

Chapter 180

1999 EDITION

Attorney General; Department of Justice

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**Note:** The name of the Department of Human Resources has been changed to the Department of Human Services and the title of the Director of Human Resources to the Director of Human Services. The name and title changes become operative on July 1, 2000. See sections 10 and 11, chapter 421, Oregon Laws 1999. References to the department and the director in this chapter use the name and the title that become operative on July 1, 2000.

## ATTORNEY GENERAL

**180.010 Office of Attorney General.** There is established the office of Attorney General of the State of Oregon.

**180.020 Election; term of office.** The Attorney General shall be elected by the electors of this state at the regular general election in the same manner as other state officers are elected. The term of the Attorney General shall commence on the first Monday in January of the year succeeding election. The Attorney General shall hold office for the term of four years, and until a successor is elected and qualified.

**180.030 Filing certificate of election and oath.** Before entering upon the duties of office the Attorney General shall qualify by filing with the Secretary of State the certificate of election or of appointment, with the oath of office of the Attorney General indorsed thereon.

**180.040 Governor to fill vacancy by appointment; term of appointee.** At any time when a vacancy may by any cause occur in the office of Attorney General, the Governor shall appoint a suitable person to be Attorney General, who shall hold office until the next general election, when a successor shall be elected for a full term and shall qualify as prescribed in ORS 180.030.

**180.050 Location of office.** The Attorney General shall keep and attend the office of Attorney General at the capital of the state. The state shall provide and furnish the office.

**180.060 Powers and duties of Attorney General.** (1) The Attorney General shall:

(a) Appear for the state in the trial of all civil and criminal causes in the Supreme Court or the Court of Appeals in which the state may be directly or indirectly interested.

(b) Appear for the state, when required by the Governor or the legislature, in any court or tribunal in any cause in which the state is a party or in which the state is directly interested.

(c) Appear, commence, prosecute or defend for the state all causes or proceedings in the Supreme Court or the Court of Appeals in which the state is a party or interested.

(d) Appear, commence, prosecute or defend any action, suit, matter, cause or proceeding in any court when requested by any state officer, board or commission when, in the discretion of the Attorney General, the same may be necessary or advisable to protect the interests of the state.

(2) The Attorney General shall give opinion in writing, when requested, upon any question of law in which the State of Oregon or any public subdivision thereof may have an interest, submitted to the Attorney General by the Governor, any officer, department, agency, board or commission of the state or any member of the legislature.

(3)(a) Except as provided in paragraph (b) of this subsection, the Attorney General shall not render opinions or give legal advice to others than such state officers listed in subsection (2) of this section.

(b) The Attorney General may, at the request of a state officer listed in subsection (2) of this section, render an opinion to an officer, agency or instrumentality of the federal government if the Attorney General determines that providing the opinion is necessary to meet a condition for assumption by the state of administrative or enforcement responsibilities under federal law.

(4) The Attorney General shall consult with, advise and direct the district attorneys in all criminal causes and matters relating to state affairs in their respective counties. The Attorney General may require their aid and assistance in all matters pertaining to the duties of the Attorney General in their respective counties and may, in any case brought to the Supreme Court or the Court of Appeals from their respective counties, demand and receive assistance of the district attorney from whose county such case or matter is brought.

(5) The Attorney General shall, when requested, perform all legal services for the state or any department or officer of the state.

(6) The Attorney General shall have all the power and authority usually appertaining to such office and shall perform the duties otherwise required of the Attorney General by law.

(7) The Attorney General shall assign to each agency, department, board or commission an assistant who shall be its counsel responsible for insuring the performance of the legal services requested by such agency, department, board or commission. The counsel shall be a person trained in the law concerning such agency, department, board or commission and shall be approved by the chief administrator thereof, provided, however, such approval shall not be unreasonably withheld. Such approval may be withdrawn at any time by the chief administrator and thereupon the Attorney General shall assign replacement counsel to the agency, department, board or commission.

(8) The Attorney General shall not appear on behalf of any officer, department, agency, board or commission without its consent in any action, suit, matter, cause or proceeding in any court or before any other federal or state regulatory body.

(9) The responsibility of establishing policies for each agency, department, board or commission shall rest upon the chief administrator thereof. [Amended by 1971 c.418 s.1; 1999 c.142 s.1]

**180.070 Power of Attorney General to conduct investigations and prosecutions; duties of district attorneys unaffected.** (1) The Attorney General may, when directed to do so by the Governor, take full charge of any

investigation or prosecution of violation of law in which the circuit court has jurisdiction.

(2) When acting under this section, the Attorney General shall have all the powers of a district attorney, including the power to issue or cause to be issued subpoenas or other process. The Attorney General may, when the Attorney General considers the public interest requires, with or without the concurrence of the district attorney, direct the county grand jury to convene for the investigation and consideration of such matters of a criminal nature as the Attorney General desires to submit to it. The Attorney General may take full charge of the presentation of such matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

(3) All costs, fees and other expense shall be paid by the county in which the investigation takes place, to the same extent as if conducted by the district attorney of that county.

