

# Chapter 21

2005 EDITION

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**PROCEDURE IN CIVIL PROCEEDINGS**

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**APPELLATE COURT FEES**

**21.010 Filing and appearance fees on appeal.** (1) Except as provided in subsection (2) of this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$140 in the manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator the sum of \$105. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385 (8) or orders of the State Board of Parole and Post-Prison Supervision.

(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

(5) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a surcharge of \$42 in the manner prescribed by ORS 19.265. The respondent in the case, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator a surcharge of \$25. [Amended by 1963 c.556 §1; 1967 c.398 §3; 1969 c.198 §50; 1981 s.s. c.3 §§66,67; 1985 c.734 §15; 1987 c.852 §4; 1991 c.724 §17; 1993 c.33 §276; 1997 c.801 §27; 1999 c.1051 §118; 2003 c.737 §§1,3; 2005 c.702 §§1,2]

**Note:** The amendments to 21.010 by section 3, chapter 702, Oregon Laws 2005, and section 33, chapter 843, Oregon Laws 2005, become operative January 1, 2007. See section 4, chapter 702, Oregon Laws 2005, and section 38, chapter 843, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.010.** (1) Except as provided in subsection (2) of this section, the appellant in an appeal or the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the manner

prescribed by ORS 19.265. The respondent in such case and any other person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator the sum of \$105. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid.

(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision.

(3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state offense designated as a violation or an action alleging violation of a city charter or ordinance, but not in an action alleging commission of a state crime.

(4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding seeking imposition of remedial sanctions under the provisions of ORS 33.055.

**21.020 Fees for seal, copies of records and other services.** (1) The State Court Administrator shall collect a fee of \$1 for affixing the seal of the court to a document.

(2) The Chief Justice of the Supreme Court by order may establish or authorize fees for copies of records of the appellate courts and the administrative offices of the State Court Administrator, for services relating to those records and for other services that the appellate courts or administrative offices of the State Court Administrator are authorized or required to perform for which no fees are specifically provided by law. The fee established by the Chief Justice for paper copies of records may not exceed 25 cents per page, except for records for which additional services are required. If additional services are required, fees for providing the records are subject to ORS 192.440. [Amended by 1967 c.398 §4; 1969 c.198 §51; 1971 c.193 §25; 1997 c.801 §47; 2003 c.576 §286; 2005 c.385 §1]

**21.030** [Repealed by 1967 c.398 §10]

**21.040 Filing fees in cases of original jurisdiction.** (1) In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party shall pay \$35 and the defendant or respondent shall pay \$20 on the filing of their first paper.

(2) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, in cases of original jurisdiction in the Supreme Court, the plaintiff or moving party shall pay a surcharge of \$11 and the defendant or respondent shall pay a surcharge of \$6 on the filing of their first paper. [Amended by 1967 c.398 §5; 1997 c.801 §48; 2003 c.737 §§5,6; 2005 c.702 §§5,6]

**Note:** The amendments to 21.040 by section 7, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 8, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.040.** In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party shall pay \$39 and the defendant or respondent shall pay \$22 on the filing of their first paper.

**21.050** [Amended by 1969 c.198 §52; 1971 c.193 §26; repealed by 1981 s.s. c.1 §25]

**21.060** [1981 s.s. c.3 §81; 1983 c.308 §1; 1985 c.496 §16; 1995 c.658 §23; 1997 c.801 §§49,49a; 1997 c.872 §1; renumbered 21.325 in 1997]

**21.070** [1981 s.s. c.3 §82; 1983 c.763 §40; renumbered 21.335 in 1997]

### CIRCUIT COURT FEES (Filing and Appearance Fees)

**21.110 Filing and appearance fees in circuit court.** (1) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$97 as a flat and uniform filing fee. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$83 as a flat and uniform filing fee.

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$62 as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of \$53 as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

(b) Actions for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$10,000.

(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$10,000.

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the value of the property involved does not exceed \$10,000.

(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed does not exceed \$10,000.

(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(4) For purposes of subsection (2) of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(5) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) of this section must include in the caption of the pleading the following words: "Claim of not more than \$10,000."

(7) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

(c) Filiation proceedings under ORS 109.124 to 109.230;

(d) Proceedings to determine custody or support of a child under ORS 109.103;

(e) Probate, adoption or change of name proceedings;

(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(8) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision

of support enforcement services as described in ORS 25.080.

(9)(a) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party a surcharge of \$29. The clerk shall also, at the time of filing any appearance in any such action, suit or proceeding upon the part of any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, collect from such party or parties a surcharge of \$22.

(b) In addition to the fees provided for in subsection (2) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect a surcharge of \$19 from the plaintiff, appellant or moving party, and shall collect a surcharge of \$14 from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, in the actions described in subsection (2) of this section. [Amended by 1955 c.458 §1; 1959 c.563 §2; 1965 c.619 §8; 1971 c.621 §1; 1975 c.607 §1; 1979 c.833 §3; 1981 s.s. c.3 §§68,69; 1983 c.581 §2; 1983 c.763 §20; 1985 c.496 §1; 1995 c.273 §8; 1995 c.658 §140; 1995 c.664 §69; 1997 c.801 §§25,25a; 2003 c.530 §4; 2003 c.737 §§8a,10a; 2005 c.702 §§9,10]

**Note:** The amendments to 21.110 by section 11, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 12, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.110.** (1) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$107 as a flat and uniform filing fee. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$83 as a flat and uniform filing fee.

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of \$53 as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

(b) Actions for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$10,000.

(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$10,000.

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the value of the property involved does not exceed \$10,000.

(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed does not exceed \$10,000.

(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(4) For purposes of subsection (2) of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(5) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) of this section must include in the caption of the pleading the following words: "Claim of not more than \$10,000."

(7) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

(c) Filiation proceedings under ORS 109.124 to 109.230;

(d) Proceedings to determine custody or support of a child under ORS 109.103;

(e) Probate, adoption or change of name proceedings;

(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(8) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

**21.111 Filing and appearance fees in certain domestic relations cases.** (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit court shall collect the sum of \$90 as a flat and uniform filing fee from the petitioner at the time the petition is filed, and shall collect the sum of \$46 as a flat and uniform filing fee from the respondent upon the respondent making an appearance.

(2) The filing fee established by subsection (1) of this section shall be collected by the clerk in the following proceedings:

(a) Proceedings for dissolution of marriage, annulment of marriage or separation.

(b) Filiation proceedings under ORS 109.124 to 109.230.

(c) Proceedings to determine custody or support of a child under ORS 109.103.

(3) In addition to all other fees collected, the clerk of the circuit court shall collect from the moving party a fee of \$45 at the time of the filing of a motion after entry of a judgment of marital annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party at the time a response is filed to the motion. The fee provided for in this subsection does not apply to any pleading under ORCP 68, 69 or 71.

