# TITLE 1

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# Chapter 1

**2013 EDITION**

## Courts and Judicial Officers Generally


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## COURTS

**1.001 State policy for courts.** The Legislative Assembly hereby declares that, as a matter of statewide concern, it is in the best interests of the people of this state that the judicial branch of state government, including the appellate, tax and circuit courts, be funded and operated at the state level. The Legislative Assembly finds that state funding and operation of the judicial branch can provide for best statewide allocation of governmental resources according to the actual needs of the people and of the judicial branch by establishing an accountable, equitably funded and uniformly administered system of justice for all the people of this state. [1981 s.s. c.3 §1]

**1.002 Supreme Court; Chief Justice as administrative head of judicial department; rules; presiding judges as administrative heads of courts.** (1) The Supreme Court is the highest judicial tribunal of the judicial department of government in this state. The Chief Justice of the Supreme Court is the presiding judge of the court and the administrative head of the judicial department of government in this state. The Chief Justice shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate exercise of that administrative authority and supervision, may:

(a) Make rules and issue orders appropriate to that exercise.

(b) Require appropriate reports from the judges, other officers and employees of the courts of this state and municipal courts.

(c) Pursuant to policies approved by the Judicial Conference of the State of Oregon, assign or reassign on a temporary basis all judges of the courts of this state to serve in designated locations within or without the county or judicial district for which the judge was elected.

(d) Set staffing levels for all courts of the state operating under the Judicial Department and for all operations in the Judicial Department.

(e) Establish time standards for disposition of cases.

(f) Establish budgets for the Judicial Department and all courts operating under the Judicial Department.

(g) Assign or reassign all court staff of courts operating under the Judicial Department.

(h) Pursuant to policies approved by the Judicial Conference of the State of Oregon, establish personnel rules and policies for judges of courts operating under the Judicial Department.

(i) Establish procedures for closing courts in emergencies.

(j) Establish standards for determining when courts are closed for purposes of ORCP 10, ORS 174.120 and other rules and laws that refer to periods of time when courts are closed.

(k) Take any other action appropriate to the exercise of the powers specified in this section and other law, and appropriate to the exercise of administrative authority and supervision by the Chief Justice over the courts of this state.

(2) The Chief Justice may make rules for the use of electronic applications in the courts, including but not limited to rules relating to any of the following:

(a) Applications based on the use of the Internet and other similar technologies.

(b) The use of an electronic document, or use of an electronic image of a paper document in lieu of the original paper copy, for any record of the courts maintained under ORS 7.095 and for any document, process or paper that is served, delivered, received, filed, entered or retained in any action or proceeding.

(c) The use of electronic signatures or another form of identification for any document, process or paper that is required by any law or rule to be signed and that is:

(A) Served, delivered, received, filed, entered or retained in any action or proceeding; or

(B) Maintained under ORS 7.095.

(d) The use of electronic transmission for:

(A) Serving documents in an action or proceeding, other than a summons or an initial complaint or petition;

(B) Filing documents with a court; and

(C) Providing certified electronic copies of court documents and other Judicial Department records to another person or public body.

(e) Payment of statutory or court-ordered monetary obligations through electronic media.

(f) Electronic storage of court documents.

(g) Use of electronic citations in lieu of the paper citation forms as allowed under ORS 153.770, including use of electronic citations for parking ordinance violations that are subject to ORS 221.333 or 810.425.

(h) Public access through electronic means to court documents that are required or authorized to be made available to the public by law.

(i) Transmission of open court proceedings through electronic media.

(j) Electronic transmission and electronic signature on documents relating to circuit court jurors under ORS 10.025.

(3) The Chief Justice may make rules relating to the data that state courts may require parties and other persons to submit for the purpose of distinguishing particular persons from other persons. If the rules require the submission of data that state or federal law does not require that the courts make public, the rules may also require courts to keep the data confidential and not release the data except pursuant to a court order issued for good cause shown. Data that is made confidential under the rules is not subject to disclosure under ORS 192.410 to 192.505.

(4) Rules adopted by the Chief Justice under subsection (2) of this section must be consistent with the laws governing courts and court procedures, but any person who serves, delivers, receives, files, enters or retains an electronic document, or an electronic image of a paper document in lieu of the original paper copy, in the manner provided by a rule of the Chief Justice under subsection (2) of this section shall be considered to have complied with any rule or law governing service, delivery, reception, filing, entry or retention of a paper document.

(5) Rules made and orders issued by the Chief Justice under this section shall permit as much variation and flexibility in the administration of the courts of this state as are appropriate to the most efficient manner of administering each court, considering the particular needs and circumstances of the court, and consistent with the sound and efficient administration of the judicial department of government in this state.

(6) The Chief Justice may establish fees for the use of the Oregon Judicial Information Network.

(7) The judges, other officers and employees of the courts of this state shall comply with rules made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge thereof, relating to the conduct of the business of the court shall be consistent with applicable rules made and orders issued by the Chief Justice.

(8) The Chief Judge of the Court of Appeals and the presiding judge of each judicial district of this state are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts. Other judges of the Court of Appeals or court under a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of administrative authority and supervision.

(9) The Chief Justice may delegate the exercise of any of the powers specified by this section to the presiding judge of a court, and may delegate the exercise of any of the administrative powers specified by this section to the State Court Administrator, as may be appropriate.

(10) This section applies to justices of the peace and the justice courts of this state solely for the purpose of disciplining of justices of the peace and for the purpose of continuing legal education of justices of the peace. [1959 c.552 §1; 1973 c.484 §1; 1981 s.s. c.1 §3; 1995 c.221 §1; 1995 c.781 §2; 1999 c.787 §1; 2001 c.911 §1; 2007 c.129 §1; 2009 c.47 §1; 2009 c.484 §1; 2009 c.885 §37a; 2013 c.2 §3; 2013 c.685 §1]

**1.003 Chief Justice's powers to appoint Chief Judge and presiding judges; terms; disapproval of appointment.** (1) The Chief Justice of the Supreme Court shall appoint after conferring with and seeking the advice of the Supreme Court, and may remove at pleasure:

(a) The Chief Judge of the Court of Appeals.

(b) The presiding judge for each judicial district.

(2) Except as provided in subsection (3) of this section, the term of office of the Chief Judge or presiding judge is two years, commencing on January 1 of each even-numbered year. A judge is eligible for reappointment as Chief Judge or presiding judge.

(3) If there is a vacancy for any cause in the office of Chief Judge or presiding judge:

(a) When the vacancy occurs after January 1 of an even-numbered year and before July 1 of the following odd-numbered year, the Chief Justice shall make an appointment for a term expiring December 31 of that odd-numbered year.

(b) When the vacancy occurs after June 30 of an odd-numbered year and before January 1 of the following even-numbered year, the Chief Justice shall make an appointment for a term expiring December 31 of the odd-numbered year following that even-numbered year.

(c) The Chief Justice may designate a judge of the Court of Appeals to serve as acting Chief Judge until an appointment is made as provided in this section. The Chief Justice may designate any circuit court judge to serve as acting presiding judge until an appointment is made as provided in this section.

(4) Before appointing a Chief Judge or presiding judge the Chief Justice shall confer with and seek the advice of the judges of the courts concerned in respect to the appointment.

(5) The Chief Justice shall give written notice of the judge appointed as Chief Judge or presiding judge to each judge of the court concerned not later than 10 days before the effective date of the appointment. A majority of the judges of the courts concerned may disapprove the appointment by a written resolution signed by each judge disapproving the appointment and submitted to the Chief Justice before the effective date of the appointment. If the appointment is so disapproved, the Chief Justice shall appoint another judge as Chief Judge or presiding judge, and shall notify each judge of the courts concerned as provided in this subsection. If the courts concerned have five or more judges, a second appointment is subject to disapproval, as provided in this subsection, by a majority of the judges of the courts concerned. A third appointment is not subject to disapproval under this subsection. [1981 s.s. c.1 §4; 1995 c.658 §7; 1995 c.781 §3; 2013 c.155 §2]

**1.004 Supreme Court rules governing coordination of class actions.** Notwithstanding any other provision of law or the Oregon Rules of Civil Procedure, the Supreme Court shall provide by rule the practice and procedure for coordination of class actions under ORCP 32 in convenient courts, including provision for giving notice and presenting evidence. [Formerly 13.370]

**1.005 Credit card transactions for fees, security deposits, fines and other court-imposed obligations; rules.** The Chief Justice of the Supreme Court or the presiding judge of any judicial district of this state may establish by rule a program to permit the use of credit card transactions as security deposits, fines, assessments, restitution or any other court-imposed monetary obligation arising out of an offense. The program may also provide for the use of credit card transactions to pay for filing fees, response fees, certification fees and any other fees charged by the court. Any rules adopted pursuant to this section may provide for recovery from the person using the credit card of an additional amount reasonably calculated to recover any charge to the court by a credit card company resulting from use of the credit card. [1983 c.763 §54; 1989 c.1008 §2; 1993 c.531 §2; 1995 c.781 §4; 1997 c.801 §112; 1999 c.1051 §234]

**1.006 Supreme Court rules.** (1) The Supreme Court may prescribe by rule the form of written process, notices, motions and pleadings used or submitted in civil proceedings and criminal proceedings in the courts of this state. The rules shall be designed to prescribe standardized forms of those writings for use throughout the state. The forms so prescribed shall be consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The form of written process, notices, motions and pleadings submitted to or used in the courts of this state shall comply with rules made under this section.

(2) The Supreme Court may prescribe by rule the manner of filing of pleadings and other papers submitted in civil proceedings with the courts of this state by means of a telephonic facsimile communication device. The manner so prescribed shall be consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. [1959 c.552 §3; 1973 c.630 §1; 1981 s.s. c.1 §19; 1989 c.295 §2]

**1.007 Judicial Department Revolving Account; uses; sources.** (1) There is established in the State Treasury an account to be known as the Judicial Department Revolving Account. Upon the written request of the Chief Justice of the Supreme Court, the Oregon Department of Administrative Services shall draw warrants in favor of the Supreme Court and charged against appropriations to the Supreme Court for court expenses. The warrants shall be deposited in the revolving account. The revolving account shall not exceed the aggregate sum of $1 million, including unreimbursed disbursements.

(2) Moneys in the revolving account may be used for the payment of court expenses for which appropriations are made to the Supreme Court and for which immediate cash payment is necessary or desirable. Moneys in the revolving account may be disbursed by checks issued by or under the authority of the Chief Justice.

(3) All claims for reimbursement of disbursements from the revolving account shall be approved by the Chief Justice or, as directed by the Chief Justice, the State Court Administrator, and by the Oregon Department of Administrative Services. When claims have been approved, a warrant covering them shall be drawn in favor of the Supreme Court, charged against appropriations to the Supreme Court for court expenses, and used to reimburse the revolving account.

(4) This section does not authorize the drawing of a warrant against or the disbursement of any appropriation to the Supreme Court for court expenses in excess of the amount, or for a purpose other than, established by or pursuant to law therefor.

(5) As used in this section, "court expenses" includes expenses of the Supreme Court, Court of Appeals, Oregon Tax Court and State Court Administrator and expenses

of the circuit courts required to be paid by the state. [1983 c.737 §1; 1985 c.502 §14]

**1.008 Personnel plan, fiscal plan and property plan.** The Chief Justice of the Supreme Court shall establish and maintain, consistent with applicable provisions of law:

(1) A personnel plan for officers, other than judges, and employees of the courts of this state who are state officers or employees, governing the appointment, promotion, classification, minimum qualifications, compensation, expenses, leave, transfer, layoff, removal, discipline and other incidents of employment of those officers and employees.

(2) A plan for budgeting, accounting and other fiscal management and control applicable to expenditures made and revenues received by the state in respect to the courts of this state.

(3) A plan for acquisition, use and disposition of supplies, materials, equipment and other property provided by the state for the use of the courts of this state. [1981 s.s. c.3 §4]

**1.009 Judicial Department Operating Account.** (1) The Judicial Department Operating Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. All moneys in the account are continuously appropriated to the Judicial Department and may be used only to pay the operating expenses of the department.

(2) All moneys received by the department pursuant to ORS 151.216 (1)(i) shall be deposited in the Judicial Department Operating Account.

(3) The department may accept gifts, grants or contributions from any source, whether public or private, for deposit in the Judicial Department Operating Account. [2003 c.737 §83]

**1.010 Powers of courts in administration of court business and proceedings.** Every court of justice has power:

(1) To preserve and enforce order in its immediate presence.

(2) To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority.

(3) To provide for the orderly conduct of proceedings before it or its officers.

(4) To compel obedience to its judgments, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein.

(5) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto.

(6) To compel the attendance of persons to testify in an action, suit or proceeding pending therein, in the cases and manner provided by statute.

(7) To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties. [Amended by 2003 c.576 §267]

**1.012 State Court Technology Fund.** (1) The State Court Technology Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the State Court Technology Fund shall be credited to the fund.

(2) All fees received on and after July 1, 2013, for the use of the Oregon Judicial Information Network under ORS 1.002 (6) and for the use of other state court electronic applications and systems shall be deposited into the fund.

