

## Chapter 8

1999 EDITION

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**8.060** [Formerly 2.350; repealed by 1971 c.193 s.30]

**8.070** [1965 c.328 s.1; 1975 c.260 s.1; 1977 c.594 s.1; repealed by 1981 s.s.1 c.3 s.141]

**8.075** [1977 c.594 s.3; repealed by 1981 s.s.1 c.3 s.141]

## STATE COURT ADMINISTRATOR; COURT STAFF

**8.110 State Court Administrator; appointment; term; duties.** (1) The office of State Court Administrator is established.

(2) The Chief Justice of the Supreme Court shall appoint after conferring with and seeking the advice of the Supreme Court, may remove at pleasure and shall fix the compensation of the State Court Administrator.

(3) The State Court Administrator shall perform the duties, powers and functions of the office under the supervision and subject to the direction of the Chief Justice of the Supreme Court. [Amended by 1953 c.382 s.4; 1971 c.193 s.1; 1981 s.s. c.1 s.12]

**8.120 Duties as court administrator for Supreme Court and Court of Appeals; delegation.** (1) The State Court Administrator shall, for the Supreme Court and Court of Appeals:

(a) Act as court administrator for the court.

(b) Keep the seal of the court, and affix it in all cases required by law.

(c) Record the proceedings of the court.

(d) Keep the records, files, books and papers pertaining to the court.

(e) File all papers delivered to the administrator for that purpose in any action or proceeding in the court.

(f) Attend the terms of the court, unless excused by the court, and administer oaths.

(g) Under the direction of the court enter its orders and judgments.

(h) Authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any paper pertaining thereto, and filed with the administrator.

(i) In the performance of duties pertaining to the court, conform to the direction of the court.

(2) The State Court Administrator may delegate powers of the office of State Court Administrator to employees of the State Court Administrator. [Amended by 1971 c.193 s.2; 1981 s.s. c.1 s.13; 1985 c.540 s.21; 1995 c.273 s.3]

**8.125 Duties to assist Chief Justice and other courts.** The State Court Administrator shall, to the extent directed by the Chief Justice of the Supreme Court:

(1) Assist the Chief Justice in exercising administrative authority and supervision under ORS 1.002.

(2) Consistent with applicable provisions of law and rules made thereunder:

(a) Supervise the personnel plan for officers, other than judges, and employees of the courts of this state who are state officers or employees.

(b) Prescribe the form and content and supervise the preparation of consolidated budgets, for submission to the Legislative Assembly, applicable to expenditures made and revenues received by the state in respect to the courts of this state.

(c) Supervise an accounting system for the recording, monitoring and auditing of expenditures made and revenues received by the state in respect to the courts of this state.

(d) Establish and maintain inventory records of property of the state in the custody or control of the courts of this state or any judge, other officer or employee thereof.

(3) Conduct a continuing survey of the administrative methods and activities, records, business and facilities of the courts of this state and make recommendations to the Chief Justice based on the survey.

(4) Collect and compile statistical and other data relating to the courts of this state and municipal courts, including the caseload, workload, performance, status, management, expenses and revenues of those courts, and make reports on the business and condition of those courts.

(5) Establish and supervise a statewide public information service concerning the courts of this state.

(6) Establish and supervise education programs for judges, other officers and employees of the courts of this state and municipal courts pertinent to the performance of the functions of those judges, other officers and employees.

- (7) Provide to the judges, other officers and employees of the courts of this state, to attorneys and to the public appropriate assistance services relating to the administration and management of the courts of this state.
- (8) Prepare and maintain a continuing long-range plan for improvement and future needs of the courts of this state.
- (9) Supervise and maintain the law libraries of the judicial department of government of this state, including the Supreme Court Library, and excluding county law libraries established under ORS 9.820 and 9.840.
- (10) Enter into contracts on behalf of the Judicial Department, including but not limited to financing agreements entered into pursuant to ORS 283.087.
- (11) Prescribe minimum retention schedules and standards for all records of the state courts and the administrative offices of the state courts, including but not limited to minimum retention schedules and standards for registers, dockets, indexes, files, citations, notes, audio records, video records, stenographic records, exhibits, jury records and fiscal and administrative documents, whether maintained in paper, micrographic, electronic or other storage form. The State Court Administrator shall ensure that the minimum record retention schedules and standards prescribed under this subsection 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. [1981 s.s. c.1 s.15; 1985 c.308 s.1; 1991 c.790 s.19; 1995 c.244 s.1; 1999 c.787 s.2]

