

Chapter 7

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COURT RECORDS GENERALLY

7.010 Records of court; minimum record retention schedules. (1) The records of the circuit courts include a register and jury register.

(2) The record of the Supreme Court and the Court of Appeals is a register.

(3) All references in this chapter to the clerk or court administrator relate to the office of the clerk or court administrator of the appropriate trial or appellate court.

(4) Minimum record retention schedules and standards for all records of the state courts and the administrative offices of the state courts may be prescribed by the State Court Administrator pursuant to ORS 8.125. The State Court Administrator shall ensure that the minimum record retention schedules and standards prescribed under ORS 8.125 conform with policies and standards established by the State Archivist under ORS 192.105, 357.825 and 357.835 (1) for public records valued for legal, administrative or research purposes. [Amended by 1969 c.198 §34; 1975 c.588 §3; 1985 c.540 §1; 1989 c.768 §2; 1995 c.244 §9; 2003 c.576 §174]

7.015 Consolidation of records. Any of the records of the court required under ORS 7.010 may be consolidated, as the court may deem appropriate, so long as the essential elements of information and the inherent purpose of those records are maintained. [1975 c.588 §2]

7.020 Register. The register is a record wherein the clerk or court administrator shall enter, by its title, every action, suit or proceeding commenced in, or transferred or appealed to, the court, according to the date of its commencement, transfer or appeal. Thereafter, the clerk or court administrator shall note therein all the following:

(1) The date of any filing of any document.

(2) The date of making, filing and entry of any order, judgment, ruling or other direction of the court in or concerning such action, suit or proceeding.

(3) Any other information required by statute, court order or rule. [Amended by 1971 c.193 §12; 1975 c.588 §4; 1985 c.540 §2; 1989 c.768 §3; 2007 c.129 §3]

7.030 [Amended by 1971 c.193 §13; 1975 c.588 §5; repealed by 1985 c.540 §47]

7.040 [Amended by 1975 c.588 §6; 1977 c.591 §1; 1985 c.540 §3; 1989 c.768 §4; 1993 c.763 §5; repealed by 2003 c.576 §580]

7.050 [Amended by 1975 c.588 §7; 1977 c.592 §1; repealed by 1989 c.768 §11]

7.060 [Amended by 1971 c.193 §14; 1975 c.588 §8; repealed by 1985 c.540 §47]

7.070 Jury register. The jury register is a record wherein the clerk or court administrator shall enter the names of the persons attending upon the court at a particular term as grand or trial jurors, the time of the attendance of each, and when discharged or excused, and the amount of fees and mileage earned by each. [Amended by 1975 c.588 §9]

7.080 [Amended by 1975 c.588 §10; repealed by 1985 c.540 §47]

7.090 Files of court. The files of the court are all documents filed with or by the clerk of the court or court administrator, in any action, suit or proceeding therein, or before the judge. [Amended by 1975 c.588 §11; 2007 c.129 §4]

7.095 Electronic data processing for court records; standards for preservation and security. (1) Where the application of electronic data processing techniques is determined to be feasible and expedient in maintaining records of the courts of this state, the Chief Justice of the Supreme Court may authorize records to be kept by use of electronic data processing equipment. Court records maintained as provided by this section shall contain the information otherwise required by law for the records of courts in this state.

(2) The State Court Administrator may prescribe standards governing the use of such techniques, the preservation of the records so maintained, and controls to prevent unauthorized access to records maintained through the use of electronic data processing equipment. [1971 c.499 §1; 1985 c.540 §4; 1995 c.244 §2]

CUSTODY AND EXAMINATION OF RECORDS AND FILES, AND THEIR DISPOSITION, SUBSTITUTION OR RESTORATION

7.110 Custody of records and files. (1) The records and files of the court shall be maintained by the clerk or court administrator of the respective trial or appellate court, and the clerk or court administrator is the custodian of and responsible for those records and files. Paper records and files may not be taken out of the office, and electronic records may not be removed from any file or electronic database, by any person except when allowed by special order of the court or a judge or general rule made by the court.

(2) Custody of and responsibility for records and files of the court relating to an action, suit or proceeding may be transferred to the clerk or court administrator of another court, for the purposes of storage and servicing, after the expiration of 25 years after the entry of final judgment in the action, suit or proceeding. [Amended by 1971 c.193 §15; 1975 c.588 §12; 1985 c.540 §5; 2007 c.129 §5]

7.120 Disposition of exhibits, notes and audio records of circuit court cases.

(1) The presiding judge for a judicial district may authorize destruction of any court record or document at any time after the expiration of the minimum retention period established by the State Court Administrator under ORS 8.125. Records and documents that may be destroyed under this section include registers, dockets, indexes, files, citations, notes, audio records, video records, stenographic records, exhibits, jury records and fiscal and administrative documents.