(3) The fund consists of the moneys deposited into the fund under subsection (2) of this section and the moneys deposited into the fund under section 47, chapter 685, Oregon Laws 2013.

(4) Moneys in the fund are continuously appropriated to the Judicial Department for the purposes of:

(a) Developing, maintaining and supporting state court electronic applications, services and systems and for providing access to and use of those applications, services and systems; and

(b) Providing electronic service and filing services. [2013 c.685 §46]

**1.020 Contempt punishment.** For the effectual exercise of the powers specified in ORS 1.010, the court may punish for contempt in the cases and the manner provided by statute.

**1.025 Duty of court and court officers to require performance of duties relating to administration of justice; enforcement of duty by mandamus.** (1) Where a duty is imposed by law or the Oregon Rules of Civil Procedure upon a court, or upon a judicial officer, clerk, bailiff, sheriff, constable or other officer, which requires or prohibits the performance of an act or series of acts in matters relating to the administration of justice in a court, it is the duty of the judicial officer or officers of the court, and each of them, to require the officer upon whom the duty is imposed to perform or refrain from performing the act or series of acts.

(2) Matters relating to the administration of justice include, but are not limited to, the

selection and impaneling of juries, the conduct of trials, the entry and docketing of judgments and all other matters touching the conduct of proceedings in courts of this state.

(3) The duty imposed by subsection (1) of this section may be enforced by writ of mandamus. [1957 c.565 §1; 1979 c.284 §40]

**1.030 Seal; form; custody; affixing.** (1) Each of the following courts, and no other, has a seal:

(a) The Supreme Court and the Court of Appeals.

(b) Each circuit court and the Oregon Tax Court.

(c) Each county court.

(2) The seals shall have the arms of the state engraved in the center, with the following inscription surrounding the same:

(a) For the Supreme Court, "Supreme Court, State of Oregon."

(b) For the Court of Appeals, "Court of Appeals, State of Oregon."

(c) For the circuit court, "Circuit Court, _____ County, State of Oregon," inserting the name of the particular county.

(d) For the Oregon Tax Court, "Oregon Tax Court, State of Oregon."

(e) For the county court, "County Court, _____ County, State of Oregon," inserting the name of the particular county.

(3) The clerk of the court shall keep the seal, and affix it to any process, transcript, certificate or other paper required by statute. [Amended by 1957 c.246 §1; 1961 c.533 §35; 1969 c.198 §16; 1991 c.790 §1; 1995 c.658 §9]

**1.040 Sittings of court to be public; when may be private.** The sittings of every court of justice are public, except that upon the agreement of the parties to a civil action, suit or proceeding, filed with the clerk or entered in the appropriate record, the court may direct the trial, or any other proceeding therein, to be private; upon such order being made, all persons shall be excluded, except the officers of the court, the parties, their witnesses and counsel. [Amended by 1985 c.540 §18]

**1.050 Time for decision on submitted questions; certificate of compliance with requirement; penalty for false certificate.** Any question submitted to any judge of any court of, or any justice of the peace in, any of the courts of this state, excepting the Supreme Court and the Court of Appeals and the judges thereof, must be decided and the decision rendered within three months after submission, unless prevented by sickness or unavoidable casualty, or the time be extended by stipulation in writing signed by the counsel for the respective parties and filed with the judge before the expiration of said three months. This section is mandatory, and no officer shall sign or issue any warrant for the payment of the salary or any installment of the salary of any such judge or justice of the peace unless the voucher for such warrant shall contain or be accompanied by a certificate of such judge or justice of the peace that all matters submitted to the judge or justice of the peace for decision three months or more prior to the filing of said voucher have been decided as required herein; and, in case the time has been extended by stipulation in writing, or a decision has been prevented by sickness or unavoidable casualty, said certificate shall state the facts excusing the delay. The making and filing of a false certificate shall be just cause for complaint to the legislature and removal of said judge or justice of the peace. [Amended by 1969 c.198 §17]

**1.055 Term of court.** (1) A term of court is a period of time appointed for the convenient transaction of the business of the court. The existence or nonexistence of a term of court has no effect on the duties and powers of the court.

(2) Notwithstanding that an act is authorized or required to be done before, during or after the expiration of a term of court, it may be done within a reasonable period of time. [1959 c.638 §1]

**1.060 Days for transaction of judicial business; exceptions.** (1) Except as provided in subsection (2) of this section, the courts of justice may be held and judicial business transacted on any day.

(2) On any legal holiday in this state no court may be open or transact any judicial business for any purpose except:

(a) To give instructions to a jury then deliberating upon its verdict;

(b) To receive the verdict of a jury, or to discharge a jury in case of its inability to agree upon a verdict; or

(c) For the exercise of the powers of a magistrate in criminal actions or proceedings of a criminal nature.

(3) Except to the extent provided by the order, a court may not be open or transact judicial business for any purpose when the court is closed by an order of the Chief Justice. [Amended by 1971 c.240 §1; 1973 c.512 §1; 1981 s.s. c.3 §21; 2002 s.s.1 c.10 §7]

**1.070 When court deemed appointed for next judicial day.** If a day appointed for holding a court, or to which it is adjourned, is a legal holiday, the court is deemed appointed for or adjourned to the next judicial day.

**1.080 Place of holding court.** Every court of justice shall sit at the location designated by or pursuant to law for that purpose. [Amended by 1983 c.763 §1]

**1.085 Chief Justice to designate principal location for sitting of courts; alternative sites.** (1) Except to the extent otherwise specifically provided by law, the Chief Justice of the Supreme Court shall designate the principal location for the sitting of the Supreme Court, Court of Appeals, Oregon Tax Court and each circuit court. For each circuit court there shall be a principal location in each county in the judicial district.

(2) The Chief Justice may designate locations for the sitting of the Supreme Court, Court of Appeals, Oregon Tax Court and each circuit court other than those designated under subsection (1) of this section. Except as provided in subsection (3) of this section, locations designated under this subsection for a circuit court must be in the circuit court's judicial district.

(3) The Chief Justice may designate locations in the state for the sitting of circuit courts in the event of an emergency. Locations designated under this subsection need not be in the circuit court's judicial district. [1983 c.763 §2; 1995 c.658 §10; 2007 c.547 §8]

**1.090 Trial elsewhere than at usual location on agreement of parties.** Upon agreement of the parties to a civil action, suit or proceeding in a circuit or county court, filed with the clerk or entered in the register, the court may direct that the trial or any other proceeding therein be had elsewhere within the county than at a location otherwise designated by or pursuant to law for the sitting of the court. [Amended by 1983 c.763 §3; 1985 c.540 §19]

**1.100** [Repealed by 1983 c.763 §9]

**1.110 Adjournment or postponement when judge does not attend.** If no judge attend on the day appointed for holding a court, before 4 p.m., the court shall stand adjourned until the next day at 9 a.m. In case a judge is unable to attend at the time provided by law for a regular term of court, or at the time specified for a special term, the judge may by an order made and signed anywhere in the district of the judge postpone such regular or special term until some future time. [Amended by 1959 c.638 §2]

**1.120 Proceedings unaffected by vacancy in office or failure of term.** No action, suit or proceeding pending in a court of justice is affected by a vacancy in the office of any or all of the judges, or by the failure of a term thereof.

**1.130 Power to adjourn proceedings.** A court or judicial officer has power to adjourn any proceedings before the court or the judicial officer, from time to time, as may be necessary, unless otherwise expressly provided by statute.

**1.140 Manner of addressing application or proceeding to court or judge.** An application or other proceeding addressed to a court shall be addressed to it by its style as given by statute; an application or other proceeding addressed to a judicial officer shall be addressed to the judicial officer by name, without any other title than the style of office.

**1.150 Proceedings to be in English; foreign language translation; rules and procedures.** (1) Except as provided in this section, every writing in any action, suit or proceeding in a court of justice of this state, or before a judicial officer, shall be in English.

(2) A writing in an action, suit or proceeding in a court of justice of this state, or before a judicial officer, may be submitted in English and accompanied by a translation into a foreign language that is certified by the translator to be an accurate and true translation of the English writing. If the writing requires a signature, either the English or the foreign language writing may be signed.

(3) If a writing is submitted in English and accompanied by a translation under subsection (2) of this section, a copy of the writing and the translation must be provided to the other parties in the proceeding in the manner provided by the statutes and rules relating to service, notice and discovery of writings in civil and criminal proceedings in courts of justice of this state and before judicial officers.

(4) The State Court Administrator may establish policies and procedures governing the implementation of subsection (2) of this section.

(5) Subsection (1) of this section does not prohibit the use of common abbreviations. [Amended by 1995 c.273 §1; 2003 c.14 §2]

**1.160 Means to carry jurisdiction into effect; adoption of suitable process or mode of proceeding.** When jurisdiction is, by the Constitution or by statute, conferred on a court or judicial officer, all the means to carry it into effect are also given; and in the exercise of the jurisdiction, if the course of proceeding is not specifically pointed out by the procedural statutes, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of the procedural statutes.

**1.165** [1981 s.s. c.3 §7; renumbered 1.185 in 1999]

**1.167** [1981 s.s. c.3 §18; renumbered 1.187 in 1999]

**1.169** [1987 c.559 §2; 1989 c.1008 §1; 1995 c.781 §5; repealed by 1995 c.658 §127]

**1.170** [Repealed by 1981 s.s. c.3 §141]

**1.171 Powers and duties of presiding judge for judicial district.** (1) A presiding judge appointed under ORS 1.003 is presiding judge for the circuit court of a judicial district established under ORS 3.012.

(2) The presiding judge, to facilitate exercise of administrative authority and supervision over the circuit court of the district and consistent with applicable provisions of law and the Oregon Rules of Civil Procedure, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district; and

(b) Make rules, issue orders and take other action appropriate to that exercise.

(3) The presiding judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition. A judge who is assigned an action or proceeding under this subsection shall hear and dispose of the assigned action or proceeding unless the presiding judge withdraws the assignment for good cause shown.

(4) The presiding judge may delegate the exercise of any of the administrative powers of the presiding judge to another judge of the court or to the trial court administrator for the judicial district. [1995 c.781 §1; 1997 c.801 §146; 2009 c.484 §2]

**1.175 Docket priorities.** Any time a court of this state is directed by a provision of Oregon Revised Statutes to accord priority on its docket for a particular action or proceeding, and the priority to be accorded is unclear in light of other provisions of Oregon Revised Statutes, the court may accord such priorities as are consistent with:

(1) Specific statutory time limits; and

(2) The court's efficient administration of its caseload, giving due consideration to the interests sought to be furthered by according docket priorities to certain actions or proceedings before the court. [1989 c.322 §2]

## COURT FACILITIES

**1.176 Capital improvements to county courthouses; plan; report.** (1) The Chief Justice of the Supreme Court shall develop a biennial plan for capital improvements to county courthouses. The plan shall prioritize the need for capital improvements in the counties and establish budgets for capital improvement projects. The list of projects and costs of those projects shall be submitted to the Legislative Assembly with the Judicial Department's request for an allocation from the Criminal Fine Account for the purpose of funding the State Court Facilities and Security Account established under ORS 1.178.

(2) The Chief Justice of the Supreme Court shall prepare a biennial report to the Legislative Assembly that reflects the original budget of projects funded in whole or part with amounts from the State Court Facilities and Security Account, any revisions to those budgets, and the amounts from the account actually expended on those projects. [2011 c.689 §2; 2011 c.597 §312]

**1.177 State plan for security, emergency preparedness and business continuity for court facilities; Chief Judicial Marshal; deputy judicial marshals.** (1) The Chief Justice of the Supreme Court may adopt state standards, and a state plan, for:

(a) State court security, emergency preparedness and business continuity for facilities used by the judges or staff of a court operating under the Judicial Department or the staff of the office of the State Court Administrator; and

(b) The physical security of the judges or staff of a court operating under the Judicial Department or the staff of the office of the State Court Administrator.

(2)(a) The Chief Justice may appoint a Chief Judicial Marshal and other deputy judicial marshals charged with:

(A) Implementing a state plan adopted under subsection (1) of this section;

(B) Ensuring the physical security and safety of judges of a court operating under the Judicial Department;

(C) Ensuring the physical security and safety of the staff of a court operating under the Judicial Department, the staff of the office of the State Court Administrator and the public in and around court facilities as defined in ORS 166.360; and

(D) Ensuring the security of the real and personal property owned, controlled, occupied or used by the Judicial Department.

(b) Persons appointed as judicial marshals under this section are subject to the personnel rules and policies established by the Chief Justice under ORS 1.002.

(c) When appointed and duly sworn by the Chief Justice, judicial marshals appointed under this section who are trained pursuant to ORS 181.647 have the authority given to peace officers of this state for the purposes of carrying out the duties of their employment.

(d) The Chief Justice may define the duties of judicial marshals appointed under this section.

(e) Judicial marshals granted the authority of a peace officer under this section who detain any person in accordance with the marshal's duties retain the authority until the law enforcement agency having general jurisdiction over the area in which the person is detained assumes responsibility for the person.

(f) Persons appointed as judicial marshals under this section are not police officers for purposes of the Public Employees Retirement System.