(4) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any of the proceedings, except where additional fees are specially authorized by law.

(5) Any petitioner or respondent that files a petition or appearance that is subject to the filing fees established under subsection (1) of this section must include in the caption of the pleading the following words: "Domestic relations case subject to fee under ORS 21.111."

(6) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

(7)(a) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, in the proceedings specified in subsection (2) of this section the clerk of the circuit court shall collect a surcharge of \$27 from the petitioner at the time the petition is filed, and shall collect a surcharge of \$14 from the respondent upon the respondent making an appearance.

(b) In addition to the fees provided for in subsection (3) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect from the moving party a surcharge of \$14 at the time of the filing of a motion for the modification of a judgment of marital annulment, dissolution or separation, if the motion is filed more than one year after the entry of the judgment in the

register of the court. [1997 c.801 §26; 2003 c.737 §§12,14a,14c; 2005 c.702 §§13,14]

**Note:** The amendments to 21.111 by section 15, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 16, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.111.** (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit court shall collect the sum of \$99 as a flat and uniform filing fee from the petitioner at the time the petition is filed, and shall collect the sum of \$51 as a flat and uniform filing fee from the respondent upon the respondent making an appearance.

(2) The filing fee established by subsection (1) of this section shall be collected by the clerk in the following proceedings:

(a) Proceedings for dissolution of marriage, annulment of marriage or separation.

(b) Filiation proceedings under ORS 109.124 to 109.230.

(c) Proceedings to determine custody or support of a child under ORS 109.103.

(3) In addition to all other fees collected, the clerk of the circuit court shall collect from the moving party a fee of \$50 at the time of the filing of a motion after entry of a judgment of marital annulment, dissolution or separation. A fee of \$35 shall be charged to the responding party at the time a response is filed to the motion. The fee provided for in this subsection does not apply to any pleading under ORCP 68, 69 or 71.

(4) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any of the proceedings, except where additional fees are specially authorized by law.

(5) Any petitioner or respondent that files a petition or appearance that is subject to the filing fees established under subsection (1) of this section must include in the caption of the pleading the following words: "Domestic relations case subject to fee under ORS 21.111."

(6) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

**21.112 Additional fee for conciliation, mediation and other services and programs in certain domestic relations cases.**

(1) The clerk of the court shall collect at the time a proceeding described in subsection (4) of this section is filed a fee in an amount determined by the governing body of the county to be necessary in the particular type of case, in addition to any other funds used therefor, to pay the expenses of providing:

(a) Mediation under ORS 107.755 to 107.795;

(b) Conciliation services under ORS 107.510 to 107.610;

(c) Expedited parenting time enforcement under ORS 107.434;

(d) Education programs under ORS 3.425;

(e) Investigations, evaluations, examinations and referrals for services under ORS 107.425; and

(f) Any other program or service to which parties may be referred or that may be ordered by that court, including programs or services established to assist the court or a family in a domestic relations case if the presiding judge for the judicial district has approved the program or service.

(2) Before approving the provision of any program or service under subsection (1)(d) to (f) of this section, the presiding judge shall evaluate:

(a) The need for programs and services described in subsection (1)(a) to (c) of this section and the appropriate level of funding for those programs and services; and

(b) The impact on funding for the programs and services described in subsection (1)(a) to (c) of this section that would result from providing a program or service under subsection (1)(d) to (f) of this section.

(3) The fees provided for in this section are in addition to all other fees that are collected by the clerk at the time the proceeding is filed. Fees collected under this section shall be paid, in the manner determined by the State Court Administrator, to the appropriate officer of the county within the first 25 days of the month following the month in which collected. The fees shall be used by the county to pay the expenses specified in subsection (1) of this section.

(4) The additional fee established by this section shall be collected by the clerk:

(a) In the following proceedings:

(A) Proceedings for dissolution of marriage, annulment of marriage or separation.

(B) Filiation proceedings under ORS 109.124 to 109.230.

(C) Proceedings to determine custody or support of a child under ORS 109.103.

(D) Proceedings for modifications of orders issued under subparagraphs (A) to (C) of this paragraph.

(E) Proceedings under ORS 107.434.

(b) For responses in any of the proceedings listed in paragraph (a) of this subsection. [1963 c.434 §11; 1971 c.280 §20; 1975 c.607 §2; 1979 c.833 §4; 1981 c.835 §1; 1981 s.s. c.3 §70; 1983 c.671 §6; 1983 c.763 §38; 1985 c.412 §1; 1995 c.273 §9; 1997 c.475 §§5,5a; 1999 c.59 §11; 2001 c.394 §1; 2003 c.737 §107]

**21.114 Filing and appearance fees in adoption and change of name proceedings; trial or hearing fee.** (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

(a) In an adoption proceeding, a first appearance fee of \$35 from the party filing the

petition for adoption, and a first appearance fee of \$21 from an objecting party appearing separately or objecting parties appearing jointly.

(b) In a change of name proceeding, a first appearance fee of \$35 from the party filing the application for change of name, and a first appearance fee of \$21 from an objecting party appearing separately or objecting parties appearing jointly.

(2) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court.

(3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a trial or hearing fee of \$35.

(4) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall charge and collect:

(a) In an adoption proceeding, a surcharge of \$11 from the party filing the petition for adoption, and a surcharge of \$6 from an objecting party appearing separately or objecting parties appearing jointly.

(b) In a change of name proceeding, a surcharge of \$11 from the party filing the application for change of name, and a surcharge of \$6 from an objecting party appearing separately or objecting parties appearing jointly.

(5) In addition to the fee provided for in subsection (3) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, in any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge of \$11. [Formerly 21.320; 2003 c.737 §§16,17; 2005 c.702 §§17,18]

**Note:** The amendments to 21.114 by section 19, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 20, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.114.** (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

(a) In an adoption proceeding, a first appearance fee of \$39 from the party filing the petition for adoption, and a first appearance fee of \$23 from an objecting party appearing separately or objecting parties appearing jointly.

(b) In a change of name proceeding, a first appearance fee of \$39 from the party filing the application

for change of name, and a first appearance fee of \$23 from an objecting party appearing separately or objecting parties appearing jointly.

(2) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court.

(3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of the court shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a trial or hearing fee of \$39.