(2) The presiding judge for a judicial district may order the return, destruction or other disposition of exhibits offered or received in any case in circuit court at any time after the case becomes final and not subject to further appeal. This subsection does not apply to exhibits in a case involving the determination of water rights, which exhibits shall be permanently retained. [Amended by 1955 c.497 §1; 1975 c.481 §1; 1979 c.58 §1; 1985 c.540 §6; 1993 c.33 §274; 1993 c.546 §116; 1995 c.781 §§16,16a; 1997 c.872 §13]

7.124 Procedures for destruction of documents; photographic and electronic copies.

(1) Pursuant to ORS 8.125 (11), the State Court Administrator may establish procedures that provide for the destruction of records, instruments, books, papers, transcripts and other documents filed in a circuit court after making a photographic film, microphotographic film, electronic image or other photographic or electronic copy of each document that is destroyed.

(2) A circuit court may use procedures established under subsection (1) of this section only if at the time of making the copy the trial court administrator for the court attaches to the copy, attaches to the sealed container in which the copy is placed or incorporates into the copy:

(a) A certification that the copy is a correct copy of the original, or of a specified part of the original;

(b) The date on which the copy was made; and

(c) A certification that the copy was made under the trial court administrator's direction and control.

(3) A trial court administrator using film for copies under this section must promptly seal and store at least one original or negative copy of the film in a manner and place that will ensure that the film will not be lost, stolen or destroyed.

(4) A trial court administrator using electronic images for copies under procedures established under subsection (1) of this section must ensure that the electronic images are continuously updated into com-

monly used formats and, if necessary, transferred to media necessary to ensure that they are accessible through commonly used electronic or computerized systems.

(5) Copies of documents created under this section must be retained in lieu of the original documents for the period established by the schedule prescribed in ORS 8.125 (11). [2007 c.129 §2]

Note: 7.124 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 7 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

7.125 [1985 c.540 §8; 1995 c.781 §§17,17a; repealed by 1995 c.658 §127]

7.130 Search and examination of records and files; certified copies.

Whenever requested, the clerk or court administrator shall furnish to any person a certified copy of any portion of the records or files in the custody of the clerk or court administrator. No person other than the clerk or court administrator or a representative designated by the clerk or court administrator is entitled to make such copy, or to have the use of the records or files for such purpose. Whenever requested, the clerk or court administrator shall search the records and files, and give a certificate thereof according to the nature of the inquiry. [Amended by 1971 c.193 §16; 1979 c.833 §2; 1985 c.540 §9]

7.132 Access to case information not otherwise open to public.

Notwithstanding any other provision of law, the State Court Administrator may authorize access to case calendars, case registers and other case information that is kept in electronic form and that is otherwise not open to public inspection, including information on cases under ORS chapters 419A, 419B, 419C, 426 and 427. Any person granted access to records under this section must preserve the confidentiality of the records. The State Court Administrator shall prescribe standards and procedures for access to case information under this section for persons who need access to the information in order to perform duties with respect to the case. [2007 c.331 §2]

Note: 7.132 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 7 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

7.140 Substitution of copy of lost record.

If the record of any judgment or other proceeding of any judicial court of this state, or any part of the record of any judicial proceeding, is lost or destroyed, any party or person interested may, on application, by petition in writing under oath to the court and on showing to its satisfaction that the record has been lost or destroyed without fault or neglect of the applicant, obtain an order from

the court authorizing the defect to be supplied by a certified copy of the original record when it can be obtained. The certified copy shall have the same effect as the original record. [Amended by 2003 c.576 §274]

7.150 Order of restoration when no copy available. If the loss or destruction of any record or part thereof as mentioned in ORS 7.140 has happened and the defect cannot be supplied as therein provided, any party or person interested may make a written application to the court, to which the record belonged, verified by affidavit showing its loss or destruction and that certified copies cannot be obtained by the applicant. It shall also show the substance of the record and that its loss or destruction occurred without the fault or neglect of the applicant. Thereupon the court shall cause the application to be entered of record in the court, and due notice of it shall be given as in actions at law, that it will be heard by the court. If, upon the hearing, the court shall be satisfied that the statements contained in the written application are true, it shall make an order reciting what was the substance and effect of the lost or destroyed record. This order shall be entered of record in the court, and have the same effect which the original record would have had so far as concerns the applicant and the persons who shall have been notified as herein provided. The record in all cases when the proceeding was in rem, and no personal service was had, may be supplied upon like notice as nearly as may be as in the original proceeding. The court in which the application is pending may in all cases in which publication is required direct, by order, to be entered of record, the form of the notice, and designate the newspaper or newspapers in which it shall be published.

