed not to exist.

Visit www.oregonrentersrights.org for more information on eviction expungement and forms.

Legal Aid Services of Oregon and Oregon Law Center stand in solidarity with the Black community.

We denounce the brutal killing of George Floyd and all Black, Indigenous, and other People of Color (BIPOC) at the hands of the police and others who oppress them, whether in Minnesota, Oregon or anywhere in our nation.

As legal aid organizations, our mission is to achieve justice for the low-income communities of Oregon by providing a full range of the highest quality civil legal services. We emphasize the right of our clients to decide the solutions that we pursue for the issues they face, and our clients have long told us that racial discrimination is a critical barrier preventing them from escaping poverty. We are responsible to our clients to work to dismantle systemic racism and white supremacy as we fight for economic justice on their behalf.

Legal aid lawyers and staff across the state will continue to work together to bring equity, justice, and integrity into our communities and our legal system.

**EXPUNGEMENT
IN OREGON
A BRIEF OVERVIEW**

What Employment Advocates Should Know

Tiffany Smith, Attorney

Legal Aid Services of Oregon

October 27, 2021

DOES IT MATTER?

- Nationally, half of all children have a parent with a conviction
- Formerly-incarcerated people at risk of homeless (>70%)
- 82% of employers conduct background checks
- People with criminal records make significantly less \$

WHY DOES IT MATTER?

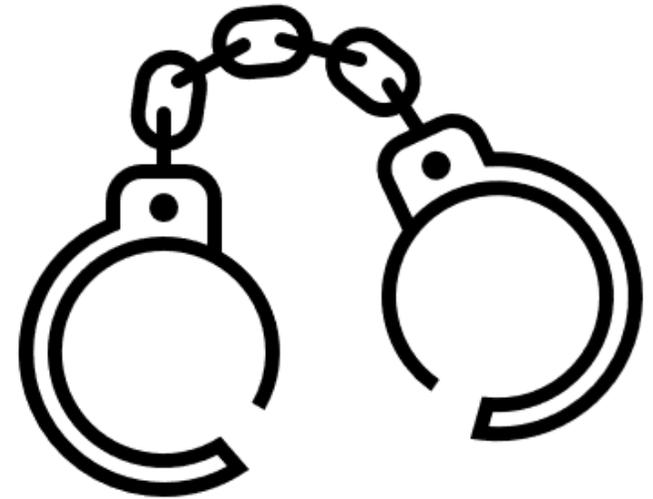
Over 1,000 provisions create “collateral consequences” effecting...

- Housing
- Employment
- Education
- Occupational/professional licenses & certifications
- Recreational licenses
- Political & civic participation (voting, jury service, political offices)

WHY DOES IT MATTER?

Approximately 1.4M people in Oregon have criminal records

At the current rate, it would take 77 years to clear the backlog in Oregon!



LEGAL AID HELPS

Legal Aid Services of Oregon (LASO) provides free civil legal services to low-income and elderly people throughout Oregon who couldn't otherwise afford an attorney. We use our limited resources to provide access to justice, a fundamental American value, to serve only the most critical needs—food, shelter, and physical safety.

WHAT IS EXPUNGEMENT?

- Record Sealing - “...deemed not to have been previously convicted, or arrested...” ORS 137.225(4)
- Physical file becomes inaccessible
- OECL wiped clean
- Can legally say no to questions about arrests and conviction (for the offenses expunged)



EXPUNGEMENT IN OREGON

Criteria for expungement in Oregon:

- (1) Must be a type eligible charge;
- (2) Must meet the Statutory Waiting Period;
- (3) “Fully complied with and performed the sentence of the court” (including paying all fines & fees);
- (4) No pending criminal charges;
- (5) If court determines that “circumstances and behavior” warrant setting aside the conviction, then it *shall* enter the appropriate order.

WHAT IS NOT EXPUNGABLE?

Generally not expungable in Oregon:

- Federal or out-of-state crimes
- Traffic Violations (Speeding, Failure to Obey Traffic Control Device) and Convictions (DUI, Attempt to Elude, Reckless Driving)
- Mistreatment/Assault crimes against minors & seniors
- Sex crimes



WHAT TYPES ARE ELIGIBLE?