(4) The power conferred by this section, ORS 180.060, 180.220 or 180.240 does not deprive the district attorneys of any of their authority, or relieve them from any of their duties to prosecute criminal violations of law and advise the officers of the counties composing their districts.

**180.073 Subpoena authority in criminal investigation.** (1) In any criminal investigation conducted by the Attorney General, the Attorney General may execute in writing and serve a subpoena or subpoena duces tecum upon any person the Attorney General believes to have information or material relevant to the investigation. A subpoena may require that the person appear at a reasonable time and place stated in the subpoena and give oral testimony under oath concerning matters relevant to the investigation. A subpoena duces tecum may require, in addition to or in lieu of giving testimony, that the person produce designated books, papers, documents or tangible items that constitute or contain materials relevant to the investigation for examination, copying or reproduction. A subpoena duces tecum that only requires the production of materials must inform the person subpoenaed if the person must personally appear at the time and place designated in the subpoena.

(2) A resident of this state may be required by subpoena to personally appear only in the county in which the person resides, is employed or personally transacts business. A person who is not a resident of this state may be required by subpoena to personally appear only:

(a) In a county of this state in which the person is served with the subpoena; or

(b) In the state, territory, insular possession subject to the dominion of the United States or foreign country in which the person resides. Any circuit court may issue a letter rogatory for the examination as provided in ORCP 38 B.

(3) A person subpoenaed under this section may move to quash or modify the subpoena if it is oppressive or unreasonable. The motion must be made before the time specified in the subpoena for appearance or production of materials. The motion may be made in:

(a) The circuit court for the county in which the person is required to appear or produce materials;

(b) The circuit court for the county in which the subpoenaed person resides or has a principal office; or

(c) The circuit court for the county in which materials to be produced under a subpoena duces tecum are located.

(4) A person who is subpoenaed under this section and who fails to appear or produce materials as required by the subpoena, or who refuses to be sworn or give testimony, may be found to be in contempt of court. Proceedings to hold a person in contempt under this subsection may be brought in any county where the person could be required to personally appear under subsection (2) of this section.

(5) ORS 136.585 to 136.600 apply to any subpoena issued pursuant to this section. [1993 c.473 s.2]

**Note:** 180.073 and 180.075 were added to and made a part of ORS chapter 180 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**180.075 Disclosure of information obtained under subpoena.** Except as provided in this section, the Attorney General may not disclose any testimony or materials obtained under the provisions of ORS 180.073. The Attorney General may disclose testimony or materials only if:

(1) The disclosure is to a federal, state or local law enforcement agency or prosecutor and the purpose of the disclosure is to facilitate a criminal investigation or prosecution;

(2) The disclosure is to a state or federal grand jury; or

(3) A circuit court concludes upon application and affidavit by the Attorney General that there is a particularized need for disclosure of the testimony or materials in a civil, administrative, disciplinary or personnel investigation or proceeding. [1993 c.473 s.3]

**Note:** See note under 180.073.

**180.080 Attorney General to manage criminal proceedings in court or before grand jury at request of Governor.** When directed by the Governor, the Attorney General shall attend in person, or by one of the assistants of the Attorney General, any term of any court, or appear before the grand jury in any county, for the purpose of managing and conducting in such court, or before such jury, the criminal action or proceeding specified in the requirement. The Attorney General, or the assistant of the Attorney General so attending, shall exercise all the powers and perform all the duties in respect of the action or proceeding which the district attorney would otherwise be authorized to exercise or perform. The district attorney shall only exercise such powers and perform such duties in the action or proceeding as are required of the district attorney by the Attorney General, or the assistant of the Attorney General so attending.

**180.090 Investigations and special prosecutions; calling on other departments and officers for assistance; employing special investigators.** In making investigations of and conducting special prosecutions for violations or alleged violations of the criminal laws of the state, the Attorney General may call upon the Department of State Police or any other peace officer or department for assistance in making such investigations or, in the discretion of the Attorney General, may employ special investigators for such purpose.

**180.095 Consumer Protection and Education Revolving Account.** (1) There hereby is appropriated out of the General Fund in the State Treasury \$250,000 for the purpose of providing funds to pay for personal services, travel, meals and lodging, and all costs, disbursements and other litigation expenses incurred by the Department of Justice in preparing, commencing and prosecuting actions and suits under the state and federal antitrust laws and under ORS 646.605 to 646.656.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the Consumer Protection and Education Revolving Account. All moneys in such revolving account are appropriated and constitute a continuous appropriation out of the General Fund for the purposes of this section. The creation of the revolving account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

(3) All sums of money received by the Department of Justice under a judgment, settlement, compromise or assurance of voluntary compliance, including damages, attorney fees, costs, disbursements and other recoveries, but excluding civil penalties under ORS 646.642, in actions and suits under the state and federal antitrust laws and ORS 646.605 to 646.656 shall, upon receipt, be deposited with the State Treasurer to the credit of the Consumer Protection and Education Revolving Account. However, if the action or suit was based on an expenditure or loss from a public body or a dedicated fund, the amount of such expenditure or loss, after deduction of attorney fees and expenses awarded to the Department of Justice by the court or agreed to by the parties, if any, shall be credited to the public body or dedicated fund and the remainder thereof credited to the Consumer Protection and Education Revolving Account. [1965 c.194 s.2; 1971 c.85 s.6; 1975 c.446 s.6; 1993 c.518 s.1]

**Note:** The amendments to 180.095 by section 1, chapter 184, Oregon Laws 1999, are repealed June 1, 2001. See section 2, chapter 184, Oregon Laws 1999. 180.095, as amended, is set forth for the user's convenience.