**8.130 Fees payable to State Treasurer.** Unless otherwise provided by law, all fees and other moneys collected by the State Court Administrator shall be paid to the State Treasurer promptly, and shall be deposited in the General Fund available for general governmental expenses. [Amended by 1971 c.193 s.3; 1981 s.s. c.1 s.16]

**8.140** [Amended by 1971 c.193 s.4; repealed by 1981 s.s. c.1 s.25]

**8.150 Appointment and compensation of employees.** The State Court Administrator, with the approval of the Chief Justice of the Supreme Court, may appoint and shall fix the compensation of employees to perform or assist in the performance of duties, powers and functions of the administrator. [Amended by 1971 c.193 s.5; 1981 s.s. c.1 s.17]

**8.155 Bailiffs of higher courts.** (1) Bailiffs for the Supreme Court and the Court of Appeals shall be appointed under a personnel plan established by the Chief Justice of the Supreme Court. The bailiffs shall be executive officers of the respective courts.

(2) Process in cases of original jurisdiction in the Supreme Court may be executed by the bailiff or any sheriff of the state as directed by the court. [Formerly 8.010]

**8.160 Administrator and staff not to practice law.** The State Court Administrator and employees of the administrator shall not engage in the private practice of law. [Amended by 1953 c.382 s.4; 1971 c.193 s.6; 1981 s.s. c.1 s.18]

**8.170 Status of court officers and employees.** Officers and employees of the Supreme Court, Court of Appeals and Oregon Tax Court, and employees of the State Court Administrator, who are appointed under a personnel plan established by the Chief Justice of the Supreme Court are state officers or employees in the exempt service and not subject to ORS chapter 240. However, such personnel shall have the right to be dismissed only for just cause after hearing and appeal. [1983 c.763 s.27]

**8.172 Parking fine collections unit; disposition of moneys collected.** (1) The State Court Administrator may establish a collections unit within the Judicial Department for the purpose of enhancing parking fine collections. Subject to policies and procedures prescribed by the State Court Administrator, the collections unit is authorized to collect delinquent parking fines by any means authorized by law. The collections unit shall initiate a pilot program for the enhanced collection of delinquent parking fines in counties with populations of more than 500,000.

(2) There is established within the General Fund the Judicial Department Parking Fine Collections Account. The account shall consist of moneys deposited in the account under the provisions of subsection (3) of this section. All moneys in the account are continuously appropriated to the Judicial Department and may be used only for the purposes specified in subsection (3) of this section.

(3) All moneys collected by the collections unit established under this section shall be deposited in the Judicial Department Parking Fine Collections Account. At the end of each calendar month, the State Court Administrator shall distribute the amounts in the account in the following order of priority:

(a) The collections unit shall be reimbursed for actual costs and expenses of the unit, including personnel expenses, incurred by the collections unit in the administration and collection of delinquent accounts. The amount of reimbursement may not exceed the actual costs and expenses incurred by the unit.

(b) All moneys not expended under paragraph (a) of this subsection shall be distributed as otherwise provided by law for parking fines. [1995 c.658 s.146]

## TRIAL COURT ADMINISTRATORS AND STAFF

**8.185 Trial court administrator for judicial district.** Unless otherwise ordered by the Chief Justice of the Supreme Court, there shall be a trial court administrator for each judicial district described in ORS 3.012. The Chief Justice may order that one trial court administrator serve for two or more adjoining judicial districts. [1981 s.s. c.3 s.8; 1995 c.658 s.17; 1997 c.801 s.115]

**8.195 Appointment of trial court administrators; removal.** (1) Subject to applicable provisions of a personnel plan established by the Chief Justice of the Supreme Court, a person to serve as trial court administrator for:

(a) One judicial district shall be appointed by the presiding judge for the judicial district, with the approval of a majority of the circuit court judges in the district.

(b) The circuit court in a judicial district shall be appointed by the presiding judge for the judicial district, with the approval of a majority of the circuit court judges.

(c) Two or more adjoining judicial districts shall be appointed by the presiding judges for the judicial districts, with the approval of a majority of the circuit court judges in the districts.