(3) Except as provided in this subsection, a plan adopted under this section and all documents related to development of the plan are confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The Chief Justice may authorize the disclosure of all or part of a plan prepared under this section if the Chief Justice determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a plan adopted under this section and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505. [2005 c.804 §3; 2012 c.88 §1; 2012 c.107 §104; 2013 c.154 §1]

**1.178 State Court Facilities and Security Account.** (1) The State Court Facilities and Security Account is established separate and distinct from the General Fund. The account consists of moneys allocated to the account under the provisions of ORS 137.300. Moneys in the account are continuously appropriated to the State Court Administrator for the purposes described in subsection (2) of this section.

(2) Expenditures by the State Court Administrator from the State Court Facilities and Security Account shall be made only for the following purposes:

(a) Developing or implementing the plan for state court security, emergency preparedness, business continuity and physical security adopted under ORS 1.177.

(b) Statewide training on state court security.

(c) Distributions to court facilities security accounts maintained under ORS 1.182.

(d) Capital improvements for courthouses and other state court facilities. [2005 c.804 §4; 2011 c.597 §61; 2012 c.107 §76; 2013 c.154 §§2,3]

**1.180 Advisory committees on court security and emergency preparedness; plans.** (1) As used in this section, "court facility" means a state court or justice court other than the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator.

(2) The presiding judge for a judicial district may appoint an Advisory Committee on Court Security and Emergency Preparedness for the judicial district. A committee appointed under this section shall consist of:

(a) The sheriff of each county in which a court facility is located;

(b) The district attorney of each county in which a court facility is located;

(c) A member of the local governing body of each county in which a court facility is located, or the member's representative;

(d) The president of the county bar association, if any, for each county in which a court facility is located, or the president's representative;

(e) A justice of the peace from each county in the district in which a justice court is located; and

(f) The following persons as designated by the presiding judge:

(A) The trial court administrator for each county in which a court facility is located; and

(B) A judge from each county in which a court facility is located.

(3) A committee appointed under this section shall meet at the call of the presiding judge that appointed the committee.

(4) A committee appointed under this section shall submit to the presiding judge of the judicial district a plan for court security improvement, emergency preparedness and business continuity for each building containing a court facility in the county. The plan shall include capital outlay needs and may include recommendations concerning:

(a) Security procedures for the transportation and supervision of prisoners for court appearances including, as otherwise allowed by law, the use of video transmission equipment for the appearance of defendants who are in custody;

(b) Procedures for the secure handling, transportation and disposal of hazardous substances and contraband in court proceedings;

(c) Emergency alarm systems accessible to all court employees;

(d) Physical security for judges, justices of the peace, staff and the public;

(e) Procedures for emergency evacuation of buildings containing court facilities;

(f) Procedures for identifying court security personnel, including a court security officer to be appointed by the presiding judge, who shall be responsible for:

(A) The management of the plan;

(B) A regular security inspection of each building containing a court facility; and

(C) Regular security training of sheriff department, judicial department and district attorney personnel; and

(g) Priorities for available court facilities within the building based on the level of security needed.

(5) The plan may also include:

(a) An evaluation of how each of the items listed in subsection (4) of this section is being addressed and should be addressed;

(b) How practices, facilities and equipment falling below appropriate levels are to be improved;

(c) The anticipated cost of improving practices, facilities and equipment that fall below appropriate levels;

(d) The funding source for each improvement; and

(e) The time schedule for implementation of improvements.

(6) Adoption of a plan under this section is subject to the approval of the presiding judge that appointed the committee. The plan may conclude that court facility security is adequate.

(7) Implementation of the elements of a plan that have a significant fiscal impact are subject to availability of funding.

(8) As soon as a plan, revision or amendment is adopted, the presiding judge shall provide the Chief Justice of the Supreme Court with a copy of the plan adopted under this section and any revisions or amendments to the plan. Each plan shall be reviewed and revised or amended as needed, not later than June 30 of each odd-numbered year.

(9) Except as provided in this subsection, plans prepared under this section are confidential and need not be disclosed under the provisions of ORS 192.410 to 192.505. The presiding judge of a judicial district, with the concurrence of all sheriffs for the counties of the district, may authorize the disclosure of all or part of a plan prepared under this section if the judge determines that the interest of the public would be served by the disclosure and that the disclosure will not impair the integrity of the plan. Records of expenditures for a court security plan and records of equipment purchased under the plan are not confidential under the provisions of this subsection, and are subject to disclosure as public records under the provisions of ORS 192.410 to 192.505. [1993 c.637 §15; 1995 c.658 §124; 1997 c.513 §§1,2; 1997 c.801 §113; 2005 c.804 §1]

**1.182 Court facilities security accounts; funding; expenditures; reports.** (1) The county treasurer shall deposit moneys received from distributions under ORS 1.178 into a court facilities security account maintained by the county treasurer. The following apply to the account:

(a) The moneys in the account and interest upon the account are reserved for the purpose of providing security in buildings that contain state court or justice court facilities other than the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator located within the county.

(b) Expenditures by the county governing body from the court facilities security account shall be made only for developing or implementing a plan for court security improvement, emergency preparedness and business continuity under ORS 1.180.

(c) Moneys deposited in the account from distributions under ORS 1.178 and expended under the provisions of this section shall be in addition to any other moneys expended by the county on court facilities security programs and personnel. A county shall not reduce other expenditures on court facilities security programs and personnel by reason of the additional moneys provided from distributions under ORS 1.178.

(d) The county treasurer may charge against the court facilities security account an administrative fee for the actual costs associated with maintaining the account. The total administrative fees charged each year may not exceed five percent of the moneys received from distributions under ORS 1.178 for that year.

(e) The county treasurer shall provide to the county governing body, the Advisory Committee on Court Security and Emergency Preparedness and the presiding judge of the judicial district at least quarterly a financial report showing all revenues, deposits and expenditures from the court facilities security account maintained by the county treasurer. The county treasurer may charge against the court facilities security account the actual costs associated with providing financial reports under this paragraph.

(f) The presiding judge of the judicial district shall provide to the Chief Justice of the Supreme Court a financial report showing all revenues, deposits and expenditures from the court facilities security account for each fiscal year. The report shall be submitted to the Chief Justice not later than August 30 of each year.

(2) Except as otherwise provided in subsection (3) of this section, a county may not reduce its actual operating expenditures on

court facilities security programs and personnel, including funds from all local sources, exclusive of state and federal funds and other short term special funding, below the level of such expenditures in the preceding fiscal year beginning with the 1992-1993 fiscal year.

(3) A county may reduce the operating expenditures described in subsection (2) of this section if the reduction is in an amount no greater than the average reduction in general fund commitment to all county agencies during the fiscal period. [1993 c.637 §16; 2005 c.804 §2; 2011 c.597 §60]

## OPERATION OF COURTHOUSES

**1.185 County to provide courtrooms, offices and jury rooms.** (1) The county in which a circuit court is located or holds court shall:

(a) Provide suitable and sufficient courtrooms, offices and jury rooms for the court, the judges, other officers and employees of the court and juries in attendance upon the court, and provide maintenance and utilities for those courtrooms, offices and jury rooms.

(b) Pay expenses of the court in the county other than those expenses required by law to be paid by the state.

(2) Except as provided in subsection (1) of this section, all supplies, materials, equipment and other property necessary for the operation of the circuit courts shall be provided by the state under ORS 1.187. [Formerly 1.165]

**1.187 State to provide supplies and personal property for courts.** Except as provided in ORS 1.185 (1) and subject to applicable provisions of a plan established by the Chief Justice of the Supreme Court, the state shall provide the supplies, materials, equipment and other personal property necessary for the operation of the circuit courts. The cost of property provided by the state shall be paid by the state from funds available for the purpose. [Formerly 1.167]

### (Temporary provisions relating to courthouse capital construction and improvement)

**Note:** Sections 8 and 9, chapter 705, Oregon Laws 2013, provide:

**Sec. 8.** (1) Out of the amount specified in section 1 (6) of this 2013 Act, the State Treasurer may issue Article XI-Q bonds in an amount not to exceed $15 million of net proceeds for the purposes specified in subsection (3) of this section, plus an amount estimated by the State Treasurer to pay estimated bond-related costs.

(2)(a) Bonds may not be issued pursuant to this section unless:

(A) The Chief Justice of the Supreme Court has determined that:

(i) The courthouse with respect to which the bonds will be issued has significant structural defects, including seismic defects, that present actual or potential threats to human health and safety;

(ii) Replacing the courthouse, whether by acquiring and remodeling or repairing an existing building or by constructing a new building, is more cost-effective than remodeling or repairing the courthouse; and

(iii) Replacing the courthouse creates an opportunity for colocation of the court with other public offices; and

(B) The Oregon Department of Administrative Services has approved the project for which the bonds will be issued.

(b) The Oregon Department of Administrative Services, after consultation with the Judicial Department, shall determine when net proceeds are needed for the purposes described in subsection (3) of this section and shall consult with the Judicial Department regarding the sale of bonds to be issued pursuant to this section.

(3) The State Treasurer shall deposit the net proceeds of bonds issued pursuant to this section in the Oregon Courthouse Capital Construction and Improvement Fund. The net proceeds and any interest earnings may be used solely to finance costs related to acquiring, constructing, remodeling, repairing, equipping or furnishing courthouses or portions of courthouses that are owned or operated by the State of Oregon.

(4) As used in ORS 286A.816 to 286A.826 with respect to this section:

(a) "Project agency" means the Judicial Department.

(b) "Project fund" means the Oregon Courthouse Capital Construction and Improvement Fund. [2013 c.705 §8]

**Sec. 9.** (1)(a) Notwithstanding ORS 1.185, a county and the state, acting by and through the Oregon Department of Administrative Services on behalf of the Judicial Department, may enter into a lease agreement or an intergovernmental agreement with respect to a courthouse or portions of a courthouse that the county is required to provide under ORS 1.185, pursuant to which the state agrees to provide the property and services described in ORS 1.185 (1)(a).

(b)(A) An agreement entered into pursuant to this subsection may include a requirement that the county transfer to the Oregon Courthouse Capital Construction and Improvement Fund an amount not less than 50 percent of the total estimated costs of a project funded with bonds issued pursuant to section 8 of this 2013 Act with respect to the courthouse or portions of a courthouse that are the subject of the agreement. The amount transferred by a county pursuant to this paragraph may comprise property tax revenues, bond proceeds or any other county moneys singly or in any combination and proportion.

(B) The amount required to be transferred by the county under this subsection may not be less than 75 percent of the total estimated costs unless the project includes colocation of state facilities in the courthouse.

(2) For purposes of section 8 of this 2013 Act, the state shall be considered to operate a courthouse or portions of a courthouse that are the subject of an agreement entered into pursuant to subsection (1) of this section if, as applicable:

(a) The lease agreement conveys to the state a full leasehold interest, including exclusive rights to control and use the courthouse or portions of the courthouse that are typical of a long-term lease, for a term that is at least equal to the term during which the bonds issued pursuant to section 8 of this 2013 Act will remain outstanding.

(b) The intergovernmental agreement grants the state the exclusive right to control and use the court-

house or portions of the courthouse for a term that is at least equal to the term during which the bonds issued pursuant to section 8 of this 2013 Act will remain outstanding. [2013 c.705 §9]

**Note:** Section 64, chapter 723, Oregon Laws 2013, provides:

**Sec. 64.** (1) The Oregon Courthouse Capital Construction and Improvement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on moneys in the Oregon Courthouse Capital Construction and Improvement Fund shall be credited to the fund.

(2) The fund consists of moneys deposited in the fund pursuant to section 8, chapter 705, Oregon Laws 2013, and moneys transferred to the fund by a county pursuant to section 9 (1)(b), chapter 705, Oregon Laws 2013, and may include fees, revenues and other moneys appropriated by the Legislative Assembly for deposit in the fund.

(3) Moneys in the fund are continuously appropriated to the Judicial Department for:

(a) The purposes described in section 8 (3), chapter 705, Oregon Laws 2013;

(b) Payment of the costs incurred by the department to administer the fund; and

(c) Payment of bond-related costs, as defined in ORS 286A.816. [2013 c.723 §64]

**1.190** [1999 c.1064 §3; repealed by 2007 c.626 §3]

**1.192** [1999 c.1064 §4; repealed by 2007 c.626 §3]

## COLLECTION OF COURT ACCOUNTS

**1.194 Definitions for ORS 1.194 to 1.200.** As used in ORS 1.194 to 1.200:

(1) "Payment" means an amount of money voluntarily paid by a debtor or an amount of money involuntarily paid by a debtor through offset or garnishment.