7.160 Restoration of destroyed probate records. In case of the destruction of the records or any part thereof of any court having probate jurisdiction, the judge of the court may proceed, upon the motion of the judge or upon application in writing of any party in interest, to restore the records, papers and proceedings of the court relating to the estate of a deceased person, including recorded wills and wills probated or filed for probate in the court. For this purpose the judge may cause citations to be issued to any parties designated by the judge, and the judge may compel the attendance in court of witnesses whose testimony may be necessary to the establishment of the record or part thereof. The judge may also compel the production of written or documentary evidence which the judge deems necessary in determining the true import and effect of the original record, will, paper or other document belonging to the files of the court. The judge

may also make orders and judgments establishing the original record, will, paper, document or proceeding, or its substance, as to the judge shall seem just and proper. The judge may make all rules and regulations governing the proceedings for the restoration as in the judgment of the judge will best secure the rights and protect the interest of all parties concerned. [Amended by 2003 c.576 §275]

7.170 When copy of higher court record may be filed in lower court; effect when original is lost or destroyed. In case of the loss or destruction of the original record of any cause removed to the Supreme Court or to the Court of Appeals, a certified copy of the record of the cause remaining in the Supreme Court or the Court of Appeals may be filed in the court from which the cause was removed, on motion of any interested party or person. The copy filed shall have the same effect as the original record would have had if it had not been lost or destroyed. [Amended by 1969 c.198 §35]

7.210 [Repealed by 1957 c.412 §1]

RECORDS IN ADOPTION, FILIATION, PROBATE AND JUVENILE PROCEEDINGS

7.211 Separate records in adoption cases; accessibility of records limited. (1) The clerk or court administrator of any court having jurisdiction over adoption cases shall keep separate records in all cases of adoption filed in such court. The records shall not be subject to the inspection of any person, except upon order of the court. Adoption proceedings shall not be entered upon the general records of the court, nor shall the clerk or court administrator disclose to any person, without the court order, any information appearing in the adoption records. The clerk, court administrator or any other person having custody of any records or files in such cases shall not disclose them to any person without the court order. Nothing contained in this section shall prevent the clerk or court administrator from certifying copies of a judgment of adoption to the petitioners in such proceeding or their attorney. At the time of the entry of any judgment of adoption, the clerk, court administrator or other person having custody of the records or files in such cases shall cause all records, papers and files relating to the adoption to be sealed in the record of the case and such sealed records, papers and files shall not be unsealed, opened or subject to the inspection of any person except upon order of a court of competent jurisdiction.

(2) The provisions of subsection (1) of this section do not apply to the disclosure of information under ORS 109.425 to 109.507. [1957 c.412 §3 (enacted in lieu of 109.340); 1975 c.588 §14;

1979 c.58 §5; 1983 c.672 §17; 1985 c.540 §10; 1995 c.79 §4; 1995 c.730 §6; 1997 c.873 §25; 1999 c.859 §25; 2003 c.576 §276]

7.215 [1969 c.619 §8; 1975 c.588 §15; 1979 c.58 §6; 1985 c.540 §11; repealed by 1993 c.138 §1]

7.220 [Amended by 1965 c.510 §9; 1975 c.588 §16; repealed by 1981 c.215 §8]

7.225 [Amended by 1965 c.510 §10; repealed by 1981 c.215 §8]

7.230 Probate and juvenile court records to be kept separate. Insofar as may be practicable and convenient the records and proceedings pertaining to probate and juvenile matters shall be kept separate from the other records and proceedings of the circuit courts. [Amended by 1969 c.591 §267]

7.240 Records in probate matters. The proceedings in probate matters shall be entered and recorded by the clerk or court administrator in the following records:

(1) A register, in which shall be entered a memorandum of all official business transacted by the court or judge thereof pertaining to the estate of each decedent, under the name of the decedent, and that pertaining to each protective proceeding under ORS chapter 125, under the name of the protected person.

(2) A probate index, in which shall be kept an index of all the entries in the register under the names of the persons to whose estate, person or business the entries relate, which names shall be arranged chronologi-

cally in alphabetical order. [Amended by 1973 c.823 §84; 1975 c.588 §17; 1985 c.540 §12; 1995 c.664 §68]

USE OF RECYCLED PAPER AND PAPER PRINTED ON BOTH SIDES

7.250 Use of paper printed on both sides; use of recycled paper. (1) The State Court Administrator and the courts of this state shall encourage persons who make paper filings in the courts, including all pleadings, motions, copies and other documents, to use paper that has been printed on both sides of each sheet. The courts of this state may not decline to accept any paper filing because the filing is printed on both sides of each sheet of paper.

(2) All paper filings in the courts of this state, including all pleadings, motions, copies and other documents, shall be printed on recycled paper if recycled paper is readily available at a reasonable price. The State Court Administrator and the courts of this state shall encourage persons who make paper filings in the courts to use recycled paper that has the highest available content of post-consumer waste, as defined in ORS 279A.010, and that is recyclable in office paper recycling programs in the community in which the filing is made. A court of this state may not decline to accept any paper filing because the paper does not comply with the requirements of this subsection. [1997 c.762 §2; 2003 c.794 §193; 2007 c.129 §6]