(2) A trial court administrator may be removed from the office by the appointing presiding judge as provided in a personnel plan established by the Chief Justice of the Supreme Court. [1981 s.s. c.3 s.9; 1995 c.658 s.18; 1995 c.781 s.18]

**8.205** [1981 s.s. c.3 s.10; 1995 c.658 s.19; repealed by 1997 c.801 s.131]

**8.210** [Repealed by 1973 c.781 s.4]

**8.215** [1981 s.s. c.3 s.11; 1995 c.658 s.20a; 1995 c.781 s.19; repealed by 1997 c.801 s.131]

**8.220** [Repealed by 1973 c.781 s.4]

**8.225 Duties of trial court administrator; delegation; transcript coordinator.** (1) The trial court administrator for a judicial district has the duties, powers and functions prescribed by law or by rules of the circuit courts in the district.

(2) A trial court administrator shall, for each court served by the officer:

(a) Keep the seal of the court, and affix it in all cases required by law.

(b) Record the proceedings of the court.

(c) Keep the records, files, books and papers pertaining to the court.

(d) File all papers delivered to the officer for that purpose in any action or proceeding in the court.

(e) Attend the terms of the court, administer oaths and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court.

(f) Under the direction of the court enter its orders and judgments.

(g) Authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any paper pertaining thereto, and filed with the officer.

(h) In the performance of duties pertaining to the court, conform to the direction of the court.

(3) A trial court administrator may take and certify the proof and acknowledgment of a conveyance of real property or any other written instrument authorized or required to be proved or acknowledged.

(4) A trial court administrator may delegate powers of the office of trial court administrator to employees of the trial court administrator.

(5) A trial court administrator shall designate a person to act as transcript coordinator for the court. [1981 s.s. c.3 s.12; 1985 c.540 s.22; 1993 c.223 s.1; 1995 c.273 s.4; 1997 c.801 ss.117,117a]

**8.235 Trial court administrators as state employees.** Trial court administrators appointed under ORS 8.195 and other nonjudicial officers and employees of the circuit courts who are appointed under a personnel plan established by the Chief Justice of the Supreme Court are state officers or employees in the exempt service and not subject to ORS chapter 240. However, such personnel shall retain the right to be dismissed only for just cause after hearing and appeal. [1981 s.s. c.3 s.13; 1997 c.801 s.118]

**8.245 Trial court administrators and other personnel not to practice law.** Trial court administrators appointed under ORS 8.195 and other nonjudicial officers and employees of the circuit courts who are appointed under a personnel plan established by the Chief Justice of the Supreme Court shall not engage in the private practice of law. [1981 s.s. c.3 s.15; 1997 c.801 s.119]

**8.255 Agreement between state and county to provide services with county employees; payment to county; supervision of employees.** (1) The State Court Administrator, on behalf of the state, and the governing body of a county, on behalf of the county, may enter into an agreement whereby services required to be provided by the state for the circuit court for the county are provided by employees of the county, instead of by state officers and employees, and the expenses of the county in providing those services are paid to the county by the state from funds available for the purpose.

(2) County employees providing services under an agreement shall be under the supervision and control of the trial court administrator appointed under ORS 8.195. County employees providing services under an agreement are not thereby state employees. County employees providing services under an agreement shall not engage in the private practice of law.

(3) With the prior approval of the State Court Administrator, a trial court administrator appointed under ORS 8.195, on behalf of the state, and the governing body of a county, on behalf of the county, may enter into an agreement under this section in respect to services for a circuit court for the county served by the trial court administrator. [1981 s.s. c.3 s.16; 1995 c.781 s.20; 1997 c.801 s.120]

**8.260** [1953 c.34 s.6; repealed by 1959 c.552 s.16]

## COLLECTIVE BARGAINING

**8.270 Collective bargaining rights of court administrators and staff.** All officers and employees of the courts of this state who are referred to in ORS 8.170 and 8.235 are subject to collective bargaining to the extent provided in ORS 243.650 to 243.782, and ORS 8.170 and 8.235 shall not be construed to reduce or eliminate any collective bargaining rights those officers and employees may have under ORS 243.650 to 243.782. [1983 c.763 s.27a]

**8.310** [Amended by 1965 c.369 s.1; 1967 c.229 s.1; 1971 c.565 s.2; 1981 c.126 s.2; repealed by 1981 s.s. c.3 s.141]

**8.320** [Amended by 1971 c.565 s.3; repealed by 1981 s.s. c.3 s.141]

**8.330** [Repealed by 1981 s.s. c.3 s.141]

## REPORTERS AND REPORTS

**8.340 Reporter's duties.** (1) It shall be the duty of each official reporter of the circuit court, justice court or municipal court to attend the court for which the reporter is appointed at such times as the judge or justice of the peace may direct.