**21.115** [Formerly 21.210; 1965 c.619 §9; renumbered 21.375]

**21.120** [Amended by 1959 c.453 §1; 1963 c.519 §6; 1965 c.619 §10; 1967 c.111 §2; 1971 c.621 §2; 1981 c.571 §1; 1981 s.s. c.3 §71; repealed by 1981 s.s. c.3 §141]

**21.130** [Amended by 1959 c.678 §1; 1963 c.519 §7; 1965 c.619 §11; 1967 c.111 §3; 1971 c.61 §1; 1979 c.631 §1; repealed by 1981 s.s. c.3 §141]

**21.140** [Amended by 1961 c.563 §1; 1963 c.519 §8; 1965 c.619 §12; renumbered 21.350]

**21.150** [Amended by 1963 c.519 §9; repealed by 1965 c.619 §39]

**21.210** [Amended by 1955 c.458 §2; renumbered 21.115 and then 21.375]

**21.220** [Amended by 1963 c.519 §10; repealed by 1965 c.619 §39]

**21.230** [Amended by 1963 c.519 §11; repealed by 1965 c.619 §39]

**21.240** [Amended by 1959 c.563 §3; 1963 c.519 §12; repealed by 1965 c.619 §39]

**21.250** [Amended by 1963 c.519 §13; repealed by 1965 c.619 §39]

**21.260** [Amended by 1959 c.563 §4; 1963 c.519 §14; repealed by 1965 c.619 §39]

### (Trial and Hearing Fees)

**21.270 Trial fees.** (1) In any civil action, suit or proceeding in the circuit court, other than a protective proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, trial fees shall be collected as provided in this section.

(2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a trial fee of \$70 for each full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in advance and is due and payable when the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a jury trial fee of \$175 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of \$100 for each full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in ad-

vance and is due and payable when the action, suit or proceeding is set for trial by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

(b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not from the plaintiff or appellant.

(c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation payable to the court, and may be made part of the judgment in the case by the clerk without further notice to the debtor or further order of the court.

(4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the counterclaim, cross-claim or third party claim the trial fee or jury trial fee, whichever is applicable, for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party asserting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury trial fee from the defending party and not from the asserting party.

(5) The fees provided for in this section include any reporting of the trial proceedings, but not the preparation of transcripts of a report.

(6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this section that are paid by a party shall be considered costs and disbursements and may be taxed and collected as other costs and disbursements by the prevailing party.

(7) A court shall order that a trial fee paid under the provisions of this section be refunded to the party that paid the fee if all claims in the action or proceeding are decided without the commencement of a trial and the party that paid the fee files a motion and affidavit requesting refund of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

(8)(a) In addition to the trial fee provided for in subsection (2) of this section, for the

period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a surcharge on the trial fee of \$21 for each full or partial day of the trial.

(b) In addition to the jury trial fee provided for in subsection (3) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee of \$53 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$30 for each full or partial day of the trial. [Amended by 1963 c.519 §15; 1965 c.619 §13; 1971 c.621 §4; 1975 c.607 §4; 1979 c.833 §5; 1981 s.s. c.3 §§72,73; 1983 c.763 §21; 1985 c.496 §2; 1995 c.664 §70; 1997 c.801 §51; 2003 c.737 §§19,21; 2005 c.702 §§21,22]

**Note:** The amendments to 21.270 by section 23, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 24, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.270.** (1) In any civil action, suit or proceeding in the circuit court, other than a protective proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, trial fees shall be collected as provided in this section.

(2) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a trial fee of \$77 for each full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in advance and is due and payable when the action, suit or proceeding is set for trial. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial by a jury of more than six persons, a jury trial fee of \$193 for each full or partial day of the trial. The clerk shall collect from the plaintiff or appellant, for a trial by a jury of six persons, a jury trial fee of \$110 for each full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in advance and is due and payable when the action, suit or proceeding is set for trial by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

(b) If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent, and not from the plaintiff or appellant.

(c) A case in which the jury trial fee for the first day of trial has not been paid shall be tried by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee for the first day of trial has not been paid is tried by a jury, the clerk shall tax against the losing party the total amount of the jury trial fee. The jury trial fee constitutes a monetary obligation payable to the court, and may be made part of the judgment in the case by the clerk without further notice to the debtor or further order of the court.

(4) If a counterclaim, cross-claim or third party claim is tried on any day other than a day on which the claim of the plaintiff is tried, the clerk shall collect from the party asserting the counterclaim, cross-claim or third party claim the trial fee or jury trial fee,

whichever is applicable, for that day, and shall not collect the applicable fee for that day from the plaintiff. If the party asserting a counterclaim, cross-claim or third party claim waives a trial by jury on the claim, and the party defending against the claim desires a trial by jury on the claim, the clerk shall collect the jury trial fee from the defending party and not from the asserting party.

(5) The fees provided for in this section include any reporting of the trial proceedings, but not the preparation of transcripts of a report.

(6) Except as otherwise provided in subsection (3)(c) of this section, the fees provided for in this section that are paid by a party shall be considered costs and disbursements and may be taxed and collected as other costs and disbursements by the prevailing party.

(7) A court shall order that a trial fee paid under the provisions of this section be refunded to the party that paid the fee if all claims in the action or proceeding are decided without the commencement of a trial and the party that paid the fee files a motion and affidavit requesting refund of the fee not more than 15 days after entry of judgment disposing of the action or proceeding.

**21.275 Hearing fees.** (1) In any civil action, suit or proceeding in the circuit court, other than a protective proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, hearing fees for reported hearings shall be collected as provided in this section. There is no hearing fee under this section for a hearing not reported.

(2) As used in this section:

(a) "Hearing" means an actual appearance of one or more parties before the court for an examination by the court without a jury, other than a trial or during a trial for which a trial fee is required, of issues of fact or law arising from a motion, application, petition or other paper filed with the court by a moving party, but does not include a conference solely for the purpose of case settlement or case scheduling.

(b) "Moving party" means a party who files with the court a motion, application, petition or other paper referred to in paragraph (a) of this subsection.

(c) "Nonmoving party" means a party other than a moving party.

(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing is \$30 if the hearing period is not more than three hours or \$70 if the hearing period is more than three hours. The fee does not include the preparation of transcripts of a report.

(4) If a hearing in respect to the paper filed by the moving party is required by statute or rule, the paper shall indicate whether the moving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the moving party requests reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the paper

is filed. If the moving party does not request reporting and a nonmoving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(5) If a hearing in respect to the paper filed by the moving party is not required by statute or rule, the paper shall indicate whether the moving party requests a hearing. The paper also shall indicate whether the moving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the moving party requests reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the paper is filed. If the moving party does not request reporting and a nonmoving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(6) If a hearing in respect to the paper filed by the moving party is not required by statute or rule or requested by the moving party and a nonmoving party files a request for hearing with the court, the request also shall indicate whether the nonmoving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the nonmoving party requests reporting the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not request reporting and the moving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(7) If a hearing in respect to the paper filed by the moving party is not required by statute or rule or requested by a party, but the court on its own motion orders a hearing and a party files a request that the hearing be reported with the court, the request shall contain an estimate of the hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed. If the court on its own motion orders a hearing, no party requests reporting and the court on its own motion orders that the hearing be reported, the court order shall contain an estimate of the hearing period, and each party shall pay an equal proportionate share of the

applicable hearing fee, based upon the estimate of the hearing period, before the hearing is held.