- Class B felony (except firearm or person felony);
- Class C felony, or felony punishable as a misdemeanor;
- Any misdemeanor;
- Violation under state law or local ordinance;
- Offense committed before 1972, that would qualify today;
- Contempt of court (as of January 2022)

PRE-CONDITIONS TO FILING

- NO pending criminal case
- NO fines, fees, or restitution owed
- Served all of sentence
- If probation is revoked, must wait 3 years from revocation

.....And statutory wait periods



STATUTORY WAIT PERIODS

Beginning January 1, 2022:

- Dismissal or Acquittal = any time
- No Complaint = 60 days from date State elects not to proceed
- Convictions on Class B or C Misdemeanor, Violation, or Contempt (new) = 1 year
- Convictions on Class A Misdemeanor = 3 years
- Convictions on Class C Felony = 5 years
- Convictions on Class B Felony = 7 years

STEPS TO FILE

- Complete the necessary paperwork
 - 1 per case and type per county (conviction, arrest)
 - Affidavit must be signed **in front of** notary or court clerk (until January)
- Get fingerprinted
- \$80 fee to State Police
- Some counties require accounting statement

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

STATE OF OREGON, Plaintiff, Court #: _____
V. Defendant, DA #: _____

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

MOTION AND AFFIDAVIT TO SET ASIDE A CONVICTION

Full Name: _____ Date of Birth: _____
Mailing Address: _____ Phone Number: _____
City: _____ State: _____ Arrest Date: _____ Conviction Date: _____
Arresting Agency: _____ Zip Code: _____
Convicted Charge(s): _____

Defendant's Signature: _____

AFFIDAVIT SUPPORTING MOTION TO SET ASIDE A CONVICTION

I, _____, hereby swear or affirm under penalty of perjury that I am the defendant in the above-entitled matter and that the following is true and substantiated in support of my motion to set aside the above described conviction:

1. My conviction is for one of the offenses which ORS 137.225 allows to be set aside;
2. At least three (3) years have passed since the date of my conviction. If I was convicted of a Class B felony, and I have not been arrested for or convicted of any other offense or release from imprisonment (whichever is later);
3. I have not been arrested for or convicted of any other felony, misdemeanor, or violation level offense (other than traffic violations or one (1) non-traffic violation) within the ten (10) year period immediately preceding the filing of this motion;
4. I fully complied with and performed the sentence of the court, including payment of all financial obligations;
5. I have not previously had any other conviction set aside which had a conviction date in the ten (10) year period immediately preceding the filing of this motion;
6. I have no pending charges (other than traffic violations) in any court, and
7. I understand that if my conviction involved a victim, the District Attorney will notify the victim of this motion.

Defendant's Signature: _____ Date: _____

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

Notary Public for Oregon Court Clerk
My commission expires: _____

THIS ENTIRE FORM MUST BE COMPLETED TO QUALIFY FOR SETTING ASIDE A CONVICTION
Original to Court / Copies to District Attorney's Office and Defendant
Multnomah County District Attorney's Office, Portland, OR 97204 (503) 988-3362
Rev. 12/15

WHAT HAPPENS NEXT?

- Prosecutor has 120 days to object. If objection, there will be a hearing, victims will be allowed to make a statement.
- If petitioner fails to show up at the hearing, Court can dismiss or deny Motion.
- To deny, Court must conclude in writing, by clear and convincing evidence, the person's circumstance and behavior from date to conviction to date of hearing, create a risk to public safety.

WHAT HAPPENS NEXT?

If granted, Court will mail a copy of the final Order.

- Prosecutor will contact the police agencies.
- Contact the Foundation for Continuing Justice

www.continuingjustice.org
to remove your record from
clearinghouse database.



REFERRING CLIENTS

Clients contact the nearest legal aid office
or
the office serving the county
where the offense occurred

OTHER TYPES OF EXPUNGEMENT

Juvenile Expunction

ORS §419A.260; 419A.262(2)



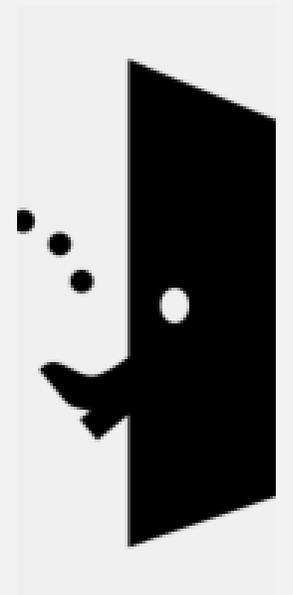
Contact: Oregon State Bar

OTHER TYPES OF EXPUNGEMENT

Eviction Expungement

ORS §105.163 as amended by Senate Bill 282 (2021)

www.oregonrentersrights.org



QUESTIONS?

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