(2) A circuit court reporter shall be appointed under a personnel plan established by the Chief Justice of the Supreme Court. Reporters for a justice or municipal court are not subject to this subsection.

(3) A reporter is an officer of the court in which the reporter serves and of any court to which an appeal is made whenever the reporter has recorded the proceedings that are the subject of the appeal.

(4) Upon the trial or hearing of any cause, the judge or justice of the peace upon the motion of the judge or justice of the peace may, and upon the request of either party shall, order a report of the proceedings, in which case the reporter shall, in the manner provided in subsection (5) of this section, make a report of the oral testimony and other

proceedings of the trial or hearing to the extent required by the court or by the requesting party.

(5) When a report is required, the reporter shall:

(a) Take accurate notes by shorthand or by means of a mechanical or electronic typing device; or

(b) Make audio records pursuant to policies and procedures established by the State Court Administrator.

(6) The notes or audio records of the reporter shall be filed in the office of the clerk of the court subject to the provisions of ORS 7.120 and except as provided in ORS 19.385.

(7) Except in the ninth or tenth judicial district, in any circuit court proceeding where the trial court regularly uses audio reporting techniques, any party may, with reasonable notice to the trial court and at that party's expense, arrange for the reporting of the proceeding by stenographic means. When alternative stenographic reporting occurs, the official record of the proceedings shall be the record produced by the reporting technique regularly used by the court, unless otherwise ordered by the court. [Amended by 1955 c.497 s.2; 1971 c.565 s.4; 1975 c.481 s.2; 1981 s.s. c.3 s.24; 1985 c.496 s.9; 1985 c.540 s.42; 1989 c.1009 s.1; 1995 c.244 s.5; 1999 c.682 s.9]

**8.350 Transcript of testimony.** When a report of the proceedings, or any part thereof, has been made in any case as provided in ORS 8.340, if the court or either party to the suit or action or the party's attorney requests a transcript of the notes or audio records into longhand, the official reporter shall cause full and accurate typewritten transcripts to be made of the testimony or other proceedings, which shall, when certified to as provided in ORS 8.360, be filed with the clerk of the court where such cause was tried or heard, for the use of the court or parties. [Amended by 1955 c.497 s.3; 1985 c.496 s.10; 1985 c.540 s.43]

**8.360 Certified report as prima facie correct; reading as deposition; proceedings where reporter has ceased to be official reporter.** (1) The report of the official reporter, when transcribed and certified to as being a correct transcript of the notes or audio records of the testimony, exceptions taken, charge of the judge, and other proceedings in the matter, shall be prima facie a correct statement thereof, and may thereafter be read in evidence as the deposition of a witness.

(2) When the official reporter in any cause has ceased to be the official reporter of that court, any transcript made from the notes or audio records by the former official reporter, or made by a competent person under direction of the court, and duly certified to by the maker, under oath, as a full, true and complete transcript of the notes or audio records, shall have the same force and effect as though certified in the same manner by the official reporter. [Amended by 1955 c.497 s.4; 1979 c.284 s.42; 1985 c.540 s.44]

**8.370** [Amended by 1953 c.566 s.2; repealed by 1959 c.445 s.1]

**8.372** [Formerly part of 8.381; repealed by 1981 s.s. c.3 s.141]

**8.375** [Formerly part of 8.381; repealed by 1981 s.s. c.3 s.141]

**8.377** [Formerly part of 8.381; 1981 c.759 s.9; repealed by 1981 s.s. c.3 s.141]

**8.379** [Formerly part of 8.381; 1971 c.144 s.1; 1971 c.390 s.1; repealed by 1981 s.s. c.3 s.141]

**8.380** [Amended by 1953 c.550 s.22; 1957 c.666 s.1; 1957 c.713 s.15; 1959 c.509 s.1; repealed by 1961 c.447 s.1]

**8.381** [1961 c.447 s.3; 1965 c.369 s.2; 1967 c.532 s.6; 1967 c.533 s.16; parts renumbered 8.372, 8.375, 8.377, 8.379, 8.383, 8.385 and 8.387]