(2) "State court" means a circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme Court. [2001 c.823 §11; 2003 c.14 §3]

**1.195 Reports on liquidated and delinquent accounts of state courts.** (1) Not later than October 1 of each fiscal year, all state courts and all commissions, departments and divisions in the judicial branch of state government shall submit reports to the Legislative Fiscal Office that describe the status of the liquidated and delinquent accounts of the judicial branch of state government, and the efforts made to collect those liquidated and delinquent accounts during the immediately preceding fiscal year. The reports required under this subsection shall be in a form prescribed by the Legislative Fiscal Office and shall include but not be limited to:

(a) The total number of all liquidated and delinquent accounts, and the balance for those accounts, at the beginning of the fiscal year;

(b) The total number of all liquidated and delinquent accounts, and the balance for those accounts, at the end of the fiscal year;

(c) The liquidated and delinquent accounts that have been added during the immediately preceding fiscal year;

(d) The total amount collected on liquidated and delinquent accounts during the immediately preceding fiscal year;

(e) The total amount and total number of liquidated and delinquent accounts that have been written off during the immediately preceding fiscal year;

(f) The total amount and total number of liquidated and delinquent accounts that have been assigned for collection, and the collection efforts made for those accounts, during the immediately preceding fiscal year;

(g) The total amount and total number of liquidated and delinquent accounts that have been turned over to private collection agencies under ORS 1.197 and the total amount that has been collected by those agencies during the immediately preceding fiscal year;

(h) The total amount and total number of accounts that have ceased to be liquidated and delinquent during the fiscal year for reasons other than having been collected or written off;

(i) The total number and total amount of all liquidated and delinquent accounts that have been exempted under ORS 1.199; and

(j) Any other information necessary to inform the Legislative Fiscal Office of the status of the liquidated and delinquent accounts of the judicial branch of state government.

(2) The Legislative Fiscal Office shall produce an annual report, not later than December 31 of each fiscal year, on the status of the liquidated and delinquent accounts of the judicial branch of state government. The annual report shall be based on the reports submitted under subsection (1) of this section.

(3) The reports required under subsection (1) of this section may be made by the State Court Administrator on behalf of some or all of the state courts and on behalf of some or all of the commissions, departments and divisions in the judicial branch of state government. [2001 c.823 §12]

**1.196 Agreement for reciprocal offsets.** The State Court Administrator may enter into an intergovernmental agreement with the United States Financial Management Service and the Internal Revenue Service for the purpose of the reciprocal offsetting of the following amounts:

(1) Federal tax refunds of debtors, to be offset against liquidated and delinquent accounts of those debtors resulting from unpaid

financial obligations imposed by state courts; and

(2) Overpayments to state courts, to be offset against federal tax obligations. [2009 c.791 §2]

**1.197 Assignment of liquidated and delinquent accounts to collection agencies; relinquishment of accounts by collection agencies; collections by Department of Revenue.** (1) Except as otherwise provided by law, all state courts and all commissions, departments and divisions in the judicial branch of state government shall offer to assign the liquidated and delinquent accounts of the state court, commission, department or division to a private collection agency, or to the Department of Revenue under the provisions of ORS 293.250, not later than:

(a) One year from the date the account was liquidated if no payment has been received on the account within that year; or

(b) One year from the date of receipt of the most recent payment on the account.

(2) Nothing in subsection (1) of this section prohibits a state court or a commission, department or division in the judicial branch of state government from assigning a liquidated and delinquent account to a private collection agency at any time within the one-year period, or from assigning a liquidated and delinquent account to the Department of Revenue during the one-year period, if that assignment is otherwise allowed by law.

(3) Nothing in this section prevents a state court or a commission, department or division in the judicial branch of state government from assigning an account to the Department of Revenue for the purpose of seeking an offset against tax refunds or other amounts due the debtor at the time the account is assigned to a private collection agency. A state court and any commission, department or division in the judicial branch of state government that assigns the same account to both the Department of Revenue and a private collection agency shall ensure that both the Department of Revenue and the private collection agency are kept informed of the status of all collections made on the account.

(4) If a private collection agency is unable to collect on an account assigned under this section, the private collection agency shall notify the state court, commission, department or division that assigned the account that the private collection agency is unable to collect on the account and that the private collection agency will relinquish the account. The private collection agency shall relinquish the account within a reasonable time or within such time as may be set by agreement. A private collection agency that is assigned an account under this section shall be held to the same standard of confidentiality, service and courtesy imposed on a state court in collecting on liquidated and delinquent accounts.

(5) If a liquidated and delinquent account is assigned to the Department of Revenue as provided in ORS 293.250, the Department of Revenue shall have one year from the date of liquidation, or from the date of receipt of the most recent payment on the account, to collect a payment. If the Department of Revenue does not collect a payment within the one-year period or if one year has elapsed since the date of receipt of the most recent payment on the account, the Department of Revenue shall notify the state court, commission, department or division that assigned the account. The state court, commission, department or division shall then immediately offer assignment of the account to a private collection agency.

(6) For the purposes of this section, a state court or a commission, department or division in the judicial branch of state government shall be considered to have offered an account for assignment to a private collection agency if:

(a) The terms of the offer are of a type generally accepted by the collections industry for the type of account to be assigned; and

(b) The offer is made to a private collection agency that engages in the business of collecting the type of account to be assigned or made generally to private collection agencies through a bid or request for proposal process.

(7) The offer of assignment of accounts required under this section may be made by the State Court Administrator on behalf of some or all of the state courts and on behalf of some or all of the commissions, departments and divisions in the judicial branch of state government. [2001 c.823 §13]

**1.198 Exemptions from requirements of ORS 1.197.** (1) ORS 1.197 does not apply to liquidated and delinquent accounts that are:

(a) Prohibited by state or federal law or regulation from assignment or collection; or

(b) Subject to collection through an offset of federal tax refunds pursuant to an agreement entered into under ORS 1.196.

(2) Notwithstanding ORS 1.197, a state court or a commission, department or division in the judicial branch of state government, acting in its sole discretion, may choose not to offer a liquidated and delinquent account to a private collection agency

or to the Department of Revenue if the account:

(a) Is secured by a consensual security interest in real or personal property;

(b) Is based on that part of a judgment that requires payment of restitution or a payment to the Crime Victims' Assistance section of the Criminal Justice Division of the Department of Justice;

(c) Is in litigation, mediation or arbitration or is subject to a stay in bankruptcy proceedings;

(d) Is owed by a local or state government or by the federal government;

(e) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who receives public assistance as defined in ORS 411.010 or medical assistance as defined in ORS 414.025;

(f) Consists of moneys for which a district attorney has assumed collection responsibility under ORS 8.680;

(g) Consists of moneys owed by a person who is incarcerated;

(h) Is an account that was previously offered to a private collection agency and was refused, or that was previously assigned to a private collection agency and the agency thereafter relinquished the account;

(i) Is less than $100, including penalties; or

(j) Would result in loss of federal funding if assigned. [2001 c.823 §14; 2009 c.791 §3; 2013 c.688 §3]

**1.199 Policies and procedures for exempting accounts from requirements of ORS 1.197 and for ceasing collection efforts.** (1) The State Court Administrator may establish policies and procedures for exempting accounts from the requirements of ORS 1.197. All policies establishing exemptions under this section must be documented and justified by the State Court Administrator.

(2) The State Court Administrator may establish criteria and standards by which state courts and commissions, departments and divisions in the judicial branch of state government may cease to make collection efforts for specified types of accounts. [2001 c.823 §15]

**1.200 Effect of ORS 1.194 to 1.200 on authority of judge.** Nothing in ORS 1.194 to 1.200 limits or affects the ability of a judge of a state court to enforce, modify, set aside, suspend, delay, condition, schedule or take any other action authorized by law with respect to a debt or money obligation owed to this state. [2001 c.823 §16]

**1.202 Fee for establishing and administering account for judgment that includes monetary obligation; fee for judgment referred for collection.** (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, shall add a fee of not less than $50 and not more than $200 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, that use private collection agencies, the Department of Revenue or an offset of federal tax refunds pursuant to an agreement entered into under ORS 1.196 shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. A fee to cover the costs of collecting judgments referred to the private collection agency, the Department of Revenue, the United States Financial Management Service or the Internal Revenue Service shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collecting the judgment.

(3) The Chief Justice of the Supreme Court may authorize courts to waive or suspend the fees required to be added to judgments under this section. Except to the extent authorized by the Chief Justice, a court may not waive or suspend the fees required to be added to judgments under this section. [2001 c.823 §20; 2007 c.860 §32; 2009 c.484 §3; 2009 c.659 §§34,36; 2009 c.791 §4a; 2011 c.595 §§92,92a]

**1.204** [2001 c.823 §25 (enacted in lieu of 8.172); 2003 c.518 §11; repealed by 2011 c.595 §173]

## JUDICIAL OFFICERS GENERALLY

**1.210 Judicial officer defined.** A judicial officer is a person authorized to act as a judge in a court of justice.

**1.212 Oath of office for judges.** (1) Before entering upon the duties of a judge of the Supreme Court, whether upon election or appointment as a judge of the Supreme Court or upon appointment as a senior judge or a judge pro tempore, a person must take

and subscribe, and submit to the Secretary of State, an oath in the form provided by section 7, Article VII (Amended) of the Oregon Constitution.

(2) Except as provided in subsection (3) of this section, before entering upon the duties of a judge of the Court of Appeals, the Oregon Tax Court or a circuit court, a person who is appointed or elected to the office must take and subscribe, and submit to the Secretary of State, an oath in the following form:

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I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the _____ (court), according to the best of my ability, and that I will not accept any other office, except judicial offices, during the term for which I have been _____ (elected or appointed).

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(3) Before entering upon the duties of a judge pro tempore of the Court of Appeals, the Oregon Tax Court or a circuit court, a person must take and subscribe, and submit to the Secretary of State, an oath in the following form:

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I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the _____ (court), according to the best of my ability.

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(4) Before entering upon the duties of a senior judge of the State of Oregon, a person must take and subscribe, and submit to the Secretary of State, an oath in the following form:

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I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a senior judge of the State of Oregon, according to the best of my ability.

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(5) Subsections (3) and (4) of this section do not require that any person take an oath more than once during the term that the person is approved to serve as a senior judge or judge pro tempore, or that a person serving as a senior judge or judge pro tempore take the prescribed oath before each assignment as a judge of the Court of Appeals, Oregon Tax Court or circuit court. Subsection (3) of this section does not require that a judge assigned to serve as judge pro tempore under ORS 1.615 take any additional oath of office. [2003 c.518 §6]

**1.220 Judicial officer or partner acting as attorney.** (1) Except as provided in this section, a judicial officer appointed or elected to a full-time position may not act as an attorney in an action or proceeding.

(2) A judicial officer appointed or elected to a full-time position may act as an attorney in an action or proceeding if the judicial officer is an active member of the Oregon State Bar and is either a party to the action or proceeding or the judicial officer has a direct interest in the action or proceeding.

(3) A judge of a county court or justice court who is an active member of the Oregon State Bar:

(a) May act as an attorney in a court other than the court in which the judge presides; and

(b) May not be engaged in the practice of law with an attorney who appears in the court in which the judge presides.

(4) A judge pro tempore may not preside in an action or proceeding if an attorney who is engaged in the practice of law with the judge appears in the action or proceeding. [Amended by 2007 c.547 §4]

**1.230 Powers of a judge out of court.** A judge may exercise, out of court, all the powers expressly conferred upon a judge as distinguished from a court, and not otherwise.

**1.240 Powers of judicial officers.** Every judicial officer has power:

(1) To preserve and enforce order in the immediate presence of the judicial officer, and in the proceedings before the judicial officer, when the judicial officer is performing a duty imposed by statute.

(2) To compel obedience to the lawful orders of the judicial officer, as provided by statute.

(3) To compel the attendance of persons to testify in a proceeding pending before the judicial officer in the cases and manner provided by statute.

(4) To administer oaths in a proceeding pending before the judicial officer, and in all other cases where it may be necessary, in

the exercise of the powers and the performance of the duties of the judicial officer.

**1.250 Punishment for contempt.** For the effectual exercise of the powers specified in ORS 1.240, a judicial officer may punish for contempt, in the cases and manner provided by statute.

**1.260 Powers of judges of Supreme Court, Court of Appeals, Oregon Tax Court and circuit courts; where powers may be exercised.** The judges of the Supreme Court, the Court of Appeals, the Oregon Tax Court and the circuit courts have power in any part of the state:

(1) To take and certify:

(a) The proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged.

(b) The acknowledgment of satisfaction of a judgment in any court.

(c) An affidavit or deposition to be used in any court of justice or other tribunal of this state.

(2) To exercise any other power and perform any other duty conferred or imposed upon them by statute. [Amended by 1963 c.423 §1; 1969 c.198 §18]

**1.270 Powers of other judicial officers; where powers may be exercised.** Every other judicial officer may, within the county, city, district or precinct in which the judicial officer is chosen:

(1) Exercise the powers mentioned in ORS 1.260 (1).

(2) Exercise any other power and perform any other duty conferred or imposed upon the judicial officer by statute.

**1.280** [1959 c.552 §4; repealed by 1981 s.s. c.1 §25]

**1.290 Leaves of absence.** (1) As used in this section, unless the context requires otherwise, "judge" means any judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court or any circuit court, but does not include any person appointed by the Supreme Court as judge pro tempore of any of those courts who does not hold the elective office of judge of any of those courts.

(2) Upon receipt of the written application of any judge, the Supreme Court may grant the judge a leave of absence without salary for a period of not more than one year. The Supreme Court may grant a leave of absence only if the court is satisfied that the administration of justice in Oregon will be enhanced by granting the leave. Application for a leave of absence is considered a waiver of salary by the applicant for the period of time the applicant is absent under the leave granted by the court.