**180.095.** (1) There hereby is appropriated out of the General Fund in the State Treasury \$250,000 for the purpose of providing funds to pay for:

(a) Personal services, travel, meals and lodging, and all costs, disbursements and other litigation expenses incurred by the Department of Justice in preparing, commencing and prosecuting actions and suits under the state and federal antitrust laws and under ORS 646.605 to 646.656.

(b) Costs, not to exceed \$35,000 in a biennium, incurred by the Department of Justice to hire persons to conduct mediations for the pilot program established in subsection (4) of this section.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the Consumer Protection and Education Revolving Account. All moneys in such revolving account are appropriated and constitute a continuous appropriation out of the General Fund for the purposes of this section. The creation of the revolving account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

(3) All sums of money received by the Department of Justice under a judgment, settlement, compromise or

assurance of voluntary compliance, including damages, attorney fees, costs, disbursements and other recoveries, but excluding civil penalties under ORS 646.642, in actions and suits under the state and federal antitrust laws and ORS 646.605 to 646.656 shall, upon receipt, be deposited with the State Treasurer to the credit of the Consumer Protection and Education Revolving Account. However, if the action or suit was based on an expenditure or loss from a public body or a dedicated fund, the amount of such expenditure or loss, after deduction of attorney fees and expenses awarded to the Department of Justice by the court or agreed to by the parties, if any, shall be credited to the public body or dedicated fund and the remainder thereof credited to the Consumer Protection and Education Revolving Account.

(4)(a) The Attorney General shall establish a pilot program to provide mediation services to selected used motor vehicle dealers and their customers.

(b) In accordance with the applicable provisions of ORS 183.310 to 183.550, and after consultation with used motor vehicle dealers and customers, the Attorney General shall adopt by rule:

(A) Standards and guidelines for mediating disputes between used motor vehicle dealers and customers under this section;

(B) Minimum qualifications and training necessary for persons conducting mediations under this section;

(C) A determination of costs to used motor vehicle dealers and customers participating in the pilot program under this section;

(D) Terms and conditions for participants in mediations to reimburse the Department of Justice for the cost of providing mediators under this section; and

(E) Any other provisions or procedures necessary for the administration of the pilot program under this section.

(c) The Attorney General may not compel a used motor vehicle dealer or customer to participate in the pilot program established by this section.

**180.097** [1971 c.85 ss.8, 9; 1977 c.445 s.1; repealed by 1993 c.518 s.4]

**180.100 Legislative bills; preparation on request.** The Attorney General shall, upon request of any member of or of any person elected to either branch of the Legislative Assembly of the State of Oregon, prepare all bills requested by any such member or person within a reasonable length of time prior to the commencement of any session of the legislature, and furnish the bills to such member or person for introduction on or before the first day of the session. The Attorney General shall during the sessions of the legislature prepare bills at the request of any member of the legislature as expeditiously as the number of deputies in the office of the Attorney General will permit.

**180.110 Keeping copies of opinions and records of cases; biennial report; printing and binding opinions.** The Attorney General shall keep copies of all the opinions of the Attorney General and a record of all cases, in any of the courts and tribunals, prosecuted or defended by the Attorney General or in which the Attorney General appears. The Attorney General shall make a biennial report to the legislature of all the official business transacted by the Attorney General for the biennial period ending December 31 prior to the meeting of the legislature. The Attorney General shall have printed and bound all opinions rendered by the Attorney General during the period, for distribution to the various state officers, public libraries and others entitled to receive them. [Amended by 1971 c.418 s.2]

**180.120 Defending in criminal proceedings for Oregon State Police or member thereof; conducting prosecutions.** (1) The Attorney General shall:

(a) Defend all criminal actions and proceedings in which the Department of State Police or any member thereof is concerned as a party, which require the services of an attorney or counsel in order to protect the interests of the state and are necessary for the purposes of the Department of State Police or the members thereof.

(b) Conduct such prosecutions as shall be directed by the Superintendent of State Police with the approval of the Governor.

(2) The Attorney General may appoint an attorney for the purpose of such defense or prosecution and certify the expenses thereof to the Department of State Police for payment from the moneys appropriated for the Department of State Police. [Amended by 1971 c.418 s.3]

**180.130 Deputy Attorney General.** The Attorney General shall appoint a Deputy Attorney General, who shall qualify as required by law, and who may do and perform, in the absence of the Attorney General, all the acts and duties that may be authorized and required to be performed by the Attorney General. The Attorney General shall be

responsible for all the acts of the deputy of the Attorney General.