**8.383** [Formerly part of 8.381; 1981 c.759 s.10; repealed by 1981 s.s. c.3 s.141]

**8.385** [Formerly part of 8.381; repealed by 1981 s.s. c.3 s.141]

**8.387** [Formerly part of 8.381; 1971 c.777 s.6; 1975 c.430 s.1; repealed by 1981 s.s. c.3 s.141]

**8.390** [Amended by 1953 c.550 s.22; 1961 c.447 s.2; repealed by 1981 s.s. c.3 s.141]

**8.395** [1967 c.273 s.1; repealed by 1981 s.s. c.3 s.141]

**8.400** [Amended by 1953 c.550 s.22; repealed by 1981 s.s. c.3 s.141]

**8.410** [Repealed by 1981 s.s. c.3 s.141]

## CERTIFIED SHORTHAND REPORTERS

**8.415 Definitions for ORS 8.415 to 8.455.** As used in ORS 8.415 to 8.455, unless the context requires otherwise:

- (1) "Advisory committee" means the Certified Shorthand Reporters Advisory Committee created in ORS 8.455.
- (2) "Administrator" means the State Court Administrator.
- (3) "Certified shorthand reporter" means an individual who has been certified to engage in the practice of shorthand reporting under ORS 8.415 to 8.455.
- (4) "Shorthand reporting" means the making and transcribing of a verbatim record of any court proceeding, deposition, hearing or other matter where the verbatim record is required or requested by any court, grand jury, attorney or referee to be made by means of a written system of either manual or machine shorthand procedures. [Formerly 703.400; 1997 c.249 s.3]

**8.420 State Court Administrator to verify qualifications and issue certificates; policies; advisory committee.**

- (1) The State Court Administrator shall verify the qualifications of shorthand reporters to be certified and shall issue the certificate of shorthand reporter to qualified applicants.
- (2) The administrator shall adopt policies necessary to administer ORS 8.415 to 8.455 and may appoint any committees necessary to function in accordance with ORS 8.415 to 8.455.
- (3) The administrator shall:
  - (a) Adopt policies establishing the qualifications necessary for the issuance of a certificate of certified shorthand reporter;
  - (b) Determine the qualifications of persons applying for certificates under ORS 8.415 to 8.455;
  - (c) Adopt policies for the examination of applicants and the issuing of certificates under ORS 8.415 to 8.455;
  - (d) Grant certificates to qualified applicants upon compliance with ORS 8.415 to 8.455 and policies of the administrator;
  - (e) Establish continuing education requirements for biennial renewal of certificates;
  - (f) Collect fees as set by the administrator;
  - (g) Require the biennial renewal of all certificates;
  - (h) Establish a code of conduct and grounds for disciplinary action; and
  - (i) Investigate complaints regarding court reporters.
- (4) The advisory committee shall recommend:
  - (a) Standards establishing the qualifications necessary for the issuance of a certificate of certified shorthand reporter;
  - (b) Qualifications required of persons applying for certificates under ORS 8.415 to 8.455;
  - (c) Procedures for the examination of applicants and the issuing of certificates under ORS 8.415 to 8.455;
  - (d) Certificates be granted by the administrator to qualified applicants upon compliance with ORS 8.415 to 8.455 and policies of the administrator;
  - (e) Continuing education requirements for biennial renewal of certificates;
  - (f) A code of conduct and grounds for suspension or revocation of certificates or other disciplinary action to the administrator;
  - (g) Investigation of complaints regarding court reporters at the direction of the administrator; and
  - (h) Any corrective action that may be required. [Formerly 703.402; 1997 c.249 s.4]

**8.430 Certification speed requirements.** (1) Except as provided by policy established by the State Court Administrator each applicant for certification as a shorthand reporter shall satisfy the following shorthand reporting speed requirements:

- (a) Five minutes of literary at 180 words per minute.
- (b) Five minutes of jury charge at 200 words per minute.
- (c) Five minutes of two-voice testimony at 225 words per minute.

(2) The administrator may establish various categories of certification based on achievement of different skill and performance levels. [Formerly 703.404]

**8.435 Prohibition on use of title “certified shorthand reporter” unless certified.** (1) The certificate of certified shorthand reporter shall be granted to any person who meets the requirements of ORS 8.415 to 8.455 and policies of the State Court Administrator.

(2) Any person who has received from the administrator a certificate of “certified shorthand reporter” shall be styled and known as a “certified shorthand reporter” and may also use the abbreviation of “C.S.R.”

(3) A certificate shall be renewed biennially as provided by policies of the administrator.

(4) Certificates issued by the administrator may be renewed biennially upon payment of the fee established under ORS 8.445, completion of established continuing education requirements and compliance with the code of conduct policy as established by the administrator.