(3) A leave of absence shall be granted by order of the Supreme Court. The order shall state the maximum period of time for which the leave is granted. Promptly after the granting of the leave, the State Court Administrator shall cause a certified copy of the order granting the leave to be sent to the Secretary of State and the Public Employees Retirement Board.

(4) At the termination of leave of absence under this section, unless the judge sooner dies or resigns, a judge shall resume the duties of office and cause written notice of the resumption to be sent to the Supreme Court, the Secretary of State and the Public Employees Retirement Board. The resumption and sending notice thereof constitutes a termination of the leave whether or not the full maximum period of time granted has expired.

(5) Absence on leave by a judge under this section does not create a vacancy in the office to which the judge was elected or appointed, nor is the judge subject to removal as a consequence thereof.

(6) Absence on leave under this section by a judge who is a member of the Public Employees Retirement System under ORS chapter 238 does not break the continuity of the membership of the judge in the system. [1965 c.12 §1; 1969 c.198 §19; 1971 c.193 §8; 1991 c.815 §2]

**1.300 Senior judge; assignment; duties and powers; compensation and expenses.** (1) A judge who retires from the circuit court, Oregon Tax Court, Court of Appeals or Supreme Court, except a judge retired under the provisions of ORS 1.310, may be designated a senior judge of the State of Oregon by the Supreme Court and, if so designated, shall be so certified by the Secretary of State.

(2) Upon filing with the Secretary of State an oath of office as a senior judge as prescribed in ORS 1.212, a senior judge is eligible for temporary assignment, with the consent of the senior judge, by the Supreme Court to a state court as provided in this subsection, whenever the Supreme Court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice. A senior judge who retired from the Supreme Court may be assigned to any state court. A senior judge who retired from a court other than the Supreme Court may be assigned to any state court other than the Supreme Court.

(3) The assignment of a senior judge shall be made by an order which shall designate the court to which the judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the Supreme Court shall cause a certified copy of the order to be sent to the

senior judge and another certified copy to the court to which the judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the senior judge is assigned. The powers, jurisdiction and judicial authority of the senior judge in respect to any case or matter tried or heard by the senior judge while serving under the assignment shall continue beyond the expiration of the assignment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor.

(5) A senior judge assigned as provided in this section shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to five percent of the gross monthly salary of a regularly elected and qualified judge of the court to which the senior judge is assigned, or one-half of that daily compensation for services of one-half day or less. However, a retired judge shall not receive for services as a senior judge during any calendar year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the annual salary of a judge of the court from which the senior judge retired. The compensation shall be paid upon the certificate of the senior judge that the services were performed for the number of days shown in the certificate. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled.

(6) A senior judge assigned to a court located outside the county in Oregon in which the senior judge regularly resides shall receive, in addition to daily compensation, reimbursement for hotel bills and traveling expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct. [1973 c.452 §2; 1975 c.706 §9; 1979 c.56 §1; 1983 c.628 §1; 1987 c.762 §2; 2003 c.518 §7]

**1.303 Disability of judge; procedures upon receipt by Chief Justice of complaint or information.** (1) As used in this section and ORS 1.425:

(a) "Judge" means a judge of any court of this state.

(b) "Subject judge" means a judge whose alleged disability is involved in proceedings under this section or ORS 1.425.

(c) "Disability" means a physical or mental condition of a judge, including but not limited to impairment derived in whole or in part from habitual or excessive use of intoxicants, drugs or controlled substances, that significantly interferes with the capacity of the judge to perform judicial duties. A disability may be permanent or temporary.

(2) When the Chief Justice of the Supreme Court receives a complaint as provided in ORS 1.420 (2) or has reliable information that would lead a reasonable person to believe that a judge has a disability, the Chief Justice may:

(a) Confer with the subject judge in respect to the alleged disability.

(b) Consult with other judges of the court in which the subject judge serves and other persons who may have knowledge concerning the alleged disability.

(c) Conduct other inquiry in respect to the alleged disability as the Chief Justice considers appropriate.

(3) If, after inquiry, and on clear and convincing evidence, the Chief Justice determines that the subject judge has a temporary disability, that informal disposition is appropriate and that the subject judge agrees to informal disposition, the Chief Justice may enter into an informal disposition of the matter with the subject judge. The informal disposition may include agreement by the subject judge to obtain professional counseling, medical treatment or other assistance or to comply with other conditions in respect to the future conduct of the judge. If an informal disposition is entered into, the Chief Justice may grant the subject judge a leave of absence with salary for a period of not more than one year.

(4) If, after inquiry, and on clear and convincing evidence, the Chief Justice determines that the subject judge has a permanent disability, or that the subject judge has a temporary disability and informal disposition is not appropriate or the subject judge does not agree to informal disposition, the Chief Justice may file a written request for an investigation under ORS 1.310 (2) or a complaint under ORS 1.425, as the Chief Justice considers appropriate.

(5) When the Chief Justice enters into an informal disposition with a subject judge under subsection (3) of this section, or files a written request or complaint in respect to a subject judge under subsection (4) of this section, or determines that a subject judge does not have a disability, the Chief Justice shall prepare a written summary of the nature of the complaint or information received, the inquiry conducted and the basis for the determination. The Chief Justice shall immediately send a copy of the summary to the Commission on Judicial Fitness and Disability, which shall retain the copy in a file for the subject judge.

(6) Documents filed with or prepared by the Chief Justice under subsections (2), (3) and (5) of this section shall not be public records unless received as competent evidence in the course of a hearing pursuant to ORS 1.310 (4) or 1.420. [1987 c.520 §1]

**1.305 Commencement of judicial term of office.** The term of office of a judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, or of any circuit court shall begin on the first Monday in January following the election of the judge. [1979 c.451 §7]

## INVOLUNTARY RETIREMENT OF JUDGES

**1.310 Involuntary retirement of judges for disability; rules.** (1) As used in this section:

(a) "Chief Justice" means the Chief Justice of the Supreme Court of Oregon, except that, if the Chief Justice is the subject judge, then the term "Chief Justice" means the one of the remaining judges of the Supreme Court who has served the longest period of time as a judge of that court.

(b) "Disability" means physical or mental incapacitation of such a degree as to cause a judge to be unable to discharge the duties of judicial office.

(c) "Judge" includes any judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, or any circuit court, of the State of Oregon.

(d) "Subject judge" means any judge whose alleged disability is involved in proceedings under this section.

(2) Any judge who becomes disabled may be retired in the manner provided in this section. The Governor, the Chief Justice, the Judicial Conference or the Board of Governors of the Oregon State Bar may file at any time with the Secretary of State a written request for an investigation to determine whether a judge named in the request has a disability. Upon receipt of a request, the Secretary of State shall transmit to the subject judge a certified copy of the request, with a notice to the effect that, unless the judge files a resignation within 45 days after the date of the notice, an investigation will be made to determine whether the judge has a disability. The certified copy and notice shall be served on the subject judge, either by delivering them to the judge in person or by transmitting them by registered mail or by certified mail with return receipt to the judge at the last residence address of the judge as shown in the records of the Secretary of State.

(3) If the subject judge fails to file a resignation within 45 days after the date of the notice, the Secretary of State, within 10 days after the expiration of that period, shall transmit to the Commission on Judicial Fitness and Disability certified copies of the request and notice, with a certificate to the effect:

(a) That the Secretary of State served the notice and copy of the request on the subject judge as provided in subsection (2) of this section; and

(b) That the judge did not file a resignation.

(4) Upon receipt of the certified copies and certificate referred to in subsection (3) of this section, the commission shall make the requested investigation and, after hearing, determine whether the subject judge has a disability. The commission shall prepare an official record that shall include the testimony taken and the exhibits considered. If the subject judge refuses or is unable to attend, the commission may proceed with the hearing in the absence of the judge.

(5) If a majority of the members of the commission determines that the subject judge in fact has a disability, the members shall make and sign written findings of fact upon which the determination is made and transmit the findings to the Secretary of State. If no appeal is filed, the office of the judge shall become vacant 10 days after the filing of the findings, and thereupon the Secretary of State shall certify to the Governor the existence of the vacancy. If a majority of the members of the commission does not find that the subject judge has a disability, the members shall sign and file with the Secretary of State a written report to that effect, and thereupon the proceeding shall terminate.

(6) The commission may prescribe rules of procedure for the conduct of the investigation and fix the time and place of the hearing, giving the subject judge due notice thereof. The fees and mileage allowance of witnesses, including experts, shall be fixed by the commission.

(7) A judge retired under the provisions of this section may not be appointed as judge pro tempore to serve upon any court of the State of Oregon.

(8) The subject judge may appeal to the Supreme Court from a determination by the commission that the judge has a disability, by filing a notice with the Secretary of State within 10 days after the date of filing of the written findings of fact by the commission. The Secretary of State shall thereupon notify the commission and the Chief Justice. The commission shall forthwith transmit the official record to the Supreme Court, which upon receipt of the record shall have full jurisdiction of the proceeding.

(9) The Supreme Court shall review the proceeding de novo on the record with authority to affirm, reverse or annul the determination. Prior to a final determination, remand may also be made to the commission for additional findings of fact. In the event that the Supreme Court reverses or annuls the determination of the commission, the proceeding shall thereupon terminate and notice to that effect shall be filed with the Secretary of State. If the determination of the commission is affirmed, a decision to that effect shall be filed with the Secretary of State and the office of the subject judge shall forthwith become vacant. Thereupon, the Secretary of State shall certify to the Governor the existence of the vacancy. [Amended by 1963 c.488 §1; 1965 c.394 §1; 1969 c.332 §2; 1983 c.740 §2; 1987 c.520 §11; 1991 c.249 §1; 1991 c.815 §3; 2007 c.70 §1; 2009 c.11 §2]

**1.312** [1969 c.332 §1; repealed by 1991 c.815 §21]

**1.314** [1959 c.551 §2 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1961 c.568 §1; 1963 c.592 §1; 1965 c.394 §2; 1969 c.332 §3; repealed by 1991 c.815 §21]

**1.316** [1971 c.101 §2; repealed by 1991 c.815 §21]

**1.318** [1959 c.551 §3 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1961 c.568 §2; 1963 c.464 §3; 1965 c.394 §3; 1969 c.332 §4; 1983 c.770 §13; repealed by 1991 c.815 §21]

**1.320** [Amended by 1955 c.496 §1; repealed by 1959 c.551 §1 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320)]

**1.322** [1959 c.551 §4 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1965 c.394 §4; 1969 c.332 §5; repealed by 1991 c.815 §21]

**1.326** [1959 c.551 §5 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1963 c.464 §4; repealed by 1991 c.815 §21]

**1.328** [1959 c.551 §§10,11; repealed by 1961 c.568 §5]

**1.330** [Amended by 1961 c.568 §3; 1963 c.464 §5; 1965 c.394 §5; 1969 c.332 §6; 1971 c.101 §3; repealed by 1991 c.815 §21]

**1.340** [Amended by 1953 c.529 §5; 1955 c.496 §2; 1955 c.511 §1; 1959 c.551 §6; 1961 c.568 §4; 1963 c.464 §6; 1965 c.394 §6; 1969 c.332 §7; 1971 c.101 §4; 1983 c.770 §14; repealed by 1991 c.815 §21]

**1.343** [1979 c.609 §2; 1983 c.770 §15; 1989 c.757 §2; 1991 c.796 §8; repealed by 1991 c.815 §21]

**1.345** [1961 c.702 §5; repealed by 1963 c.464 §10]

**1.346** [1977 c.84 §2; repealed by 1991 c.815 §21]

**1.350** [Amended by 1959 c.551 §7; 1963 c.464 §7; 1969 c.332 §8; 1989 c.966 §1; repealed by 1991 c.815 §21]

**1.355** [1963 c.464 §2; 1973 c.704 §1; 1975 c.614 §1; repealed by 1991 c.815 §21]

**1.360** [Amended by 1953 c.529 §5; 1959 c.551 §8; 1961 c.702 §1; 1963 c.464 §8; 1965 c.394 §7; 1969 c.332 §9; 1975 c.125 §3; 1975 c.614 §2; repealed by 1991 c.815 §21]

**1.365** [1987 c.625 §6; repealed by 1991 c.815 §21]

**1.370** [Repealed by 1963 c.464 §10]

**1.380** [Amended by 1963 c.464 §9; subsection (7) enacted as 1969 c.332 §11; subsection (8) enacted as 1969 c.332 §17; repealed by 1991 c.815 §21]

**1.385** [1969 c.332 §15; repealed by 1991 c.815 §21]

**1.387** [1979 c.727 §1; 1981 c.684 §1; repealed by 1991 c.815 §21]

**1.390** [1969 c.332 §10; repealed by 1991 c.815 §21]

## COMMISSION ON JUDICIAL FITNESS AND DISABILITY

**1.410 Commission on Judicial Fitness and Disability; term; Senate confirmation.** (1) There is created the Commission on Judicial Fitness and Disability consisting of:

(a) Three judges appointed by the Supreme Court;

(b) Three persons appointed by the Board of Governors of the Oregon State Bar from among persons admitted to practice law in this state; and

(c) Three persons appointed by the Governor who are not qualified under either paragraph (a) or (b) of this subsection.