(8) No paper containing a request for reporting or other request for reporting referred to in subsections (4) to (7) of this section shall be deemed filed unless the fee required by those subsections of the filing party is paid by the party.

(9) The fees provided for in this section that are paid by a party shall be considered costs and disbursements and may be taxed and collected as other costs and disbursements by the prevailing party.

(10) In addition to the hearing fee provided for in subsection (3) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk of the circuit court shall collect a surcharge on the hearing fee of \$9 if the hearing period is not more than three hours or \$21 if the hearing period is more than three hours. [1985 c.496 §4; 1995 c.664 §71; 1997 c.801 §52; 2003 c.737 §§23,24; 2005 c.702 §§25,26]

**Note:** The amendments to 21.275 by section 27, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 28, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.275.** (1) In any civil action, suit or proceeding in the circuit court, other than a protective proceeding under ORS chapter 125 or a probate, adoption or change of name proceeding, hearing fees for reported hearings shall be collected as provided in this section. There is no hearing fee under this section for a hearing not reported.

(2) As used in this section:

(a) "Hearing" means an actual appearance of one or more parties before the court for an examination by the court without a jury, other than a trial or during a trial for which a trial fee is required, of issues of fact or law arising from a motion, application, petition or other paper filed with the court by a moving party, but does not include a conference solely for the purpose of case settlement or case scheduling.

(b) "Moving party" means a party who files with the court a motion, application, petition or other paper referred to in paragraph (a) of this subsection.

(c) "Nonmoving party" means a party other than a moving party.

(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing is \$33 if the hearing period is not more than three hours or \$77 if the hearing period is more than three hours. The fee does not include the preparation of transcripts of a report.

(4) If a hearing in respect to the paper filed by the moving party is required by statute or rule, the paper shall indicate whether the moving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the moving party requests reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the paper is filed. If the moving party does not request reporting and a nonmoving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(5) If a hearing in respect to the paper filed by the moving party is not required by statute or rule, the paper shall indicate whether the moving party requests a hearing. The paper also shall indicate whether the moving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the moving party requests reporting, the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the paper is filed. If the moving party does not request reporting and a nonmoving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(6) If a hearing in respect to the paper filed by the moving party is not required by statute or rule or requested by the moving party and a nonmoving party files a request for hearing with the court, the request also shall indicate whether the nonmoving party requests that the hearing be reported, and if reporting is requested, shall contain an estimate of the hearing period. If the nonmoving party requests reporting the nonmoving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed. If the nonmoving party does not request reporting and the moving party files a request for reporting with the court, the request shall contain an estimate of the hearing period, and the moving party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed.

(7) If a hearing in respect to the paper filed by the moving party is not required by statute or rule or requested by a party, but the court on its own motion orders a hearing and a party files a request that the hearing be reported with the court, the request shall contain an estimate of the hearing period, and the party shall pay the applicable hearing fee, based upon the estimate of the hearing period, when the request is filed. If the court on its own motion orders a hearing, no party requests reporting and the court on its own motion orders that the hearing be reported, the court order shall contain an estimate of the hearing period, and each party shall pay an equal proportionate share of the applicable hearing fee, based upon the estimate of the hearing period, before the hearing is held.

(8) No paper containing a request for reporting or other request for reporting referred to in subsections (4) to (7) of this section shall be deemed filed unless the fee required by those subsections of the filing party is paid by the party.

(9) The fees provided for in this section that are paid by a party shall be considered costs and disbursements and may be taxed and collected as other costs and disbursements by the prevailing party.

**21.280** [1959 c.563 §1; 1963 c.519 §16; repealed by 1965 c.619 §39]

### (Probate Fees)

#### **21.310 Probate filing fees and trial fee.**

(1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk of the court shall charge and collect the following fees for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

1. Not more than \$10,000—a fee of \$21.
2. More than \$10,000 and not more than \$25,000—a fee of \$70.
3. More than \$25,000 and not more than \$50,000—a fee of \$140.
4. More than \$50,000 and not more than \$100,000—a fee of \$210.
5. More than \$100,000 and not more than \$500,000—a fee of \$280.
6. More than \$500,000 and not more than \$1,000,000—a fee of \$350.
7. More than \$1,000,000—a fee of \$420.

(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$21 for the filing of the initial papers in any guardianship proceeding.

(4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$7 at the time of filing a will without a petition for probate.

(5) At the time of filing any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee of \$17 to the clerk.

(6) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court.

(7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court having probate jurisdiction, the clerk shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a trial or hearing fee of \$35.

(8)(a) In addition to the fees provided for in subsection (1) of this section, for the period commencing on August 3, 2005, and ending December 31, 2006, the clerk of a circuit court shall charge and collect the following surcharges for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

- Where the amount of the estate is:
1. Not more than \$10,000—\$6.

Where the amount of the estate is:

2. More than \$10,000 and not more than \$25,000—\$21.

3. More than \$25,000 and not more than \$50,000—\$42.

4. More than \$50,000 and not more than \$100,000—\$63.

5. More than \$100,000 and not more than \$500,000—\$84.

6. More than \$500,000 and not more than \$1,000,000—\$105.

7. More than \$1,000,000—\$126.

(b) In addition to the fee provided for in subsection (3) of this section, for the period commencing on August 3, 2005, and ending December 31, 2006, the clerk of a circuit court shall charge and collect a surcharge of \$6 for the filing of the initial papers in any guardianship proceeding.

(c) In addition to the fee provided for in subsection (4) of this section, for the period commencing on August 3, 2005, and ending December 31, 2006, the clerk of a circuit court shall charge and collect a surcharge of \$2 at the time of filing a will without a petition for probate.

(d) In addition to the fee provided for in subsection (5) of this section, for the period commencing on August 3, 2005, and ending December 31, 2006, at the time of filing in circuit court any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a surcharge of \$5 to the clerk.