(5) A person may not assume or use the title or designation “certified shorthand reporter” or the abbreviation “C.S.R.” or any other title, designation, words, letters, abbreviation, sign or device tending to indicate that the person is a certified shorthand reporter unless the person has received a certificate as a certified shorthand reporter under ORS 8.415 to 8.455 and policies of the administrator that is not revoked, suspended or lapsed. [Formerly 703.406]

**8.440 Grounds for revocation, suspension or refusal to issue certificate.** (1) The State Court Administrator may:

(a) Revoke, suspend or refuse to issue any certificate described in ORS 8.415 to 8.455 or policies of the administrator.

(b) Require additional education or training.

(2) The administrator may revoke, suspend or refuse to issue any certificate described in ORS 8.415 to 8.455 or policies of the administrator in the case of a violation of any provision of ORS 8.415 to 8.455 or policies of the administrator.

(3) The administrator may require additional education or training if the administrator finds the person engages in or has engaged in conduct that evidences a lack of knowledge or ability to apply skills of shorthand reporting. [Formerly 703.408]

**8.445 Fees.** (1) The State Court Administrator shall establish a fee schedule for fees authorized by ORS 8.415 to 8.455, as follows:

(a) Not to exceed \$100 for initial registration.

(b) Not to exceed \$100 for biennial renewal.

(c) Not to exceed \$50 for the examination.

(2) Fees are nonrefundable.

(3) Subject to a report to the Emergency Board prior to adopting the fees and charges, the fees and charges established under this section shall not exceed the cost of administering and enforcing ORS 8.415 to 8.455, consistent with the budget authorized by the Legislative Assembly, as that budget may be modified by the Emergency Board. [Formerly 703.410]

**8.450 Disposition of fees and other revenues.** All fees, moneys and other revenues received or collected under ORS 8.415 to 8.455 shall be paid into the account established in ORS 45.294, and such moneys are continuously appropriated to the State Court Administrator for the administration and enforcement of ORS 8.415 to 8.455. [Formerly 703.412]

**8.455 Advisory committee, membership; terms.** (1) There is created a Certified Shorthand Reporters Advisory Committee consisting of seven members appointed by the State Court Administrator as follows:

(a) Four members of the advisory committee shall be persons skilled in the practice of shorthand reporting and shall have been engaged continuously in the practice of shorthand reporting for a period of not less than five years prior to the date of appointment as a member of the advisory committee. Appointees shall be certified under ORS 8.415 to 8.455. Of the shorthand reporter members, two shall be official reporters and two shall be free-lance reporters;

(b) Two members of the advisory committee shall be members of the Oregon State Bar; and

(c) One member of the advisory committee shall be a public member and not be a reporter or a member of the Oregon State Bar or related thereto. The public member is entitled to compensation and expenses as provided in ORS 292.495.

(2) The term of a member of the advisory committee shall be three years. A member is eligible for reappointment to the advisory committee. Vacancies occurring shall be filled by appointment for the unexpired term.

(3) The advisory committee shall organize by the election of one of its members as president and one as secretary.

(4) A majority of the advisory committee shall constitute a quorum for all purposes. [Formerly 703.414]

**8.510** [Amended by 1953 c.566 s.2; 1957 c.706 s.1; 1963 c.494 s.1; 1981 c.215 s.9; repealed by 1981 s.s c.3 s.141]

## DISTRICT ATTORNEYS

**8.610 Election and term of office.** A district attorney for each county shall be elected by the electors of the county, at the general election or, if applicable, at the election specified in ORS 249.088 next preceding the expiration of the term of the then incumbent. The district attorney shall hold office for the term of four years and until a successor is elected and qualified. [Amended by 1991 c.719 s.2]

**8.620 Filing certificate of election; oath.** A person elected to the office of district attorney must, before entering upon such office, qualify by filing with the Secretary of State the certificate of election of the person, with an oath of office indorsed thereon, and subscribed by the person, to the effect that the person will support the Constitution of the United States and of this state, and faithfully and honestly perform the duties of the office. [Amended by 1987 c.158 s.3]

**8.630 Qualifications; general powers and duties.** A person elected district attorney must, at the time of election, have been admitted to practice in the Supreme Court of Oregon. District attorneys shall possess the qualifications, have the powers, perform the duties and be subject to the restrictions provided by the Constitution for prosecuting attorneys, and by the laws of this state.