(2) The term of a member is four years, but whenever a member ceases to meet the qualifications under which the member was appointed, membership shall end. Before the expiration of the term of a member, a successor shall be appointed to perform the functions of a member on the day next following expiration of the term of the member. In case of a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for a four-year term.

(3) Appointments by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [1967 c.294 §2; 1969 c.695 §16; 1971 c.511 §1; 1985 c.565 §2]

**1.415 Powers and duties of commission; rules.** (1) The Commission on Judicial Fitness and Disability may:

(a) Subject to the State Personnel Relations Law, appoint such subordinates and employees as the commission considers necessary to carry out the duties and powers vested in the commission.

(b) Request the assistance of and compensate physicians, expert witnesses and special counsel.

(c) By its chairperson or vice chairperson, take and preserve testimony and admin-

ister oaths to witnesses on any matter within its jurisdiction.

(2) Upon majority vote of the members of the commission or upon request of a judge whose conduct is subject to a hearing under ORS 1.420 or a judge whose alleged disability is subject to a hearing under ORS 1.425, the chairperson or vice chairperson of the commission shall issue any processes necessary to compel the attendance of witnesses and the production of any books, papers, records or documents as may be required.

(3) The commission shall adopt rules of procedure governing proceedings under ORS 1.420 and 1.425. [1967 c.294 §10; 1987 c.520 §4]

**1.420 Investigation; hearings; consent to discipline; recommendation; temporary suspension.** (1) Upon complaint from any person concerning the conduct of a judge or upon request of the Supreme Court, and after such investigation as the Commission on Judicial Fitness and Disability considers necessary, the commission may do any of the following:

(a) The commission may hold a hearing pursuant to subsection (3) of this section to inquire into the conduct of the judge.

(b) The commission may request the Supreme Court to appoint three qualified persons to act as masters, to hold a hearing pursuant to subsection (3) of this section and maintain a record on the matter referred to them and to report to the commission on the conduct of the judge.

(c) The commission may allow the judge to execute a consent to censure, suspension or removal. If a consent is entered into under this paragraph, the judge and the commission must enter into a written stipulation of facts. The consent and stipulation of facts shall be submitted by the commission to the Supreme Court.

(2) If the commission receives a complaint that appears to indicate that a judge has a disability as defined in ORS 1.303, the commission may refer the complaint to the Chief Justice of the Supreme Court for appropriate proceedings under ORS 1.303.

(3) When a hearing is held by the commission or by masters as authorized in subsection (1) of this section, the hearing shall be public and all the testimony and evidence given and received in the hearing shall be public records. The judge shall have the right to be present at such hearing, to be represented by counsel, to present testimony and evidence and to cross-examine witnesses.

(4) If, after hearing or after considering the record and report of the masters, the commission finds that the conduct of the judge justifies censure, suspension or removal from office, the commission shall recommend to the Supreme Court the censure or suspension or removal of the judge.

(5) The Supreme Court by order may temporarily suspend a judge whose conduct is the subject of proceedings under this section from exercising any judicial functions during the pendency of those proceedings. [1967 c.294 §7; 1971 c.511 §3; 1987 c.520 §5; 1997 c.720 §1]

**1.425 Commission proceedings upon receipt of complaint of disability; hearing; physical examination; disposition.** (1) Upon complaint from the Chief Justice of the Supreme Court as provided in ORS 1.303, and after such investigation as the Commission on Judicial Fitness and Disability considers necessary, the commission may:

(a) Proceed as provided in ORS 1.420; or

(b) If the investigation under this subsection indicates that the subject judge may have a temporary disability, hold a hearing pursuant to subsection (2) of this section to inquire into the alleged disability, or request the Supreme Court to appoint three qualified persons to act as masters, to hold a hearing pursuant to subsection (2) of this section and maintain a record on the matter referred to them and to report to the commission on the alleged disability.

(2) When a hearing is held by the commission or by masters as authorized in subsection (1)(b) of this section, the hearing shall not be open to the public unless the subject judge requests a public hearing. The testimony and evidence given and received in the hearing shall not be public records. The subject judge shall have the right to be present at such hearing, to be represented by counsel, to present testimony and evidence and to cross-examine witnesses.

(3)(a) The commission may direct that a subject judge, prior to a hearing, submit to a physical examination by one, two or three physicians licensed to practice in this state and appointed by the commission to conduct the examination, or submit to a mental evaluation by one, two or three physicians, psychologists or other mental health professionals licensed to practice in this state and appointed by the commission to conduct the evaluation, or submit to both that examination and evaluation. The persons appointed to conduct the examination or evaluation shall report thereon to the commission. A copy of any report to the commission shall be provided by the commission to the subject judge. The costs of the examination, evaluation and reporting shall be paid by the commission.

(b) If a subject judge directed to submit to an examination or evaluation fails to do so, the judge may not present as evidence in the proceeding the results of any medical

examination of the judge done at the instance of the judge, and the commission or masters may consider the failure of the judge to submit to examination or evaluation as evidence that the judge has a disability.

(4) If, after hearing or after considering the record and report of the masters, the commission finds that the subject judge has a temporary disability, the commission may:

(a) Enter into a disposition of the matter with the subject judge, which may include agreement by the judge to obtain professional counseling, medical treatment or other assistance or to comply with other conditions in respect to the future conduct of the judge and provide for supervision of compliance by the judge and for investigation, hearing as provided in subsection (2) of this section and, if appropriate, action by the commission as provided in paragraph (b) of this subsection if the judge fails to comply; or

(b) If the commission also finds that the conduct of the subject judge justifies suspension, recommend to the Supreme Court that the judge be suspended without loss of salary for a period not exceeding one year.

(5) The Supreme Court, on its own motion or on recommendation by the commission, by order may temporarily suspend a judge whose alleged disability is involved in proceedings under this section from exercising any judicial functions during the pendency of those proceedings.

(6) If the commission recommends suspension under subsection (4)(b) of this section, the Supreme Court shall review the record of the proceedings under this section on the law and facts and may receive additional evidence and permit argument. The Supreme Court may order the judge suspended without loss of salary for a period not exceeding one year. Upon an order of suspension, the judge shall be suspended from office for the period specified in the order. Suspension does not create a vacancy in the office of judge during the period of suspension. In addition to or in lieu of an order of suspension, the Supreme Court may require that the judge obtain professional counseling, medical treatment or other assistance or comply with other conditions in respect to the future conduct of the judge. [1987 c.520 §3]

**1.430 Supreme Court review; censure; order of suspension or removal.** (1) If a hearing has been held under ORS 1.420, the Supreme Court shall review the record of the proceedings on the law and facts and may receive additional evidence. The Supreme Court may censure the judge or it may order the judge suspended or removed from office.

(2) If the commission has agreed to allow the judge to submit a consent to censure, suspension or removal, the Supreme Court shall review the stipulation of facts and the disciplinary action to which the judge has consented. If the Supreme Court approves the consent, the court shall censure the judge or order the judge suspended or removed from office pursuant to the terms of the consent. If the Supreme Court rejects the consent and stipulation in full, the court shall remand the matter to the commission for a hearing under ORS 1.420. The hearing shall be conducted as though the consent and stipulation had never been entered into, and the stipulations made by the judge may not be considered as evidence by the commission in the hearing. If the Supreme Court accepts the stipulation of facts but rejects the disciplinary action agreed to by the judge and the commission, the court may remand the matter to the commission for such further fact-finding as the court may direct on the issue of the appropriate discipline for the conduct, and may request that the matter be briefed and argued before the court. The Supreme Court may thereafter censure the judge, or enter an order suspending or removing the judge, as the court finds appropriate under the law and the facts.

(3) Upon an order for removal, the judge shall be removed from office and the salary of the judge shall cease and the office of the judge is vacant on the date of such order.

(4) Upon an order of suspension, the judge shall be suspended from office for the period specified in the order and the salary of the judge shall cease, if so ordered, from the date of the order until the end of the specified period. Suspension does not create a vacancy in the office of judge during the period of suspension. [1967 c.294 §7; 1971 c.511 §3; 1997 c.720 §2]

**1.440 Status of records of proceedings under ORS 1.420 or 1.425.** (1) Documents filed with the Commission on Judicial Fitness and Disability and the investigation conducted by the commission prior to a hearing pursuant to ORS 1.420 or 1.425 shall not be public records unless received as competent evidence in the course of a hearing pursuant to ORS 1.420. The decision of the commission after hearing or upon review of the record and report of masters under ORS 1.420 shall be a public record, together with the recommendations, if any, of the commission to the Supreme Court. The decision of the commission after hearing or upon review of the record and report of masters under ORS 1.425 shall not be a public record, except for a decision and recommendation to the Supreme Court under ORS 1.425 (4)(b). A consent to censure, suspension or removal executed by a judge under ORS 1.420 (1)(c), and a stipulation of facts entered into between the commission and a judge under

ORS 1.420 (1)(c), shall not be a public record until the consent and stipulation are submitted to the Supreme Court.

(2) Documents filed and testimony given in proceedings under ORS 1.420 or 1.425 are privileged communications which may not be received in evidence in any judicial proceedings other than those directly connected with the administration of ORS 1.410 to 1.480 unless expressly or impliedly waived by the person tendering the document to or testifying in such proceedings or except in a criminal prosecution for perjury or false swearing before the commission.

(3) Members of the commission, masters appointed pursuant to ORS 1.420 or 1.425 and staff of the commission shall not disclose or use any investigation, testimony or documents which are not public records as defined in ORS 1.410 to 1.480 for any purpose other than in connection with their official duties in the administration of ORS 1.410 to 1.480. The commission may, upon the request of a judge who has been the subject of a complaint and proceedings thereon that are not public records, state the disposition of the complaint and proceedings and the reasons for its decision when the commission finds that the complaint or proceedings have been publicized and fairness requires such comment. [1967 c.294 §8; 1981 c.354 §2; 1987 c.520 §6; 1997 c.720 §3]

**1.450 Status of testimony in proceedings under ORS 1.420 or 1.425.** Any testimony given by a witness compelled to appear before the Commission on Judicial Fitness and Disability or the masters appointed pursuant to ORS 1.420 or 1.425 shall not be used against the witness in any criminal action or proceeding, nor shall any criminal action or proceeding be brought against such witness on account of any testimony so given by the witness, except for perjury or false swearing committed before the commission or the masters. [1967 c.294 §14; 1987 c.520 §7]

**1.460 Judge not to participate in proceedings involving self except in defense.** A judge who is a member of the Commission on Judicial Fitness and Disability or of the Supreme Court or who acts as a master under ORS 1.420 or 1.425 shall not participate in any proceedings involving the conduct or alleged disability of the judge except in the defense of the judge. [1967 c.294 §9; 1987 c.520 §8]

**1.470 Service of process; proof; return; witness fees.** (1) Process issued by the commission or by the chairperson and vice chairperson of the commission shall be served by a person authorized to serve summons and in the manner prescribed for the service of a summons upon a defendant in a civil action in a circuit court. The process shall be returned to the authority issuing it within 10 days after its delivery to the person for service, with proof of service as for summons or that the person cannot be found. When served outside the county in which the process originated, the process may be returned by mail. The person to whom the process is delivered shall indorse thereon the date of delivery.

(2) Each witness compelled to attend any proceedings under ORS 1.420 or 1.425, other than an officer or employee of the state, a public corporation, or a political subdivision, shall receive for attendance the same fees and mileage allowance allowed by law to a witness in a civil case, payable from funds appropriated to the commission. [1967 c.294 §§11,12; 1973 c.827 §1; 1977 c.877 §1; 1979 c.284 §41; 1987 c.520 §9]

**1.475 Procedure when process not obeyed.** (1) Whenever a person summoned by the Commission on Judicial Fitness and Disability fails to appear to testify or fails to produce any books, papers, records or documents as required, or whenever any person so summoned refuses to answer any question pertinent to the subject under inquiry before the commission, or the masters appointed pursuant to ORS 1.420 or 1.425, the commission may apply to the circuit court for the county in which the failure occurred for an order to the person to attend and testify, or otherwise to comply with the demand or request of the commission or the masters.

(2) The application to the court shall be by ex parte motion upon which the court shall make an order requiring the person against whom it is directed to comply with the demand or request of the commission within three days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.

(3) The order shall be served upon the person to whom it is directed in the manner required by this state for the service of process, which service is required to confer jurisdiction upon the court. Failure to obey an order issued by the court under this section is contempt of court. [1967 c.294 §13; 1987 c.520 §10]

**1.480 Officers; quorum; compensation and expenses.** (1) The Commission on Judicial Fitness and Disability shall select one of its members as chairperson, and another as vice chairperson, for such terms and to perform such functions as the commission shall determine.

(2) A majority of the commission constitutes a quorum for the transaction of business. Every recommendation on matters relating to the removal of a judge to the Su-

preme Court must be concurred in by a majority of the members of the commission.