(e) In addition to the fee provided for in subsection (7) of this section, for the period commencing on August 3, 2005, and ending December 31, 2006, the clerk of a circuit court shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$11. [Amended by 1955 c.458 §3; 1965 c.619 §14; 1971 c.621 §5; 1973 c.506 §1; 1975 c.607 §5; 1979 c.833 §6; 1981 s.s. c.3 §74; 1985 c.496 §5; 1995 c.664 §72; 1997 c.801 §28; 2003 c.737 §§26,27; 2005 c.702 §§29,30]

**Note:** The amendments to 21.310 by section 31, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 32, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.310.** (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk of the court shall charge and collect the following fees for the filing of the initial papers in any probate proceeding, including petitions for the appointment of personal representatives, probate of wills and contest of wills, or in any conservatorship proceeding:

Where the amount of the estate is:

1. Not more than \$10,000—a fee of \$23.

2. More than \$10,000 and not more than \$25,000—a fee of \$77.

3. More than \$25,000 and not more than \$50,000—a fee of \$154.

4. More than \$50,000 and not more than \$100,000—a fee of \$231.

5. More than \$100,000 and not more than \$500,000—a fee of \$308.

6. More than \$500,000 and not more than \$1,000,000—a fee of \$385.

7. More than \$1,000,000—a fee of \$462.

(2) In determining fees under subsection (1) of this section in a probate proceeding, the amount of a settlement in a wrongful death action brought for the benefit of the decedent's surviving spouse or dependents is not part of the estate.

(3) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$23 for the filing of the initial papers in any guardianship proceeding.

(4) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$8 at the time of filing a will without a petition for probate.

(5) At the time of filing any answer, motion or objection in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the answer, motion or objection shall pay a fee of \$19 to the clerk.

(6) A paper or pleading shall be filed by the clerk only if the fee required under this section is paid or if a request for a fee waiver or deferral is granted by the court.

(7) In any probate proceeding or protective proceeding under ORS chapter 125 in a court having probate jurisdiction, the clerk shall charge and collect in advance from the party having the affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein, a trial or hearing fee of \$39.

**21.313** [1959 c.452 §2; 1967 c.111 §4; repealed by 1969 c.591 §305]

**21.315** [Formerly 21.360; repealed by 1965 c.619 §39]

**21.320** [Amended by 1963 c.519 §17; 1965 c.619 §15; 1967 c.534 §10; 1971 c.621 §6; 1975 c.607 §6; 1979 c.833 §7; 1981 s.s. c.3 §§75,76; 1985 c.496 §7; 1997 c.801 §29; renumbered 21.114 in 1997]

### (Miscellaneous Circuit Court Fees)

**21.325 Miscellaneous circuit court fees.** (1) In the circuit court there shall be charged and collected in advance by the clerk of the court the following fees for the following purposes and services:

(a) Making transcription of a judgment entered in the register, \$6.

(b) Filing and entering transcript of judgment, \$6.

(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or copy of child custody determination of another state filed as provided in ORS 109.787, \$35.

(d) Issuing writs of execution or writs of garnishment, \$7 for each writ.

(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$5.

(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is issued by any court other than the court in which the original judgment was entered, \$4.

(g) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

(h) For any service the clerk may be required or authorized to perform and for which no fee is provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize, except that a fee may not be charged for location or inspection of court records.

(2) In addition to the fees provided for in subsection (1) of this section, for the period commencing September 1, 2003, and ending December 31, 2006, the clerk of the court shall charge and collect the following surcharges on the following services:

(a) Making transcription of a judgment entered in the register, \$2.

(b) Filing and entering transcript of judgment, \$2.

(c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or copy of child custody determination of another state filed as provided in ORS 109.787, \$11.

(d) Issuing writs of execution or writs of garnishment, \$1 for each writ.

(e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$2.

(f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is issued by any court other than the court in which the original judgment was entered, \$1.

(g) Issuing notices of restitution as provided in ORS 105.151, \$1 for each notice. [Formerly 21.060; 1999 c.649 §43; 2001 c.596 §42; 2003 c.737 §§29,30a,30c; 2005 c.702 §§33,34]

**Note:** The amendments to 21.325 by section 35, chapter 702, Oregon Laws 2005, become operative January 1, 2007. See section 36, chapter 702, Oregon Laws 2005. The text that is operative on and after January 1, 2007, is set forth for the user's convenience.

**21.325.** In the circuit court there shall be charged and collected in advance by the clerk of the court the following fees for the following purposes and services:

(1) Making transcription of a judgment entered in the register, \$7.

(2) Filing and entering transcript of judgment, \$7.

(3) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or copy of child custody determination of another state filed as provided in ORS 109.787, \$39.

(4) Issuing writs of execution or writs of garnishment, \$7 for each writ.

(5) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$6.

(6) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is issued by any court other than the court in which the original judgment was entered, \$4.

(7) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

(8) For any service the clerk may be required or authorized to perform and for which no fee is provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize, except that a fee may not be charged for location or inspection of court records.

**21.330** [Amended by 1961 c.563 §2; 1963 c.519 §18; repealed by 1965 c.619 §39]

### (Disposition of Fees)

**21.335 Disposition of circuit court fees.** Except as otherwise specifically provided by law, all fees collected by the clerk of a circuit court shall be deposited in the General Fund available for general governmental expenses. [Formerly 21.070]

**21.340** [Amended by 1963 c.519 §19; repealed by 1965 c.619 §39]

### LAW LIBRARY FEES

**21.350 Law library fees.** (1) In counties containing more than 400,000 inhabitants, according to the latest federal decennial census, or when directed as provided in ORS 9.840, the clerk of the court shall collect in each civil suit, action or proceeding filed in the circuit or county court a law library fee determined by the county court or board of county commissioners in an amount not greater than 33 percent of the filing fee provided by law, except that the amount shall be rounded up to the next full dollar.

(2) The fees provided for in this section shall be collected in the same manner as other fees are collected in the suit, action or proceeding, and is in addition to the other fees provided by law.

(3) The fee provided in subsection (1) of this section may be collected if the county owns and maintains, or hereafter may acquire, own or maintain under the provisions of ORS 9.840 and 9.850, a law library at the county seat, available at all reasonable times to the use of litigants, and permitted to be used by all attorneys at law duly admitted to practice in this state, without additional fees to such litigants or attorneys.

(4) For the purpose of imposing the law library fee provided for in this section in cases that are subject to the filing fees established by ORS 105.130, the percentage figure provided for under subsection (1) of this section shall be applied to the sum of the fee established by ORS 105.130 (2) and the sur-

charge established under ORS 105.130 (6). If the defendant demands a trial in the action, the percentage figure provided for under subsection (1) of this section shall be applied to the additional filing fee required of the plaintiff under ORS 105.130 (3), and to the sum of the filing fee required of the defendant under ORS 105.130 (3) and the surcharge established under ORS 105.130 (6). [Formerly 21.140; 1973 c.381 §6; 1981 s.s. c.3 §77; 1997 c.801 §46]

**Note:** Section 84 (1), chapter 737, Oregon Laws 2003, provides:

**Sec. 84.** (1) Notwithstanding ORS 21.350, the amount of the law library fee collected by the clerk of a court under ORS 21.350 in each civil suit, action or proceeding filed in a circuit court on and after September 1, 2003, and before January 1, 2007, may not exceed the amount of the fee collected by the clerk in the 2001-2003 biennium. [2003 c.737 §84(1); 2003 c.737 §84a(1); 2005 c.702 §92(1)]

**21.360** [Amended by 1955 c.458 §4; renumbered 21.315]

### FORM FEES

**21.361 Fees for forms provided by courts; exception.** (1) The State Court Administrator may prescribe and charge a reasonable price, covering the costs of labor and material, for any forms provided by the courts of this state. The sums so collected shall be paid over to the State Treasurer and credited to the Court Forms Revolving Fund.