**180.140 Other assistants; salaries; representation of indigent clients.** (1) The Attorney General shall appoint the other assistants the Attorney General deems necessary to transact the business of the office, each to serve at the pleasure of the Attorney General and perform such duties as the Attorney General may designate and for whose acts the Attorney General shall be responsible. Each assistant shall have full authority under the direction of the Attorney General to perform any duty required by law to be performed by the Attorney General.

(2) Each assistant so appointed shall be a person admitted to the practice of law by the Supreme Court of this state and shall qualify by taking the usual oath of office, conditioned upon the faithful performance of duties.

(3) The Attorney General may appoint temporary assistants for a period not to exceed 15 months. Such temporary assistants shall be legally trained but are not required to be admitted to the practice of law by the Supreme Court of this state.

(4) Each assistant shall receive the salary fixed by the Attorney General, payable as other state salaries are paid. Each assistant so appointed shall devote the full time of the assistant to the business of the state, unless employment on a part-time basis is otherwise fixed by the Attorney General.

(5) Special legal assistants or private counsel may be employed by the Attorney General, under the direction and control of the Attorney General, in particular cases or proceedings, whenever the Attorney General deems it appropriate to protect the interests of the state. The cost of such special assistants or counsel shall be charged to the appropriate officer or agency pursuant to ORS 180.160.

(6) None of the provisions of this chapter prohibit the Attorney General or any of the Attorney General's full-time deputies or assistants from voluntarily representing, without compensation or expenditure of state resources, indigent clients referred by a nonprofit civil legal aid office or pro bono program. [Amended by 1969 c.543 s.2; 1971 c.418 s.4; 1991 c.782 s.1]

**180.150 Clerks.** Subject to any applicable provisions of the State Personnel Relations Law, the Attorney General shall employ the necessary clerical aid required for the discharge of the duties imposed upon the Attorney General by law, and fix compensation therefor, to be paid as other salaries are paid.

**180.160 Charges for services to public agencies.** Subject to rules prescribed by the Attorney General, in rendering assistance to the respective officers, departments, boards and commissions of state government, and other public bodies, the Department of Justice may charge such officers, agencies and public bodies (including, when appropriate, the Department of Justice itself) separately for the cost of such assistance, said cost including, but not limited to salaries of assistants and administrative and clerical salaries, investigative services, and capital outlay; and shall also charge such officers, departments, boards, commissions or public bodies for other costs incurred and disbursements made pursuant to request or authorization in connection with such assistance, and not paid directly out of moneys appropriated or otherwise available for expenditure by such officers, agencies or public bodies. [1969 c.543 s.1; 1971 c.85 s.4]

**180.165** [1975 c.458 s.9; repealed by 1989 c.633 s.3]

## DEPARTMENT OF JUSTICE

**180.170 Billing for services to public agencies.** The Department of Justice shall estimate in advance the expenses that it will incur during the biennium under ORS 180.160 and 180.340, and shall render to officers, departments, boards and commissions of state government and other public bodies an invoice for their share of such expenses for periods within the biennium and in sufficient amounts to provide reasonable cash operating requirements for the Legal Division of the Department of Justice within the biennial period. Each officer, department, board or commission or other public body shall pay to the credit of the Department of Justice Operating Account such invoice as an administrative expense from funds or appropriations available to it in the same manner as other claims against the state or public body are paid. If the estimated expenses for any officer, department, board, commission or public body are more or less than actual expenses for the period covered by the invoice, the difference shall be reflected in the next following estimate of expenses. [1971 c.85 s.3; 1973 c.775 s.5]

**180.180 Department of Justice Operating Account.** (1) The Department of Justice Operating Account is created.

Moneys credited to the account are continuously appropriated for the purpose of paying expenses incurred by the Department of Justice, including those incurred by the Division of Child Support, but not including expenses described in ORS 180.095, that are reimbursable from the Consumer Protection and Education Revolving Account.

(2) All moneys received by the Department of Justice pursuant to its activities, except those received and creditable to the Consumer Protection and Education Revolving Account, shall be deposited in the State Treasury to the credit of the Department of Justice Operating Account.

(3) Subaccounts may be used in the Department of Justice Operating Account whenever the Department of Justice determines that operating needs of the department so require.

(4) In order to facilitate financing the operating expenses of the Department of Justice described in subsection (1) of this section, the Department of Justice may at any time during the biennium transfer to the Department of Justice Operating Account with the approval of the Director of the Oregon Department of Administrative Services such funds as it considers necessary, not to exceed \$800,000, from funds duly appropriated to the Department of Justice for a biennial period. Such funds so transferred shall be retransferred from the Department of Justice Operating Account to the appropriation from which the original transfer was made. The retransfers shall be accomplished prior to the last day of each biennial period. [1971 c.85 s.2; 1981 c.657 s.4]

**180.190 Department of Justice Current Expense Account; Department of Justice Portland Legal Office Petty Cash Account.** (1) The Oregon Department of Administrative Services is hereby authorized to draw a warrant in the amount of \$50,000 payable to the Department of Justice from the Department of Justice Operating Account which shall then be deposited by the Department of Justice in the State Treasury in an account to be known as the Department of Justice Current Expense Account. Disbursements made from this account shall require the approval of the disbursing officer of the Department of Justice who shall be designated by the Attorney General.