(3) A member of the Commission on Judicial Fitness and Disability is entitled to compensation and expenses as provided in ORS 292.495. [1967 c.294 §§4,5; 1969 c.314 §2]

**1.510** [Formerly 484.420; 1969 c.314 §3; 1971 c.404 §3; 1973 c.43 §1; 1973 c.374 §1; 1975 c.304 §2; 1979 c.477 §1; 1983 c.740 §3; repealed by 1985 c.725 §17]

**1.520** [Formerly 484.410; 1971 c.404 §4; 1973 c.374 §2; 1977 c.132 §7; 1981 c.692 §4; 1981 s.s. c.3 §4; 1985 c.396 §5; 1985 c.725 §8a; 1993 c.531 §3; 1995 c.383 §120; 1995 c.545 §1a; 1995 c.781 §52; repealed by 1999 c.1051 §74]

## CITATION AND PETITION FORMS

**1.525 Uniform citation and petition forms for certain offenses.** (1) The Supreme Court shall adopt one or more forms for the following purposes:

(a) A form of uniform violation citation for the purposes of ORS 153.045;

(b) A form of uniform criminal citation without complaint for the purposes of ORS 133.068;

(c) A form of uniform criminal citation with complaint for the purposes of ORS 133.069;

(d) Any form of uniform citation for categories of offenses as the court finds necessary or convenient; and

(e) A uniform petition for a driving while under the influence of intoxicants diversion agreement for the purposes of ORS 813.210.

(2) If changes are made to a uniform citation form under this section, the Supreme Court shall make a reasonable effort to minimize the financial impact of the changes on the state agencies and political subdivisions of this state that use the uniform citation form. Where possible, the effort to minimize the financial impact shall include a reasonable time for the state agencies and political subdivisions to exhaust their existing supplies of the citation form before the changes become effective.

(3) Except as provided in subsection (4) of this section, the uniform citation forms adopted by the Supreme Court under this section must be used by all enforcement officers, as defined in ORS 153.005, when issuing a violation citation or criminal citation.

(4) The uniform citation forms adopted by the Supreme Court under this section need not be used for:

(a) Offenses created by ordinance or agency rule governing parking of vehicles; or

(b) Offenses created by the ordinances of political subdivisions. [1979 c.477 §3; 1981 c.692 §5; 1981 c.803 §1; 1983 c.338 §879; 1985 c.725 §9; 1999 c.1051 §73]

**1.530** [Formerly 484.430; repealed by 1973 c.43 §2]

## REPRESENTATION OF JUDGES BY PRIVATE COUNSEL

**1.550 Private counsel for judges.** Whenever, pursuant to ORS chapter 180, the Attorney General is requested to represent a judge of the Supreme Court, Court of Appeals, Oregon Tax Court or circuit court and declines to do so, the judge may, subject to the provisions of ORS 30.260 to 30.300 and 30.310 to 30.400, employ private counsel as provided under ORS 1.560. [1977 c.79 §2]

**1.560 Procedure for employment of private counsel; terms and conditions.** In any case in which the judge desires the appointment of private counsel, the judge shall so notify the State Court Administrator. The State Court Administrator, under the direction of the Supreme Court, may authorize the judge to employ private counsel under the following circumstances:

(1) When the judge is a defendant in an action, suit or proceeding and there is no other party directly interested in the outcome of the action, suit or proceeding who should fairly bear the cost of representation;

(2) When the judge is a defendant in an action, suit or proceeding and the State Court Administrator concludes that no party interested in the outcome of the action, suit or proceeding will provide adequate representation for the judge; or

(3) In any action, suit or proceeding, when the State Court Administrator finds that employing private counsel is necessary to protect the public interest, the integrity of the judicial system, or the interests of the judge in performing duties as a state officer. [1977 c.79 §3; 2007 c.71 §2]

**1.570 Claims for compensation of private counsel; approval by State Court Administrator.** If private counsel is employed under ORS 1.560, such counsel shall submit to the State Court Administrator a verified and detailed claim for compensation, which claim shall include a statement of reimbursable expense incurred and the amount of time devoted to the matter on behalf of the judge. The State Court Administrator, under the direction of the Supreme Court, shall examine the claim and shall approve payment thereof in a reasonable amount. [1977 c.79 §4]

## JUDGES PRO TEMPORE

**1.600 Appointment pro tempore to Supreme Court or Court of Appeals; powers and duties.** (1) The Supreme Court may appoint any regularly elected and qualified, or appointed and qualified, judge of the Court of Appeals, Oregon Tax Court or cir-

cuit court to serve as judge pro tempore of the Supreme Court, or any regularly elected and qualified, or appointed and qualified, judge of the Supreme Court, Oregon Tax Court or circuit court to serve as judge pro tempore of the Court of Appeals, whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice.

(2) An appointment under this section shall be made by order of the Supreme Court. The order shall designate the court to which the judge is appointed and the duration of the appointment. The Supreme Court shall cause a certified copy of the order to be sent to the judge appointed and another certified copy to be filed in the records of the court to which the judge is appointed.

(3) Each judge serving as judge pro tempore as provided in this section has all the judicial powers and duties, while so serving, of a regularly elected and qualified judge of the court to which the judge is appointed. However, a judge pro tempore shall not participate in the review of any case in which the judge pro tempore participated while serving on a lower court. Every decision, order or determination made by the Supreme Court or Court of Appeals while one or more judges pro tempore are serving as judges of the court shall be as binding and effective in every respect as if all of the judges participating were regularly elected and qualified judges of the court. [1975 c.706 §1; 1995 c.781 §5a; 2003 c.518 §8]

**1.605 Compensation and expenses for judges under ORS 1.600.** (1) A judge of the Supreme Court serving as judge pro tempore of the Court of Appeals as provided in ORS 1.600 shall receive the regular salary and expenses of a judge of the Supreme Court, including reimbursement for hotel bills and traveling expenses necessarily incurred by the judge pro tempore in the performance of duties as judge pro tempore.

(2) A judge of the Court of Appeals serving as judge pro tempore of the Supreme Court or a judge of the Oregon Tax Court or circuit court serving as judge pro tempore of the Supreme Court or Court of Appeals as provided in ORS 1.600 shall receive during the period of service as judge pro tempore, in addition to regular salary and expenses, the following compensation and expenses:

(a) An amount equal to the salary for the period of a regularly elected and qualified judge of the court to which the judge is appointed diminished by the amount received by the judge for the period in payment of regular salary as a judge; and

(b) If the judge is required to travel outside the county where the court of the judge is located, reimbursement for hotel bills and traveling expenses necessarily incurred by the judge in the performance of duties as judge pro tempore.

(3) The additional compensation and expenses payable under this section shall be paid by the state upon an itemized statement of the compensation and expenses, certified by the judge pro tempore that the services were performed and the expenses were necessarily and actually incurred. [1975 c.706 §2]

**1.610** [1965 c.494 §1; 1967 c.270 §1; 1969 c.198 §27; 1969 c.577 §1; repealed by 1971 c.311 §2]

**1.615 Appointment pro tempore to tax court or circuit court; powers and duties.** (1) The Supreme Court may assign any regularly elected and qualified, or appointed and qualified, judge of the Supreme Court, Court of Appeals, Oregon Tax Court or circuit court to serve as judge pro tempore of the tax court or any circuit court, whenever the Supreme Court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice.

(2) It is the duty of a judge assigned under this section to comply with the assignment. A judge assigned under this section is not required to take, subscribe or file any additional oath of office.

(3) Each judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the judge is assigned. The powers, jurisdiction and judicial authority of the judges in respect to any case or matter tried or heard by the judge while serving under the assignment shall continue beyond the expiration of the assignment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor. [1975 c.706 §3; 1979 c.56 §2; 1989 c.124 §1; 1995 c.781 §5b]

**1.620** [1965 c.494 §8; repealed by 1971 c.311 §2]

**1.625 Compensation and expenses for judges under ORS 1.615.** (1) A judge assigned as provided in ORS 1.615 shall receive the regular salary of the judge and expenses as a judge of the court of the judge.

(2) A judge assigned as provided in ORS 1.615 outside the county in which the judge regularly serves shall receive reimbursement for hotel bills and traveling expenses necessarily incurred by the judge in the perform-

ance of the duties of the judge under the assignment.

(3) The additional compensation and expenses payable under this section shall be paid by the state upon an itemized statement of the compensation and expenses, certified by the judge pro tempore that the services were performed and the expenses were necessarily and actually incurred. [1975 c.706 §4; 1995 c.658 §11]

**1.630** [1965 c.494 §2; 1969 c.577 §2; repealed by 1971 c.311 §2]

**1.635 Appointment pro tempore of eligible person to tax court or circuit court.** The Supreme Court may appoint any eligible person to serve as judge pro tempore of the Oregon Tax Court or as judge pro tempore of the circuit court in any county or judicial district, whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. A person is eligible for appointment if the person is a resident of this state and has been a member in good standing of the Oregon State Bar for a period of at least three years next preceding the appointment. [1975 c.706 §5; 1987 c.762 §1; 1989 c.124 §2; 2003 c.518 §9]

**1.640** [1965 c.494 §3; 1967 c.270 §2; 1969 c.198 §28; repealed by 1971 c.311 §2]

**1.645 Transfer, challenge, disqualification, supervision of person appointed under ORS 1.635.** (1) A judge pro tempore of a circuit court appointed to serve in any county or judicial district as provided in ORS 1.635 may, at any time while serving under the appointment, be transferred and assigned by the Supreme Court to serve as judge pro tempore in any one or more other counties or judicial districts during the term of the appointment.

(2) Each judge pro tempore appointed and qualified as provided in ORS 1.635 has all the judicial powers, duties, jurisdiction and authority, while serving under the appointment, of a regularly elected and qualified judge of the court to which the judge pro tempore is appointed or assigned.

(3) The eligibility, appointment or qualification of an appointee under ORS 1.635, or the right of the appointee to hold the position of judge pro tempore in any particular county or judicial district while serving under the appointment, is subject to challenge only in a direct proceeding instituted for that purpose as provided in ORS 30.510 to 30.640. The proceeding may be instituted in the Supreme Court if it consents to take original jurisdiction thereof.

(4) A judge pro tempore appointed as provided in ORS 1.635 is subject to disqualification to sit in any case for any of the causes specified in ORS 14.210 or 14.250.

(5) A judge pro tempore appointed as provided in ORS 1.635 or assigned as provided in subsection (1) of this section to a court with one or more regularly elected and qualified judges on active duty shall be subject to the directions of the regular presiding judge of the court in respect to the assignment of cases and the general administration of the business of the court. [1975 c.706 §6]

**1.650** [1965 c.494 §4; repealed by 1971 c.311 §2]

**1.655 Extension and termination of appointment under ORS 1.635; eligibility to appear as attorney.** (1) It is the duty of a judge pro tempore appointed as provided in ORS 1.635 to hear, decide and dispose of all cases and matters submitted to the judge pro tempore as promptly as the nature of the questions involved will permit. The powers, jurisdiction and judicial authority of the judge pro tempore in respect to any case or matter tried or heard by the judge pro tempore while serving under the appointment shall continue beyond the expiration of the appointment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor.

(2) The Supreme Court at any time by order may:

(a) Extend the term of appointment of a judge pro tempore appointed as provided in ORS 1.635.

(b) Terminate the term of appointment of a judge pro tempore appointed as provided in ORS 1.635 as of a date specified in the order; but termination does not affect the validity of any judgment, order or other action of the judge pro tempore prior to the effective date of the termination.

(3) A judge pro tempore of a circuit court appointed as provided in ORS 1.635 is not eligible to appear as attorney in that court in any case tried by a jury at the same term of court during which the judge pro tempore served as judge pro tempore. [1975 c.706 §7; 2003 c.576 §268]

**1.660** [1965 c.494 §5; 1967 c.270 §3; 1969 c.706 §64b; repealed by 1971 c.311 §2]

**1.665 Compensation and expenses of persons appointed under ORS 1.635.** (1) A judge pro tempore appointed as provided in ORS 1.635 shall be entitled to receive upon application therefor as compensation for each day the judge pro tempore is actually engaged in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a reg-

ularly elected and qualified judge of the court to which the judge is appointed, or one-half of that daily compensation for services of one-half day or less. The compensation shall be paid upon the certificate of the judge pro tempore that the services were performed for the number of days shown in the certificate, and in the same manner as the salaries of the regularly elected and qualified judges are paid. A person who wishes or is willing to serve without compensation may do so.