(2) Notwithstanding subsection (1) of this section, no charge shall be made for forms made available under the provisions of ORS 107.700 to 107.735 or 124.005 to 124.040. [1991 c.790 §21; 1995 c.666 §11]

**21.363 Court Forms Revolving Fund.** There is established in the General Fund of the State Treasury the Court Forms Revolving Fund. Moneys in the revolving fund are continuously appropriated to the Judicial Department for the purpose of paying the costs of labor and materials incurred by the courts of this state in providing forms as provided in ORS 21.361. [1991 c.790 §22; 2005 c.22 §13]

**21.370** [Amended by 1963 c.519 §20; repealed by 1965 c.619 §39]

**21.375** [Formerly 21.210 and then 21.115; 1971 c.621 §7; 1975 c.607 §8; 1979 c.833 §8; 1981 c.883 §30; 1981 c.898 §23; 1981 s.s. c.3 §83; 1985 c.496 §17; 1995 c.559 §56; 1997 c.872 §3; renumbered 5.125 in 1997]

**21.380** [Amended by 1963 c.519 §21; repealed by 1965 c.619 §39]

**21.385** [Formerly 46.223; repealed by 1999 c.59 §12]

### SHERIFF AND PROCESS SERVER FEES

**21.410 Sheriff and process server fees for services in civil actions, suits and proceedings.** (1) The sheriff of a county shall collect the following fees in civil actions, suits and proceedings for each case delivered to the office of the sheriff:

(a) \$28 for serving summons, subpoena, citation, order, notice, including notice of seizure and sale of personal or real property, notice of restitution and notice of seizure under writ of attachment or execution, or similar documents, including small claims or writ of execution, directed to not more than two parties at the same address. If service is requested for more than two parties at the same address, the fee is \$15 for each party at the same address. The fee authorized by this paragraph shall not be charged to the state in civil actions, suits and proceedings where one party is a person who has been appointed counsel at state expense.

(b) For seizure and sale of personal or real property, enforcement of writ of execution of judgment of restitution, or other enforcement or seizure under writ of attachment or execution, or other process or proceeding, \$47, and, in addition, such sums as may be reasonable and necessary to secure each keeper or custodian of property in custody, the expense of inventory of property in custody and expense incurred in newspaper advertising required by law in the execution of process.

(c) For making a conveyance of real property sold on any process, \$15, to be paid by, or for, the grantee.

(d) For making a copy of any process, order, notice or other instrument in writing, when necessary to complete the service thereof, for each folio, \$3; but no charge shall be made for copy of complaint or other paper not actually made by the sheriff.

(e) For entering and processing distraint warrants for state agencies, \$6.25 each.

(2) Persons other than a sheriff serving process and other documents may charge any fee agreed to between the server and the person requesting service.

(3) Fees collected for service by the sheriff shall be retained for the benefit of the county where the party to be served cannot be found.

(4) No mileage or commission shall be collected by a sheriff for service of any document or process but in any service involving travel in excess of 75 miles round trip an additional fee not to exceed \$25 may be billed and collected by a sheriff. Mileage shall be measured from the location at which the service is made to the circuit court in that county.

(5) Amounts paid for service of process and other documents may be recovered as costs and disbursements to the extent provided by ORS 20.115.

(6) A sheriff may not collect a fee under this section for serving a foreign restraining

order or an order that only grants relief under ORS 107.095 (1)(c).

(7) As used in this section:

(a) "Folio" means 100 words, counting two figures as one word. Any portion of a folio, when the whole paper contains less than a folio, or when such portion is an excess over the last folio, shall be deemed a folio.

(b) "Foreign restraining order" means a restraining order that is a foreign judgment as defined by ORS 24.105. [Amended by 1959 c.620 §1; 1965 c.619 §16; 1969 c.252 §1; 1973 c.393 §1; 1975 c.607 §9; 1977 c.547 §1; 1979 c.833 §9; 1981 c.835 §2; 1981 c.883 §31; 1989 c.910 §1; 1989 c.1053 §1; 1991 c.594 §1; 1995 c.559 §53; 1995 c.583 §1; 1997 c.202 §2; 1997 c.249 §14; 1999 c.1052 §8; 2001 c.104 §4; 2001 c.962 §86; 2003 c.304 §86.7]

#### 21.420 Itemized statement of charges.

The return on any summons, process, subpoena or other paper served by a sheriff shall be accompanied by a subjoined itemized statement of the charges made for the service thereof, including the mileage actually and necessarily traveled in making the service.

**21.460** [Amended by 1961 c.446 §1; 1975 c.607 §10; 1979 c.833 §10; 1981 s.s. c.3 §§84,85; repealed by 1985 c.496 §32]

### TRANSCRIPT FEES

**21.470 Transcript fees; rules.** (1) A reporter appointed under ORS 8.340 (2) may not charge more than \$2.50 per page for the original transcript, or more than 25 cents per page for each additional copy, for preparing transcripts on appeal as provided in ORS 8.350.

(2) Except as provided in subsection (3) of this section, a reporter employed by one of the parties may charge fees as agreed to between the reporter and all of the parties to the proceeding for preparing transcripts on appeal as provided in ORS 8.350. The reporter and the parties shall agree to the fees to be charged prior to the commencement of the proceeding to be recorded. Any fees agreed upon shall be charged to parties joining the proceeding after the commencement of the proceeding for preparing transcripts on appeal as provided in ORS 8.350.

(3) A reporter employed by one of the parties may not charge a public body, as defined by ORS 174.109, fees for preparing transcripts on appeal as provided in ORS 8.350 that exceed the fees established by subsection (1) of this section.

(4) Each page of the original transcript on appeal prepared by a reporter under this section must be prepared as specified by rules for transcripts on appeal adopted by the Supreme Court.

(5) Except as otherwise provided by law, the fees for preparing a transcript requested by a party shall be paid forthwith by the party, and when paid shall be taxable as disbursements in the case. The fees for preparing a transcript requested by the court, and not by a party, shall be paid by the state from funds available for the purpose.