(2) The Oregon Department of Administrative Services is hereby authorized to draw a warrant in the amount of \$1,000 payable to the Department of Justice Operating Account which shall then be deposited by the Department of Justice in the State Treasury in an account known as the Department of Justice Portland Legal Office Petty Cash Account. Disbursements from the account shall require the approval of the chief financial officer of the Department of Justice Portland Legal Office who shall be designated by the Attorney General.

(3) The moneys so deposited in subsections (1) and (2) of this section are continuously appropriated for the purposes of this section and ORS 128.670, 180.170 and 294.695. Disbursements may be made for any lawful purpose within the limits of the funds available and to the extent that immediate cash payments are necessary or beneficial to the operations of the department. The accounts shall be reimbursed at intervals not exceeding 30 days from any legislatively authorized appropriation or expenditure limitation in existence at that time for the department by the drawing of a claim in payment of the expenses advanced from the Department of Justice Current Expense Account and the Department of Justice Portland Legal Office Petty Cash Account. [1973 c.775 ss.1,2,3; 1977 c.498 s.4; 1985 c.504 s.1; 1987 c.229 s.6; 1989 c.823 s.6]

**180.200 Department of Justice Client Trust Account.** (1) The Department of Justice Client Trust Account is established in the State Treasury, separate and distinct from the General Fund. All moneys in the account are appropriated continuously and shall be used by the Department of Justice for payments to persons and agencies on whose behalf civil enforcement actions are commenced.

(2) The trust account established by this section shall consist of moneys recovered by the Department of Justice in civil enforcement actions and temporarily credited to the account prior to distribution of the moneys in accordance with law.

(3) Subaccounts may be established within the Department of Justice Client Trust Account when the department determines that subaccounts are necessary or desirable.

(4) Notwithstanding ORS 293.140, interest earned on moneys deposited in the trust account or in any of its subaccounts shall be credited to the account or subaccount. [1999 c.76 s.1]

**Note:** 180.200 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 180 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**180.210 Department of Justice; Attorney General head and chief law officer.** There hereby is constituted an executive department to be known as the Department of Justice. The Attorney General shall be the head of this department and the chief law officer for the state and all its departments.

**180.220 Powers and duties.** (1) The Department of Justice shall have:

(a) General control and supervision of all civil actions and legal proceedings in which the State of Oregon may be a party or may be interested.

(b) Full charge and control of all the legal business of all departments, commissions and bureaus of the state, or of any office thereof, which requires the services of an attorney or counsel in order to protect the interests of the state.

(2) No state officer, board, commission, or the head of a department or institution of the state shall employ or be represented by any other counsel or attorney at law.

(3) This section is subject to ORS 825.508. [Amended by 1967 c.178 s.3]

**180.225 Attorney General representing public bodies in antitrust proceedings.** In any proceeding under the antitrust laws of the United States in which the state or any public body within the state is interested, the Attorney General may, in the discretion of the Attorney General, represent any such public body at its request, charging it for the cost of such representation pursuant to ORS 180.160. [1971 c.418 s.9]

**180.230 Compensation not allowed state departments for attorney services.** No compensation shall be allowed to any person for services as an attorney or counselor to any department of the state government or to the head thereof, or to any board or commission, except in cases specially authorized by law. [Amended by 1971 c.418 s.6]

**180.235 Authority of agency to employ counsel; qualification and salary; status.** (1) Notwithstanding any provision of law to the contrary, whenever the Attorney General concludes that it is inappropriate and contrary to the public interest for the office of the Attorney General to concurrently represent more than one public officer or agency in a particular matter or class of matters in circumstances which would create or tend to create a conflict of interest on the part of the Attorney General, the Attorney General may authorize one or both of such officers or agencies to employ its own general or special counsel in the particular matter or class of matters and in related matters. Such authorization may be terminated by the Attorney General whenever the Attorney General determines that separate representation is no longer appropriate.

(2) Any counsel so employed shall be a member of the Oregon State Bar and shall be paid a salary or other compensation out of the funds appropriated to such officer or agency.

(3) In any matter in which the Attorney General has authorized employment of such counsel, any references to representation of such officer or agency by the Attorney General contained in any provision of law shall be deemed to refer to such counsel. [1971 c.418 s.8]

**180.240 Attorney General and Department of Justice to have powers and prerogatives of district attorneys.** The Attorney General and the Department of Justice shall have the same powers and prerogatives in each of the several counties of the state as the district attorneys have in their respective counties.

**180.250** [1983 c.481 s.2; repealed by 1993 c.188 s.15]

**180.255** [1983 c.481 s.3; repealed by 1993 c.188 s.15]

**180.260 Service of process by department employees.** (1) Notwithstanding ORCP 7 E or any other law, employees and officers of the Department of Justice other than attorneys may serve summons, process and other notice, including notices and findings of financial responsibility under ORS 416.415, in litigation and other proceedings in which the state is interested. No employee or officer shall serve process or other notice in any case or proceeding in which the employee or officer has a personal interest or in which it reasonably may be anticipated that the employee or officer will be a material witness.