**8.640 Filling vacancies in office.** When a vacancy occurs in the office of district attorney, the Governor must appoint some suitable person to fill the vacancy until the next election and qualification of a successor at the next general election. A person appointed to fill a vacancy in the office must qualify in the same manner as a person elected thereto, and shall have like power and compensation, and perform the same duties.

**8.650 District attorney as public prosecutor.** The district attorney in each county is the public prosecutor therein and has the authority to appear and prosecute violations of the charter and ordinances of any city provided the circuit court for the county has jurisdiction with respect to violations of the charter and ordinances of each such city. In cities of a population of more than 300,000 the district attorney shall be responsible for the prosecution of all city ordinance violations. [Amended by 1971 c.633 s.14; 1995 c.658 s.21]

**8.660 Attending court and prosecuting offenses.** (1) The district attorney shall attend the terms of all courts having jurisdiction of public offenses within the district attorney's county, and, except as otherwise provided in this section, conduct, on behalf of the state, all prosecutions for such offenses therein.

(2) A district attorney shall not conduct prosecutions under this section when:

(a) A city attorney is prosecuting a violation under ORS chapter 153; or

(b) The district attorney is prohibited from appearing in a violation proceeding under the provisions of ORS 153.076. [Amended by 1975 c.451 s.170; 1981 c.626 s.1; 1981 c.692 s.6a; 1999 c.1051 s.116]

**8.665 Prosecuting violations.** Upon the issuance of a citation by any person authorized to issue citations for violations, a district attorney shall prosecute the case if it appears that a violation has occurred. [1981 c.692 s.10; 1999 c.1051 s.117]

**8.670 Proceedings before magistrates and grand jury.** The district attorney shall institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when the district attorney has information that any such offense has been committed, and attend upon and advise the grand jury when required.

**8.675 Priority given to administration of laws relating to public assistance and enforcement of support.** In the performance of official duties, unless otherwise specifically required by law and except for criminal and juvenile

proceedings, the district attorney shall give priority to the performance of those duties involving the administration of the laws relating to public assistance and reciprocal enforcement of support. [1959 c.539 s.5]

**8.680 Prosecuting and collecting penalties and forfeitures; prosecuting and defending for state.** The district attorney shall prosecute for all penalties and forfeitures to the state that may be incurred in the county of the district attorney, and for which no other mode of prosecution and collection is expressly provided by statute, and in like case, prosecute or defend all actions, suits and proceedings in the county to which the state is a party.

**8.685 Assisting juvenile court; right to appear.** (1) The district attorney shall, upon request of the juvenile court, appear in the juvenile court to assist the court in any matter within its jurisdiction.

(2) In counties having a population of more than 150,000, according to the latest federal decennial census, the district attorney shall designate a deputy to assist the juvenile court as provided in subsection (1) of this section.

(3) The district attorney is entitled to appear on behalf of the state in the juvenile court in any matter within the jurisdiction of the court. [1959 c.432 s.63 (enacted in lieu of 8.750); 1991 c.681 s.4]

**8.690 Advising and representing county officers and employees.** Upon request of a county officer, the district attorney and deputies of the district attorney shall advise the county court and other county officers on all legal questions that may arise. When any action is instituted against any county officer or county employee for damages for an alleged wrongful act or omission in the performance of official duty, the district attorney shall defend such action. The district attorney shall also prosecute and defend all actions, suits, and proceedings to which the county may be a party. For such services the district attorney shall receive no compensation other than salary. [Amended by 1957 c.151 s.1; 1965 c.419 s.1]

**8.700 Register to be kept.** The district attorney must keep a register of official business, in which the district attorney shall make a note of every action, suit or proceeding commenced or defended by the district attorney in official capacity, and the proceedings therein. The register shall, at the expiration of the term of office of the district attorney, be delivered by the district attorney to the successor in office.