(6) When the court provides personnel to prepare transcripts from audio records of court proceedings, the transcript fees provided in subsection (1) of this section to be paid by a party shall be paid to the clerk of the court. [Amended by 1959 c.446 §1; 1971 c.565 §15; 1973 c.195 §1; 1979 c.833 §11; 1981 s.s. c.3 §86; 1987 c.796 §1; 2005 c.164 §1]

**Note:** Section 2, chapter 164, Oregon Laws 2005, provides:

**Sec. 2.** The amendments to ORS 21.470 by section 1 of this 2005 Act apply only to transcripts requested on or after the effective date of this 2005 Act [January 1, 2006]. [2005 c.164 §2]

### LEGAL AID FEES

**21.480 Legal aid and mediation program fees in circuit courts.** (1) In all counties wherein legal representation is provided for the poor without fee by a nonprofit legal aid program operating under the Legal Services Program established pursuant to ORS 9.572, the clerk of the circuit court shall collect the fees provided for in subsection (2) of this section to assist in defraying the operating costs of the legal aid program and to fund mediation programs offered through the State Department of Agriculture. The fees provided for in subsection (2) of this section are in addition to all other fees collected by the clerk of the court and shall be collected by the clerk in the same manner that other fees are collected by the clerk.

(2) The clerk shall collect the following fees from the plaintiff or other moving party in each civil suit, action or proceeding in the circuit court when the plaintiff or party files the first paper in the suit, action or proceeding, and from a defendant or respondent when the defendant or respondent files an appearance in the suit, action or proceeding:

(a) \$9.50, for filings in the small claims department of a circuit court.

(b) \$18, upon the filing of a complaint that is subject to the filing fee established under ORS 105.130 (2). If the defendant demands a trial, the clerk shall collect a fee of \$38 from the defendant, and an additional fee of \$21 from the plaintiff. In no event shall the plaintiff in an action subject to the filing fee established under ORS 105.130 be required to pay a total fee of more than \$39 under the provisions of this subsection.

(c) \$33, if the action, suit or proceeding is subject to the filing fees established by ORS 21.111.

(d) \$30, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110 (2).

(e) \$38, for any other filings in a circuit court not specifically provided for in this subsection, including all probate proceedings, protective proceedings under ORS chapter 125, adoption proceedings and change of name proceedings.

(3) In addition to the fees provided for in ORS 21.010, the State Court Administrator shall collect a fee of \$55 from an appellant or petitioner whenever a filing fee is collected under ORS 21.010 and a fee of \$15 from each respondent whenever an appearance fee is collected under ORS 21.010.

(4) All fees collected by the clerk under this section shall be deposited with the State Court Administrator. All fees collected under this section shall be distributed in the manner provided by ORS 9.574.

(5) Ten percent of the funds deposited with the State Court Administrator under this section shall be transferred by the State Court Administrator on a monthly basis to the State Department of Agriculture, until such time as the amount specified under subsection (6) of this section has been transferred to the State Department of Agriculture for the biennium. Moneys transferred to the State Department of Agriculture under this section are continuously appropriated to the department and may be used by the department only for the purpose of funding mediation programs established by the department. Moneys appropriated to the department under this subsection may not be used by the department to fund the costs of conducting individual farm credit mediations. The department shall consult with the director of the Mark O. Hatfield School of Government in establishing and operating mediation programs funded under this subsection.

(6) The amount transferred by the State Court Administrator to the State Department of Agriculture under subsection (5) of this section may not exceed \$150,000 in any biennium. [1977 c.112 §1; 1981 c.664 §1; 1983 c.114 §1; 1985 c.342 §5; 1989 c.385 §1; 1997 c.801 §§45,45a; 2003 c.737 §§92,94,96; 2003 c.791 §§8,8a; 2005 c.817 §2]

**21.485** [1977 c.112 §2; 1981 c.664 §2; 1983 c.114 §2; 1985 c.342 §6; 1989 c.385 §2; repealed by 1995 c.658 §127]

**21.490** [1977 c.112 §3; 1983 c.763 §39; repealed by 1997 c.801 §77]

## REFEREE FEES

**21.510 Referee fees.** The fees of referees shall be fixed by the court, but the parties may agree in writing upon any other rate of compensation and thereupon such rate shall be allowed.

**21.520** [1979 c.429 §1; renumbered 205.245]

**21.530** [1979 c.429 §2; renumbered 205.255]

**21.560** [Repealed by 1983 c.763 §24]

**21.570** [Amended by 1965 c.619 §17; 1967 c.398 §6; repealed by 1983 c.763 §24]

## LIABILITY FOR AND PAYMENT OF FEES

**21.580 Exemption of state, county and city from certain fees.** None of the fees prescribed in ORS 21.325 for services in the circuit court shall be collected from the state or from the county in which the court is located or from a city in the county in which the court is located. [Amended by 1965 c.619 §18; 1981 s.s. c.3 §87; 1983 c.763 §22; 1985 c.496 §26; 1991 c.790 §3]

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

**21.600** [Amended by 1965 c.619 §19; 1967 c.398 §7; repealed by 1985 c.496 §32]

**21.605 Waiver or deferral of fees and costs for indigents; fees and costs as judgment for public body; waiver of cost of transcript on appeal; rules.** (1)(a) The Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, a judge of a circuit or county court, the judge of the Oregon Tax Court, a tax court magistrate or a justice of the peace may waive in whole or in part, defer in whole or in part, or both, all fees and court costs payable by a party to a particular civil action or proceeding in the court of the justice, judge or magistrate, upon application by the party, if the justice, judge or magistrate finds that the party is unable to pay all or any part of the fees and costs. Waiver or deferral of an inmate's fees and court costs is subject to ORS 30.642 to 30.650.

(b) A fee may not be charged for filing an application under paragraph (a) of this subsection.

(c) All amounts deferred under this subsection constitute a monetary obligation payable to the public body to which the fees and court costs are owed, and may be made part of the judgment or other final written disposition of the action or proceeding by the clerk of the court or by the State Court Administrator without further notice to the debtor or further order of the court.

(d) The judgment or other final written disposition of the action or proceeding may provide that all or part of deferred amounts be waived if the court determines that the person is unable to pay the deferred amounts

or may require the payment of the deferred amounts not later than a date certain. A default in payment by the person so ordered to pay shall subject the person to a contempt proceeding.

(e) A judgment or other final written disposition rendered under this subsection may be filed and entered as a judgment in any county in this state.

(2) If fees and court costs payable by a party to a civil action or proceeding have been waived or deferred under subsection (1) of this section, that party is not required to pay any fees or costs so waived or deferred except as provided in subsection (1) of this section and ORS 30.642 to 30.650, and any pleading, petition, application, request, motion, claim, demand, exception or other paper or appearance presented by that party for filing or acceptance in the action or proceeding shall be filed or accepted without the payment of any such fees or costs.