(2) The authority granted by subsection (1) of this section may be exercised only in, and within reasonable proximity of, the regular business offices of the Department of Justice, or in situations in which the immediate service of process is necessary to protect the legal interests of the state. [1989 c.323 s.2]

**180.265 Authority of department to delegate certain duties to employees of Department of Revenue.** The Department of Justice may delegate to officers and employees of the Department of Revenue the authority to undertake and complete certain filings and other tasks relating to tax claims pending before a United States Bankruptcy

Court that the Department of Justice has identified as being routine tasks. [1997 c.84 s.7]

**180.310** [Subsections (1) and (2) enacted as 1957 c.105 s.2 and 1957 c.424 s.1; 1961 c.629 s.1; repealed by 1975 c.458 s.18]

## DIVISION OF CHILD SUPPORT

**180.320 Cooperation with division in enforcement; confidentiality of information furnished to division.** (1) All state agencies, district attorneys and all police officers of the state, county or any municipality or court thereof, shall cooperate with the Division of Child Support of the Department of Justice in furnishing and making available information, records and documents necessary to assist in establishing or enforcing support obligations or paternity, in performing the duties set out in ORS 25.080 and in determining the location of any absent parent or child for the purpose of enforcing any state or federal law regarding the unlawful taking or restraint of a child or for the purpose of making or enforcing a child custody determination. Notwithstanding the provisions of ORS 109.225, 416.430, 432.121, 432.230 and 432.430, records pertaining to the paternity of a child shall be made available upon written request of an authorized representative of the Division of Child Support. Any information obtained pursuant to this subsection is confidential, and shall be used only for the purposes set out in this subsection.

(2) Information furnished to the Division of Child Support by the Department of Revenue and made confidential by ORS 314.835 shall be used by the division and its employees solely for the purpose of enforcing the provisions of ORS 180.320 to 180.360 and shall not be disclosed or made known for any other purpose. Any person who violates the prohibition against disclosure contained in this subsection, upon conviction, is punishable as provided in ORS 314.991 (2). [1957 c.105 s.4; 1971 c.779 s.4; 1979 c.690 s.13; 1983 c.761 s.12; 1985 c.565 s.19; 1985 c.610 s.14; 1999 c.80 s.73]

**180.330 District attorneys not relieved from duties relating to enforcement of support laws.** ORS 180.320 to 180.360 are not intended to relieve any district attorney from performing the duties, powers and functions of the district attorney under the statutes of this state relating to the enforcement of support and of the criminal laws of this state. [1957 c.105 s.5]

**180.340 Division of Child Support established; employment of personnel; rules.** (1) There is established the Division of Child Support of the Department of Justice to be maintained, operated and controlled under the supervision of the Attorney General. The Attorney General may employ attorneys, investigators and other personnel necessary to carry out the duties and functions of the division and fix their compensation, subject to any applicable provision of the State Personnel Relations Law.

(2) The Department of Justice may adopt rules specific to the functions contracted solely to the Division of Child Support provided the rules do not conflict with rules adopted by the Department of Human Services or with federal or state law. [1957 c.105 s.1; 1989 c.633 s.1; 1997 c.704 s.48; 1999 c.839 s.1]

**180.350 Investigators to have authority of peace officers.** Investigators employed by the Attorney General under ORS 180.320 to 180.360 shall have all the authority given by statute to peace officers of this state, including the authority to serve and execute warrants of arrest. [1957 c.105 s.7]

**180.360 Division exempt from payment of certain court fees; exemption.** Filing, recording or court fees shall not be required from the Division of Child Support of the Department of Justice by any circuit court clerk for the filing of any cases, documents, stipulated orders or processes. However, if the division is entitled to recover costs and disbursements, any of those fees taxable as costs and disbursements may be so taxed, and if recovered by the division, shall be paid to the appropriate officer. A circuit court clerk shall not refuse to file or docket a stipulated order for the reason that the parties signing such order have failed to pay any fee when such order is presented by the Division of Child Support and is signed by a judge. [1957 c.105 s.3; 1983 c.761 s.13; 1983 c.763 s.23; 1999 c.803 s.2]

**180.370** [1957 c.105 s.6; repealed by 1997 c.704 s.49]

**180.380 Authority for search for missing child or parent; disclosure of information to authorized persons.** (1) In addition to its other duties, powers and functions, the Division of Child Support may use its facilities and sources of

information to search for any child or absent parent for the purpose of enforcing any state or federal law regarding the unlawful taking or restraint of a child or for the purpose of making or enforcing a child custody determination.

(2) Only information concerning the most recent address and place of employment of such child or parent may be provided, and then only to authorized persons as defined in subsection (3) of this section.

(3) As used in ORS 180.320 and this section:

(a) "Authorized person" means:

(A) Any agent or attorney of any state who has the duty or authority under the law of such state to enforce a child custody determination;

(B) Any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court;

(C) Any agent or attorney of the United States or of a state who has the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child; and

(D) A state agency responsible for administering an approved child welfare plan or an approved foster care and adoption assistance plan.

