

# Chapter 206

2011 EDITION

## Sheriffs

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**COUNTIES AND COUNTY OFFICERS**

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## DUTIES OF SHERIFF

**206.010 General duties of sheriff.** The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of the office of sheriff, it is the sheriff's duty to:

(1) Arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses.

(2) Defend the county against those who, by riot or otherwise, endanger the public peace or safety.

(3) Execute the process and orders of the courts of justice or of judicial officers, when delivered to the sheriff for that purpose, according to law.

(4) Execute all warrants delivered to the sheriff for that purpose by other public officers, according to law.

(5) Attend, upon call, the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court, justice court or county court held within the county, and to obey its lawful orders or directions. [Amended by 1985 c.339 §1]

**206.015 Qualifications of sheriff; certification as police officer; determination of eligibility to be candidate for election to office of sheriff.** (1) A person is not eligible to be a candidate for election or appointment to the office of sheriff unless:

(a) The person is 21 years of age or older;

(b) The person has at least four years' experience as a full-time law enforcement officer or at least two years' experience as a full-time law enforcement officer with at least two years' post-high-school education; and

(c) The person has not been convicted of a felony or of any other crime that would prevent the person from being certified as a police officer under ORS 181.610 to 181.712.

(2) As used in subsection (1) of this section, "two years' post-high-school education" means four semesters or six quarters of classroom education in a formal course of study undertaken after graduation from high school in any accredited college or university. The term does not include apprenticeship or on-the-job training.

(3) If the person is not certified as a police officer by the Department of Public Safety Standards and Training at the time of accepting appointment or filing as a candidate, a person elected or appointed to the office of sheriff must obtain the certification not later than one year after taking office. A copy of the certification shall be filed with the county clerk or the county official in charge of elections. The county governing

body shall declare the office of sheriff vacant when the person serving as sheriff is not certified as a police officer within one year after taking office.

(4) The Department of Public Safety Standards and Training, in consultation with the Board on Public Safety Standards and Training, shall establish a procedure for determining whether an individual is eligible under subsection (1) of this section to be a candidate for election to the office of sheriff. A copy of the department's determination of an individual's eligibility to be a candidate for election to the office of sheriff shall be filed with the county clerk or county official in charge of elections not later than the 61st day before the date of the election. If the department determines that the individual is not eligible to be a candidate for election to the office of sheriff, the county clerk or county official in charge of elections shall not place the name of the individual on the ballot at the election. [1971 c.299 §1; 1981 c.808 §5; 1987 c.484 §1; 1993 c.493 §87; 1997 c.853 §35]

**206.020 Keeping records of and disposition of fees.** (1) Every sheriff shall keep in the sheriff's office a fee book or a system of receipts which shall be a public record, and in which shall be entered promptly all items of services performed and fees collected, with the name of the person for whom such services were performed, and the amount collected.

(2) The sheriff shall deposit each month with the county treasurer all such sums collected by the sheriff during the month next preceding, except the sums received for the care or preservation of property, and shall take the treasurer's duplicate receipts therefor, which receipts shall specify the kind of service performed, for whom performed, and the amount received for such service.

(3) The sheriff shall immediately file one of the receipts with the county accountant and, if there is no county accountant, with the county clerk. [Amended by 1983 c.310 §1]

**206.030 Duty to execute process and make return; taking concealed personal property; use of force.** An officer to whom any process, order or paper is delivered shall execute or serve it according to its command or direction, or as required by law, and must make a written return of the execution or service thereof. If a sheriff is directed by a court to take personal property into custody at a specific premises, and the property is concealed in a building or enclosure, the sheriff shall demand its delivery. If delivery is not made, the sheriff shall use such reasonable force as is necessary to enter into the building or enclosure and take the property into possession. [Amended by 2003 c.304 §1]

**206.040 Execution of process and service of papers.** When any process, order or paper is delivered to an officer, to be executed or served, the officer shall deliver to the person delivering it, if required, on payment of the fee, a written memorandum, specifying the names of the parties in the process, order or paper, the general nature thereof and the day on which it was received. The officer shall also, when required by law, or upon the request of the party served, without fee, deliver to the party a copy thereof.

**206.050 Commanding assistance in process serving.** (1) When an officer finds, or has reason to apprehend, that resistance will be made to the execution or service of any process, order or paper delivered to the officer for execution or service, and authorized by law, the officer may command as many adult inhabitants of the county of the officer as the officer may think proper and necessary to assist the officer in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.