(2) A judge pro tempore appointed as provided in ORS 1.635 or assigned as provided in ORS 1.645 to serve outside the county in which the judge pro tempore resides or maintains an office shall receive, in addition to daily compensation, if any, reimbursement for hotel bills and traveling expenses necessarily incurred by the judge pro tempore in the performance of duties as judge pro tempore. The expenses shall be paid upon an itemized statement of the expenses, certified by the judge pro tempore that the expenses were necessarily and actually incurred, in the same manner as like expenses of regularly elected and qualified judges are paid. [1975 c.706 §8; 1981 c.65 §1]

**1.670** [1965 c.494 §6; repealed by 1971 c.311 §2]

**1.675 Judge pro tempore ineligible to participate in selection or removal of Chief Justice, Chief Judge or presiding judge.** A person appointed or assigned to serve and serving as judge pro tempore of a court under ORS 1.600, 1.615 or 1.635 is not eligible to be, or to participate in the selection or removal of, the Chief Justice, Chief Judge or presiding judge of the court to which the person is appointed or assigned. [1981 s.s. c.1 §6]

**1.680** [1965 c.494 §7; 1969 c.314 §4; repealed by 1971 c.311 §2]

**1.690** [1965 c.494 §9; repealed by 1971 c.311 §2]

**1.700** [1965 c.494 §10; repealed by 1971 c.311 §2]

**1.710** [1965 c.494 §11; 1967 c.270 §4; repealed by 1971 c.311 §2]

## COUNCIL ON COURT PROCEDURES

**1.725 Legislative findings.** The Legislative Assembly finds that:

(1) Oregon laws relating to civil procedure designed for the benefit of litigants which meet the needs of the court system and the bar are necessary to assure prompt and efficient administration of justice in the courts of the state.

(2) No coordinated system of continuing review of the Oregon laws relating to civil procedure now exists.

(3) Development of a system of continuing review of the Oregon laws relating to civil procedure requires the creation of a Council on Court Procedures.

(4) A Council on Court Procedures will be able to review the Oregon laws relating to civil procedure and coordinate and study proposals concerning the Oregon laws relating to civil procedure advanced by all interested persons. [1977 c.890 §1]

**1.730 Council on Court Procedures; membership; terms; rules; meetings; expenses of members.** (1) There is created a Council on Court Procedures consisting of:

(a) One judge of the Supreme Court, chosen by the Supreme Court.

(b) One judge of the Court of Appeals, chosen by the Court of Appeals.

(c) Eight judges of the circuit court, chosen by the Executive Committee of the Circuit Judges Association.

(d) Twelve members of the Oregon State Bar, appointed by the Board of Governors of the Oregon State Bar. The Board of Governors, in making the appointments referred to in this paragraph, shall include but not be limited to appointments from members of the bar active in civil trial practice, to the end that the lawyer members of the council shall be broadly representative of the trial bar and the regions of the state.

(e) One public member, chosen by the Supreme Court.

(2)(a) A quorum of the council shall be constituted by a majority of the members of the council. If a quorum is present, an affirmative vote by a majority of the members of the council who are present is required for action by the council on all matters other than promulgation of rules under ORS 1.735. An affirmative vote of fifteen members of the council shall be required to promulgate rules pursuant to ORS 1.735.

(b) The council shall adopt rules of procedure and shall choose, from among its membership, annually, a chairperson to preside over the meetings of the council.

(3)(a) All meetings of the council shall be held in compliance with the provisions of ORS 192.610 to 192.690.

(b) In addition to the requirements imposed by paragraph (a) of this subsection, with respect to the public hearings required by ORS 1.740 and with respect to any meeting at which final action will be taken on the promulgation, amendment or repeal of a rule under ORS 1.735, the council shall cause to be published or distributed to all members of the bar, at least two weeks before such hearing or meeting, a notice which shall include the time and place and a description of the substance of the agenda of the hearing or meeting.

(c) The council shall make available upon request a copy of any rule which it proposes to promulgate, amend or repeal.

(4) Members of the Council on Court Procedures shall serve for terms of four years and shall be eligible for reappointment to one additional term, provided that, where an appointing authority has more than one vacancy to fill, the length of the initial term shall be fixed at either two or four years by that authority to accomplish staggered expiration dates of the terms to be filled. Vacancies occurring shall be filled by the appointing authority for the unexpired term.

(5) Members of the Council on Court Procedures shall not receive compensation for their services but may receive actual and necessary travel or other expenses incurred in the performance of their official duties as members of the council, as provided in ORS 292.210 to 292.288. [1977 c.890 §2; 1981 c.545 §1; 1993 c.772 §1; 1995 c.658 §12; 1997 c.137 §§1,2; 2003 c.110 §2; 2007 c.65 §1]

**1.735 Rules of procedure; limitation on scope and substance; submission of rules to members of bar and Legislative Assembly.** (1) The Council on Court Procedures shall promulgate rules governing pleading, practice and procedure, including rules governing form and service of summons and process and personal and in rem jurisdiction, in all civil proceedings in all courts of the state which shall not abridge, enlarge or modify the substantive rights of any litigant. The rules authorized by this section do not include rules of evidence and rules of appellate procedure. The rules thus adopted and any amendments which may be adopted from time to time, together with a list of statutory sections superseded thereby, shall be submitted to the Legislative Assembly at the beginning of each odd-numbered year regular session and shall go into effect on January 1 following the close of that session unless the Legislative Assembly shall provide an earlier effective date. The Legislative Assembly may, by statute, amend, repeal or supplement any of the rules.

(2) A promulgation, amendment or repeal of a rule by the council is invalid and does not become effective unless the exact language of the proposed promulgation, amendment or repeal is published or distributed to all members of the bar at least 30 days before the meeting at which the council plans to take final action on the promulgation, amendment or repeal. If the language of the proposed promulgation, amendment or repeal is changed by the council after consideration of the language at the meeting, the council must publish or distribute notification of the change to all members of the bar within 60 days after the meeting. All changes made to proposed promulgations, amendments or repeals of rules pursuant to the provisions of this subsection must be clearly identified when the promulgation, amendment or repeal is submitted to the Legislative Assembly under subsection (1) of this section. [1977 c.890 §3; 1979 c.284 §1; 1983 c.751 §6; 1993 c.772 §2; 2003 c.110 §1; 2011 c.545 §27]

**1.740 Employment of staff; public hearings.** In the exercise of its power under ORS 1.735, the council:

(1) May employ or contract with any person or persons, as the council considers necessary, to assist the council; and

(2) Shall endeavor to hold at least one public hearing in each of the congressional districts of the state during the period between odd-numbered year regular sessions of the Legislative Assembly. [1977 c.890 §4; 1993 c.772 §3; 2011 c.545 §69]

**1.742** [1993 c.634 §3; repealed by 2001 c.716 §30]

**1.745 Laws on civil pleading, practice and procedure deemed rules of court until changed.** All provisions of law relating to pleading, practice and procedure, including provisions relating to form and service of summons and process and personal and in rem jurisdiction, in all civil proceedings in courts of this state are deemed to be rules of court and remain in effect as such until and except to the extent they are modified, superseded or repealed by rules which become effective under ORS 1.735. [1977 c.890 §5; 1979 c.284 §2]

**1.750 Legislative Counsel to publish rules.** The Legislative Counsel shall cause the rules which have become effective under ORS 1.735, as they may be amended, repealed or supplemented by the Legislative Assembly, to be arranged, indexed, printed, published and annotated in the Oregon Revised Statutes. [1977 c.890 §6]

**1.755 Gifts, grants and donations; Council on Court Procedures Account.** (1) The Council on Court Procedures is authorized to accept gifts, grants and donations from any source for expenditure to carry out the duties, functions and powers of the council.

(2) The Council on Court Procedures Account is established separate and distinct from the General Fund. All moneys received by the council, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the council to carry out the duties, functions and powers of the council. [1995 c.61 §3; reenacted by 1997 c.196 §3; 2001 c.716 §20]

**1.760 Legislative advisory committee.** (1) The Council on Court Procedures shall elect five persons from among its members to serve as a legislative advisory committee.

Two members of the committee shall be judges. Two members shall be members of the Oregon State Bar who are not judges. One member shall be the public member designated under ORS 1.730 (1)(e). The committee shall elect one of its members to serve as chairperson of the committee.

(2) Upon the request of the chairperson of a legislative committee considering legislation that proposes changes to the Oregon Rules of Civil Procedure, the legislative advisory committee established under this section shall provide technical analysis and advice to the legislative committee. Analysis and advice shall be by a majority vote of the legislative advisory committee. The committee shall consult with and consider comments from the full Council on Court Procedures to the extent possible. Analysis and advice under this subsection must be provided within 10 days after the request from the chairperson of a legislative committee.

(3) The legislative advisory committee established under this section may vote to take a position on behalf of the Council on Court Procedures on proposed legislation. If the legislative advisory committee has voted to take a position on behalf of the council, the committee shall so indicate to the legislative committee.

(4) Members of the legislative advisory committee established under this section may meet by telephone and may vote by telephone. Meetings of the committee are not subject to ORS 192.610 to 192.690.

(5) Members of the legislative advisory committee established under this section may appear before legislative committees for the purpose of testifying on legislation that proposes changes to the Oregon Rules of Civil Procedure. [1995 c.455 §8]

## JUDICIAL CONFERENCE

**1.810 Judicial conference; membership; officers.** There hereby is created and established a Judicial Conference of the State of Oregon. The conference shall consist of all the judges of the Supreme Court, the Court of Appeals, the Oregon Tax Court and the circuit courts and all senior judges certified under ORS 1.300. The Chief Justice of the Supreme Court shall be chairperson of the conference and shall have power to invite any persons not members of the conference to attend the meetings of the conference and consult with it in the performance of its duties. The State Court Administrator shall act as executive secretary of the conference. [1955 c.470 §1; 1959 c.552 §12; 1963 c.423 §2; 1965 c.494 §13; 1969 c.198 §29; 1971 c.95 §1; 1983 c.465 §1; 1995 c.658 §5; 2013 c.155 §8]

**1.820 Function of conference.** The conference may make a continuous survey and study of the organization, jurisdiction, procedure, practice and methods of administration and operation of the various courts within the state. [1955 c.470 §2; 1965 c.494 §14; 1995 c.273 §2]

**1.830 Meetings.** The Judicial Conference of the State of Oregon shall meet annually or at such other times as the Chief Justice of the Supreme Court directs. [1955 c.470 §3; 1965 c.494 §15; 2013 c.155 §9]

**1.840 Annual report.** The conference shall report annually to the Governor with respect to such matters, including recommendations for legislation, as it may wish to bring to the attention of the Governor or of the legislature. [1955 c.470 §4; 1959 c.552 §13; 1965 c.494 §16]

**1.850** [1985 c.725 §5; repealed by 1993 c.742 §38]

## ADVISORY COUNCILS

**1.851 Local criminal justice advisory councils.** (1) The presiding judge of each judicial district shall establish a local criminal justice advisory council, unless one already exists, in each county in the judicial district. Membership of the council shall include, but is not limited to, representatives of the following:

(a) The presiding judge;

(b) The district attorney;

(c) The local correctional administrator;

(d) Public defense service providers;

(e) The county bar association;

(f) Local law enforcement; and

(g) State law enforcement.

(2) In addition to the persons listed in subsection (1) of this section, the judge may invite the participation of any other persons involved in the criminal justice system whose participation would be of benefit.

(3) The local criminal justice advisory council shall meet regularly to consider and address methods of coordinating court, public defense and related services and resources in the most efficient and cost-effective manner that complies with the constitutional and statutory mandates and responsibilities of all participants.

(4) To assist the council in these efforts, council participants shall provide the council with proposed budget information and caseload and workload projections. [1993 c.481 §1; 2001 c.962 §100]

## JUSTICE AND MUNICIPAL COURT REGISTRY AND REPORTS

**1.855 State Court Administrator to establish registry of justice and municipal courts.** (1) The State Court Administrator shall establish a registry of municipal courts and justice courts of this state. The registry shall include all information required to be provided by counties and cities to the State Court Administrator under this section.

(2) Upon creation of a justice court, the county in which the justice court is established shall give notice to the State Court Administrator of the boundaries of the justice court district. The county shall also provide to the State Court Administrator the name of each justice of the peace, the term of each justice of the peace and the mailing address for the justice court. Upon modification or dissolution of a justice court district, the county shall promptly notify the State Court Administrator of the modification or dissolution.

(3) Upon creation of a municipal court, the city establishing the municipal court shall give notice to the State Court Administrator that the court has been created. The city shall also provide to the State Court Administrator the name of each municipal judge elected or appointed to the court, the term of each municipal judge elected or appointed and the mailing address for the municipal court. Upon ceasing to operate a municipal court, the city shall promptly notify the State Court Administrator that the municipal court is no longer in operation. [2001 c.761 §1]

**1.860 Reports relating to municipal courts and justice courts.** (1) Once every two years, the League of Oregon Cities and the Association of Oregon Counties shall report to the Legislative Fiscal Officer information identified by the Legislative Fiscal Officer relating to the caseload, revenues and expenditures of municipal courts and justice courts. Before establishing the list of information to be provided, the Legislative Fiscal Officer shall consult with the League of Oregon Cities and the Association of Oregon Counties. The Legislative Fiscal Officer may not request information that requires additional data gathering by municipal courts, justice courts, cities and counties. The reported information shall be based on the fiscal year used by each municipal court and justice court.

(2) The reports required by this section must be made not later than October 1 of each even-numbered year. The Legislative Fiscal Officer may specify the manner in which the reports are made. The Legislative Fiscal Officer shall provide a summary of the information provided under this section to the Joint Committee on Ways and Means upon the convening of the next odd-numbered year regular session of the Legislative Assembly. Copies of the summary shall be provided to the League of Oregon Cities and the Association of Oregon Counties. [2012 c.107 §86]