(3)(a) In a civil action or proceeding, the court to which an appeal is taken may waive in whole or in part, defer in whole or in part, or partially waive and partially defer the expense of preparing a transcript on appeal, if:

(A) The party requesting the transcript is unable to pay the expense of preparing the transcript; and

(B) The party requesting the transcript makes a prima facie showing that the transcript is necessary to prosecute the appeal and would reveal reversible error in the action or proceeding.

(b) In any civil action or proceeding in which the court waives or defers any part of the expense of preparing a transcript on appeal, the court shall authorize preparation of only so much of the transcript as is necessary to prosecute the appeal.

(c) To the extent that the court waives or defers any part of the expense of preparing a transcript on appeal, the State Court Administrator shall pay the expense out of funds appropriated for that purpose.

(d) If the court defers payment of any part of the expense of preparing a transcript, and any part of the deferred expense remains unpaid at the conclusion of the appeal, the unpaid amounts may be made part of the judgment or other final written disposition of the action or proceeding in the manner provided by subsection (1) of this section.

(e) If costs on appeal are awarded to a party who has obtained a waiver or deferral under this subsection, any portion of the costs awarded for the expense of preparing the transcript on appeal shall be ordered paid to the State Court Administrator to the extent that the waived or deferred expense was paid by the State Court Administrator.

(f) Waiver or deferral of an inmate's expenses under this subsection is subject to ORS 30.642 to 30.650.

(4) In any case in which fees and court costs have been waived or deferred under this section, a judgment or other final written disposition shall be rendered as in other cases, but the state is not liable for the payment of any fees or costs awarded against a party whose fees or costs have been waived or deferred.

(5) In the exercise of the authority granted by ORS 1.002, the Chief Justice of the Supreme Court may provide by rule standards and practices for waiver or deferral of fees, court costs and expenses under this section. [1969 c.288 §1; 1973 c.67 §1; 1977 c.416 §2; 1981 s.s. c.3 §88; 1983 c.673 §24; 1985 c.342 §24; 1985 c.496 §24; 1995 c.273 §11; 1995 c.658 §25; 1999 c.367 §4; 1999 c.657 §7a; 2003 c.518 §5; 2003 c.576 §178; 2003 c.737 §85]

**21.607 Judgments for deferred fees and costs; interest; satisfaction; compromise prohibited.** (1) Notwithstanding ORS 82.010, judgments resulting from the deferral of fees and court costs under the provisions of ORS 21.605 bear no interest.

(2) If a judge of a circuit or county court defers payment of any fees or court costs under the provisions of ORS 21.605, and the amount of those deferred fees or court costs is subsequently paid in full, the trial court administrator for the court shall note in the register or docket that the deferred fees and costs have been paid in full. Notation in the register or docket that deferred fees and costs have been paid in full constitutes a satisfaction of the judgment for those fees and costs.

(3) If the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or the judge of the Oregon Tax Court defers payment of any fees or court costs under the provisions of ORS 21.605, including deferral of the cost of preparing the transcript on appeal, and the amount of those deferred fees or court costs is subsequently paid in full, the State Court Administrator shall note upon the register of the court that the deferred fees and costs have been paid in full. Notation in the register that deferred fees and costs have been paid in full constitutes a satisfaction of the judgment for those fees and costs.

(4) Upon notation in the register or docket that deferred fees and costs have been paid in full, a certified copy of the notation may be filed with any circuit court or County Clerk Lien Record in which the judgment was filed under the provisions of ORS 21.605. Upon filing of the certified copy, the trial court administrator for the court, or the county clerk if the judgment was filed

in the County Clerk Lien Record, shall cause the certified copy to be entered in the register or docket of the court or recorded in the County Clerk Lien Record.

(5) Judgments resulting from the deferral of fees and court costs under the provisions of ORS 21.605 may not be compromised, settled or adjusted by a trial court administrator or the State Court Administrator. [1995 c.273 §12; 1997 c.801 §129; 1999 c.367 §17; 2003 c.576 §179]

**21.610** [Amended by 1963 c.519 §22; repealed by 1965 c.619 §39]

**21.615 Payment of certain fees in appeal to circuit court in any criminal action other than for state crime.** (1) In an appeal to a circuit court from a justice court or municipal court in an action for commission of a state violation or an action for violation of a city charter or ordinance, but not in an action for commission of a state crime:

(a) The filing, trial and law library fees required by ORS 21.110, 21.270 and 21.350 are required of the appellant and respondent.

(b) The legal aid fee required by ORS 21.480 is required of the appellant.

(2) Payment of fees required by subsection (1) of this section is subject to ORS 20.140.

(3) Fees required by subsection (1) of this section may be waived or deferred by a judge of the circuit court for the reason and in the manner provided in ORS 21.605. [1985 c.342 §27; 1999 c.1051 §120]

**21.620** [Amended by 1963 c.519 §23; 1965 c.619 §20; repealed by 1981 s.s. c.3 §141]

**21.630** [Repealed by 1955 c.458 §5]

**21.640** [Repealed by 1955 c.458 §5]

**21.650** [Repealed by 1955 c.458 §5]

**21.660 Advance payment of, or security for, fees for services in court proceedings.** Except as provided in ORS 20.140, and except the fees for which advance payment or a deposit is otherwise required by law, every officer, witness, or other person required to do or perform any act or service for any party to any action, suit or proceed-

ing in a court of justice in this state shall be entitled to demand and receive from such party the compensation which the law allows therefor in advance; but a party may at the option of the party pay the fees of the officers of the court in advance, or give such officers an undertaking with sufficient sureties therefor. The fees secured to the officers, or any of them, by any party to the judgment, may be collected by an execution against the property of such party and that of the sureties of the party in the undertaking therefor. Such officers' execution may issue in the name of the clerk as plaintiff in the writ, and for the benefit of all officers to whom fees are so due and secured, whenever an execution might issue to enforce the judgment at the instance of the prevailing party. [Amended by 2003 c.576 §288]

**21.670 Duty of officer receiving fees to give receipted cost bill.** An officer receiving fees for any official services must, upon demand, give the party paying the same a receipted bill thereof, specifying the items of such fees.

**21.710** [Repealed by 1997 c.249 §15]

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

#### MISCELLANEOUS PROVISIONS

**21.730 Per diem and mileage for private persons performing services required by law or in execution of process.** All private persons performing services required by law or in the execution of legal process, when no express provision is made for their compensation shall be entitled to \$3 for each day so employed, and mileage for any necessary travel, going and returning, at the rate of eight cents a mile, and no more.

#### PENALTIES

**21.990 Penalties.** Any officer refusing or neglecting to comply with ORS 21.670 shall be liable to the party demanding the receipt for a penalty of \$25.