(2) National Guard members are exempt from any service commanded under subsection (1) of this section while they continue to be active members. [Amended by 1961 c.454 §209; 2007 c.255 §12]

**206.060 When sheriff justified in executing process.** A sheriff is justified in the execution of process regular on its face, and appearing to have been issued by competent authority, whatever may be the defect in the proceedings in which it was issued.

**206.070 Excusing liability of sheriff in execution of process.** No direction or authority by a party or the attorney of the party to a sheriff or the officer of the sheriff, in respect to the execution of process or the return thereof, or to any act or omission relating thereto, can be shown to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing signed by the party to be charged or affected thereby or the attorney of the party.

**206.080 Certificate of election or appointment to new sheriff; service on former sheriff.** When a new sheriff is elected or appointed, and has qualified, the county clerk shall give the new sheriff a certificate of that fact, under the seal of office of the county clerk. Whenever thereafter the new sheriff is authorized by statute to enter upon the duties of the office, the new sheriff shall serve such certificate upon the former sheriff, from which time the powers of the former sheriff cease, except when otherwise specially provided.

**206.090 Delivery of jail, process and prisoners to new sheriff.** Within one day after the service of the certificate referred to in ORS 206.080 upon the former sheriff, the former sheriff shall deliver to the successor:

(1) The jail of the county, with its appurtenances and the property of the county therein.

(2) The prisoners then confined in the county jail.

(3) The process or other papers in the custody of the former sheriff, authorizing or relating to the confinement of the prisoners, or if they have been returned, a written memorandum of them and the time and place of their return.

(4) All process for the arrest of a party, and all papers relating to the summoning of jurors which have not been fully executed.

(5) All executions and final process, except those which the former sheriff has executed, or has begun to execute, by the collection of money or a levy on property.

(6) All process or other papers for the enforcement of a provisional remedy not fully executed.

**206.100 Written assignment of items delivered.** The former sheriff shall also at the time referred to in ORS 206.090 deliver to the new sheriff a written assignment of the property, process, papers and prisoners delivered. The new sheriff shall thereupon acknowledge in writing, upon the assignment, the receipt of the property, process, papers and prisoners therein specified, furnish the former sheriff a certified copy thereof and file the original in the county clerk's office.

**206.110 Return of process by former sheriff; completion of execution of process by successor; duty of successor as to defective or lost deeds.** (1) The former sheriff shall return all process, whether before or after judgment, which the former sheriff has fully executed, and the new sheriff and the successor in office shall complete the execution of all final process which the predecessor commenced and did not complete.

(2) In all cases where real property is sold under execution by any sheriff, and the sheriff fails or neglects during the term of office of the sheriff, by virtue of the expiration thereof, or otherwise, to make or execute a proper sheriff's deed conveying the property to the purchaser, or if through mistake in its execution, or otherwise, any sheriff's deed is inoperative, or if by reason of the loss of an unrecorded sheriff's deed, the purchaser, the heirs or assigns or successors in interest of the purchaser desire

the execution of another sheriff's deed, the sheriff in office at any time after the purchaser is entitled to a deed shall execute such conveyance. When executed to cure or replace a defective or lost deed such conveyance shall be to the grantee in the defective or lost deed, but shall relate back and be deemed to take effect as of the date of the execution of the defective or lost deed so as to inure to the benefit of the heirs and assigns, or other successors in interest, of the grantee named therein. Such conveyance so executed by the sheriff in office shall have the same force and effect as if executed by the sheriff who made the sale. [Amended by 2003 c.576 §395]

**206.120 Disposition of money in custody when office vacant.** When the official term of office of any sheriff ends by expiration of the term, death, resignation, removal from office or otherwise, the money in the custody of the sheriff by virtue of the office of the sheriff, belonging to the county or litigants, shall be turned over immediately to the successor in office, and duplicate itemized receipts therefor immediately shall be filed with the county treasurer.

**206.130** [Renumbered 206.310]

**206.140** [Renumbered 206.320]

**206.150** [Renumbered 206.330]

**206.160** [Renumbered 206.340]

**206.170** [Repealed by 1963 c.331 §13]

**206.180 Location of sheriff's office.** The sheriff of each county shall keep an office in such room or building, at the place appointed by law for holding courts therein, as the county court may by order designate.