(b) "Custody determination" means a judgment, decree or other order of a court providing for the custody of, parenting time with or visitation with a child, and includes permanent and temporary orders, and initial orders and modifications. [1985 c.610 s.16; 1989 c.633 s.2; 1993 c.33 s.318; 1997 c.707 s.29; 1999 c.859 s.5]

## CONSUMER PROTECTION SERVICES

**180.510 Functions of Department of Justice; personnel.** The Department of Justice shall carry out the functions of the Attorney General under this section and ORS 20.098, 83.710 to 83.750, 83.820 to 83.895, 180.520, 646.605 to 646.656, 646.990, 803.375, 803.385 and 815.410 to 815.430. The Attorney General may employ personnel necessary to carry out the duties and functions described in this section and fix their compensation, subject to any applicable provisions of the State Personnel Relations Law. [1971 c.744 s.25; 1981 c.320 s.2; 1985 c.251 s.10]

**180.520 Duties of department; agency cooperation; Consumer Advisory Council created; membership; compensation and expenses.** (1) It shall be the duty of the Department of Justice to:

(a) Coordinate consumer services carried on by state departments and agencies;

(b) Further consumer education;

(c) Conduct studies and research concerned with consumer services; receive, process, investigate and take action on complaints from consumers; and refer such complaints as require further action to appropriate agencies for enforcement;

(d) Inform the Governor and the Attorney General and other law enforcement agencies of violations of laws or rules affecting consumers as its investigations or studies may reveal;

(e) Advise the executive and legislative branches in matters affecting consumer interests;

(f) Study and report all matters referred to it by the Legislative Assembly or the Governor;

(g) Inform the public through appearances at federal and state committee, commission or department hearings of the policies, decisions or legislation beneficial or detrimental to consumers; and

(h) Evaluate consumer sales contracts for compliance with plain language standards under ORS 180.545.

(2) Every state agency shall cooperate with the Department of Justice in carrying out its functions under this section.

(3) To assist in carrying out chapter 753, Oregon Laws 1971, there is created in the department a Consumer Advisory Council.

(a) The Consumer Advisory Council shall consist of seven members appointed by the Attorney General, two of whom shall represent business, two of whom shall represent labor, and three of whom shall represent voluntary consumer agencies.

(b) The members of the council shall be entitled to compensation and expenses computed as provided in ORS 292.495.

(c) All meetings of the council shall be open and public and all persons shall be permitted to attend any meeting of the council. [1981 c.320 s.3; 1985 c.587 ss.5,8; 1993 c.744 s.40]

**Note:** 180.520 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 180 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

## PLAIN LANGUAGE REVIEW OF CONSUMER CONTRACTS

**180.540 Review of consumer contracts for conformity with plain language standards.** (1) Except as provided in subsection (2) of this section, a seller or extender of credit may submit to the Department of Justice any consumer contract issued by the seller or extender of credit for the purpose of obtaining review of the consumer contract for its compliance with plain language standards in ORS 180.545.

(2) For the purpose of obtaining a review of a consumer contract for its compliance with plain language standards in ORS 180.545, if a consumer contract:

(a) Is an insurance policy, the seller or extender of credit issuing the policy may submit it to the Director of the Department of Consumer and Business Services.

(b) Is an agreement for a loan or other extension of credit in which the extender of credit is an insured institution, as defined in ORS 706.008, the extender of credit under the agreement may submit the agreement to the Director of the Department of Consumer and Business Services.

(c) Is an agreement for a loan or other extension of credit in which the extender of credit is a savings association or federal association, as those terms are defined in ORS 722.004, a credit union, as that term is defined in ORS 723.006, or a licensee under ORS chapter 725, the extender of credit under the agreement may submit the agreement to the Director of the Department of Consumer and Business Services.

(3) For purposes of this section, a consumer contract is a written contract made in the course of a consumer transaction to the value of \$50,000, excluding interest or finance charges, in which the contract involves any of the following, primarily for personal, family or household use:

(a) Real estate, goods or services as defined in ORS 646.605.

(b) Any extension of credit, including the lending of money. [1985 c.587 ss.1,6,9; 1997 c.631 s.421]

**Note:** 180.540 to 180.555 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 180 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**180.545 Plain language standards; approval; fees.** (1) The agency to whom a consumer contract is submitted under ORS 180.540 shall review the contract to determine whether it complies with plain language standards. A consumer contract complies with plain language standards if it:

(a) Uses words that convey meanings clearly and directly;

(b) Uses the present tense and active voice whenever possible;

(c) Primarily uses simple sentences;

(d) Defines only those words that cannot be properly explained or qualified in the text;

(e) Explains at the beginning that the form is a contract between parties;

(f) Uses margins adequate for ease in reading; and

(g) Uses frequent section headings, in a narrative format, to help locate provisions.

(2) If the agency determines that the consumer contract complies with the standards in subsection (1) of this section, the agency shall certify to that effect to the seller or extender of credit who submitted the contract for review.