**206.190** [Renumbered 206.350]

**206.210 Authority of sheriff over organization of office.** Notwithstanding the provisions of ORS 241.016 to 241.990 or any other county civil service law or regulation, the sheriff may organize the work of the office of the sheriff so that:

(1) The various duties required of the office may be assigned to appropriate departments and divisions to be performed by persons experienced and qualified for such respective kinds of work.

(2) The duties of the various assistants, officers and deputies of the sheriff are coordinated so that, when not engaged in a particular duty specified or directed to be done and not then requiring attention, such persons shall perform the other duties required of the office and then required to be done.

(3) The cooperation among assistants, officers, deputies and employees in the departments and divisions may be secured for the purposes of avoiding duplication of time and effort. [1963 c.331 §2]

**206.220** [1963 c.331 §3; repealed by 1981 c.48 §8]

**206.230** [1963 c.331 §§4,6; repealed by 1981 c.48 §8]

**206.240** [1963 c.331 §5; repealed by 1981 c.48 §8]

**206.250** [1963 c.331 §7; repealed by 1981 c.48 §8]

**206.300** [1971 c.453 §1; repealed by 1975 c.780 §16]

## MISCELLANEOUS

### **206.310 Service of papers on sheriff.**

Personal service of a paper upon the sheriff may be made by delivering it to a person belonging to and in the office during office hours, or if no such person is there, by leaving it in the office, or if the office is not open, by delivering it to the county clerk or the deputy of the county clerk, at the county clerk's office. [Formerly 206.130]

### **206.315 Expenses of sheriff in conveying convicts and persons with mental illness to state institutions.**

(1) A sheriff is entitled to receive from the county the actual and necessary expenses of the sheriff incurred in transporting and conveying convicts and parole violators to a Department of Corrections institution and persons with mental illness to a state mental hospital when conveyed by the sheriff in pursuance of the adjudication of an authorized tribunal of the state, to be audited and allowed as other claims against the county.

(2) All counties are entitled to receive reimbursement from the state in the amounts specified in subsection (3) of this section for the actual and necessary expenses incurred by the sheriff under subsection (1) of this section.

(3) Reimbursement by the state under subsection (2) of this section shall be as follows:

(a) Full reimbursement for transporting and conveying persons with mental illness to a state mental hospital.

(b) Full reimbursement for returning a parole violator to the state penitentiary.

(c) Seventy-five percent reimbursement for transporting and conveying a convict to a Department of Corrections institution. [Formerly 204.421; 1987 c.320 §146; 2007 c.70 §55]

**206.320** [Formerly 206.140; repealed by 2007 c.218 §6]

### **206.325 Expenses of sheriff in caring for property in custody.**

A sheriff is entitled to claim from the plaintiff or moving party in any account, action or proceeding such reasonable sums of money as the sheriff may have been compelled to pay or incur in the care of property in the custody of the sheriff, under attachment, execution or proceedings for the claim and delivery of personal property. [Formerly 204.425]

### **206.330 Sheriff entitled to rewards.**

The sheriff is entitled to demand and receive to the sheriff's own use any reward offered

in pursuance of law for the apprehension of any person charged with or suspected of crime, when the sheriff has earned the same by a compliance with such offer. [Formerly 206.150]

**206.340** [Formerly 206.160; repealed by 1981 c.808 §6]

**206.345 Contracts with cities; authority under contract.** (1) A sheriff shall have authority to enter into contracts, jointly with the governing body of the county, on behalf of the county, as provided in ORS 190.010.

(2) During the existence of the contract, the sheriff and the deputies of the sheriff shall exercise such authority as may be vested in them by terms of the contract, including full power and authority to arrest for violations of all duly enacted ordinances of the contracting city. [1967 c.236 §1]

**206.350** [Formerly 206.190; repealed by 1979 c.492 §1]

### UNIFORMS

**206.355 Unauthorized use of uniform prohibited.** No person other than a county sheriff, person designated by a county sheriff, or regularly salaried sheriff's deputy shall wear, use, copy or imitate in any manner the uniform of that county sheriff. [1979 c.492 §2]

**206.360** [1967 c.258 §§1,2,3,4; repealed by 1979 c.492 §1]

### PENALTIES

**206.990** [Repealed by 1979 c.492 §1]

**206.991 Penalties.** Violation of ORS 206.355 is a Class A misdemeanor. [1979 c.492 §3]