(3) An agency reviewing contracts under this section shall charge a reasonable fee for reviewing each consumer contract. The agency may require payment of the fee when the contract is submitted for review. Fees received under this section shall be disposed of as follows:

(a) Fees received by the Department of Justice shall be credited to the Department of Justice Operating Account.

(b) Fees received by the Director of the Department of Consumer and Business Services shall be credited to the Consumer and Business Services Fund. [1985 c.587 ss.2,7,10]

**Note:** See note under 180.540.

**180.550 Compliance statement.** A seller or extender of credit may state the following on a consumer contract determined by the reviewing agency to comply with the plain language standards under ORS 180.545: "The form of this contract meets Oregon plain language guidelines." [1985 c.587 s.3]

**Note:** See note under 180.540.

**180.555 Exemptions; effect of certification; admissibility.** (1) An agency need not review any consumer contract:

(a) For which a federal or state statute, rule or regulation prescribes standards of readability applicable to the entire contract.

(b) For which particular words, phrases, provisions or forms of agreement are specifically required, recommended or indorsed by a state or federal statute, rule or regulation.

(2) Certification of a consumer contract under ORS 180.545 is not an approval of the contract's legality or legal effect. The fact that a consumer contract has been certified or not shall not be admissible in any action to interpret or enforce the contract or any term of contract. [1985 c.587 s.4]

**Note:** See note under 180.540.

## INVESTIGATION OF ORGANIZED CRIME

**180.600 Definitions for ORS 180.600 to 180.630.** As used in ORS 180.600 to 180.630:

(1) "Department" means the state Department of Justice.

(2) "Organized crime" means any combination or conspiracy of two or more persons to engage in criminal activity as a significant source of income or livelihood, or to violate, aid or abet the violation of criminal laws relating to prostitution, gambling, loan sharking, theft, abuse of controlled substances, illegal alcohol or controlled substance distribution, counterfeiting, extortion or corruption of law enforcement officers or other public officers or employees. [1977 c.754 s.1; 1979 c.744 s.10]

**180.610 Investigation of organized criminal activity; powers and duties of department.** The Department of Justice shall:

(1) Provide all administrative, clerical, investigative and legal assistance required by ORS 180.600 to 180.630.

(2) Establish a coordinated system of collecting, storing and disseminating information relating to organized crime.

(3) Develop and maintain a liaison between local, state and federal law enforcement agencies in Oregon, assisting them in the investigation and suppression of organized criminal activity and encouraging cooperation among those agencies.

(4) Conduct comprehensive factual studies of organized criminal activity in Oregon, outlining existing state and local policies and procedures with respect to organized crime, and formulating and proposing such changes in those policies and procedures as the department may deem appropriate.

(5) Investigate allegations of corruption or malfeasance by public officials in Oregon and, where appropriate, coordinate, cooperate and assist in taking legal action.

(6) Investigate investment of funds in Oregon suspected to have been generated by criminal activities. [1977 c.754 s.2]

**180.620 Investigators to have authority of peace officers.** All investigators employed pursuant to ORS 180.600 to 180.630 shall have all statutory powers and authority of peace officers and police officers of the State of Oregon. [1977 c.754 s.3]

**180.630 Acceptance of federal grant of funds; expenditure limitations.** Subject to the provisions of ORS 291.375, the Department of Justice may submit applications for federal grants and, when approved, accept and expend funds received subject to budgetary limits imposed by the Legislative Assembly or as modified by the Emergency Board. [1977 c.754 s.4]

**180.640 Criminal Justice Revolving Account.** (1) There is hereby established an account in the General Fund in the State Treasury to be known as the Criminal Justice Revolving Account. The creation of and disbursement of moneys from the revolving account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account are continuously appropriated for the purposes set forth in subsection (3) of this section.

(2) Notwithstanding ORS 180.180, all costs of investigation and prosecution, including attorney fees, awarded to the Department of Justice in an action or proceeding under ORS 166.715 to 166.735, whether by final judgment, settlement or otherwise, and all proceeds of civil penalties imposed under ORS 166.725, shall be deposited in the account established by this section. The maximum allowable balance in such account is \$750,000. When moneys in the account exceed \$750,000, the excess funds shall be deposited in the General Fund of the State Treasury.

(3) Moneys in the revolving account may be used by the Attorney General to reimburse the Department of Justice, district attorneys and state and local governmental departments and agencies for the costs of investigation and prosecution of any civil or criminal action or proceeding under ORS 166.715 to 166.735, to maintain and preserve property subject to forfeiture pending its sale or other disposition and to reimburse expenses of the Department of Justice incurred in carrying out the provisions of ORS 180.600 to 180.630.

(4) The Attorney General may present an accounting to the State Treasurer for costs and expenses referred to in subsection (3) of this section. To the extent that sufficient funds exist in the Criminal Justice Revolving Account, the State Treasurer promptly shall reimburse the Department of Justice for the costs and expenses included in the Attorney General's accounting. [1983 c.292 s.6; 1983 c.715 s.5]

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