**8.710 Disqualification; appointment of special district attorney.** If a district attorney fails to attend any court at which the district attorney is required to be, or is related to the accused by consanguinity or affinity, or, prior to the district attorney's election as district attorney, represented the accused in the matter to be investigated by the grand jury or the crime charged in the indictment, or is associated with the accused in business, or is interested financially in the matter or property out of which the alleged crime or criminal action arose, or is a stockholder in any corporation, any officer or stockholder of which is charged with the commission of any crime, or declines to prosecute or participate in proceedings for the imposition of sanctions for a contempt of court under ORS 33.065, or because of any other conflict cannot ethically serve as district attorney in a particular case, and such facts appear to the satisfaction of the court by affidavit or otherwise, the court shall appoint a regularly licensed and practicing attorney of this state who is not counsel for an interested party to perform the duties of district attorney during the district attorney's absence or inability to serve, or the trial or investigation of such accused. When the district attorney is disqualified as provided in this section, the person so appointed by the court shall receive reasonable compensation for that person's attendance, to be allowed by the court. The court in such case shall order compensation to be paid by the county, except that when the person so appointed performs the district attorney's responsibilities under ORS 25.080, the court shall order compensation to be paid by the Oregon Department of Administrative Services of the state from funds available for that purpose. [Amended by 1985 c.611 s.1; 1991 c.724 s.16]

**8.720 Receiving private fee in criminal action; acting as attorney in civil action involving same controversy.** A district attorney shall not receive any fee or reward from any private person for services in any criminal action, nor during the pendency of such prosecution can the district attorney act as attorney for either party in any civil action, suit or proceeding involving substantially the same controversy.

**8.725** [1957 c.645 s.2; 1959 c.539 s.1; 1961 c.586 s.3; repealed by 1965 c.633 s.4]

**8.726 District attorney and deputy prohibited from privately practicing law; exceptions.** (1) Except as authorized by subsections (2) and (3) of this section, a district attorney, or a deputy district attorney, who receives an

annual salary of more than \$18,000 from the state, or from the state and county, shall not engage in the private practice of law.

(2) A district attorney of Gilliam, Sherman, Wallowa or Wheeler County shall be allowed to engage in the private practice of law, unless the district attorney receives additional compensation from the county under ORS 8.830.

(3) Volunteer or pro bono legal work is not prohibited. [1965 c.633 s.2; 1971 c.583 s.1; 1975 c.378 s.7; 1977 c.834 s.5; 1979 c.418 s.8; 1981 c.908 s.2]

**8.730 Partner prosecuting or defending certain cases.** It is not lawful for any district attorney, having a law partner, to suffer such partner to prosecute or defend divorce cases or to defend cases wherein the state is plaintiff and the district attorney is the public prosecutor; and it shall be the duty of the judicial officers of this state to prohibit such practice in all cases coming before them.

**8.740** [Amended by 1953 c.652 s.6; 1957 c.490 s.1; 1959 c.539 s.2; 1961 c.586 s.2; repealed by 1967 c.556 s.5]

**8.750** [Repealed by 1959 c.432 s.62 (8.685 enacted in lieu of 8.750)]

**8.760 Deputies may be authorized and paid by county.** The county court or board of county commissioners may empower the district attorney to appoint one or more deputy district attorneys whose compensation shall be fixed by the county court or board of county commissioners and paid out of the county funds in the same manner as county officers are paid. [Amended by 1961 c.586 s.4]

**8.770** [Repealed by 1961 c.586 s.6]

**8.780 Appointment of deputies; qualifications; duties.** A district attorney shall appoint deputies. A deputy district attorney shall have the same qualifications as the district attorney, and subject to the direction of the district attorney, has the same functions as the district attorney. [Amended by 1961 c.586 s.5]

**8.790 Compensation of district attorney and deputies limited to salaries.** No salary, fees, percentage or compensation of any kind shall be allowed, paid to or received by any district attorney or deputy district attorney except as provided in ORS 8.110 to 8.150, 8.160 and 8.670 to 8.852.

**8.795** [1957 c.645 s.3; 1959 c.539 s.3; 1961 c.586 s.6a; repealed by 1965 c.633 s.4]

**8.800** [1953 c.652 s.6; 1957 c.645 s.1; 1959 c.539 s.4; 1961 c.586 s.1; repealed by 1965 c.633 s.4]

**8.801** [1965 c.633 s.1; 1967 c.597 s.1; 1969 c.320 s.1; repealed by 1971 c.711 s.6]

**8.810** [Repealed by 1967 c.111 s.7]

**8.820** [Repealed by 1967 c.111 s.7]

**8.830 Additional compensation from county for district attorney and deputies paid by state.** Whenever, in the judgment of any county court or board of county commissioners, the salaries paid by the state to the district attorney, or to any deputy district attorney, are not commensurate with the character of the service performed, the county court or board of county commissioners may pay out of the funds of the county such additional amounts as will properly compensate said officers for the service performed. [Amended by 1955 c.220 s.1]

**8.840** [Repealed by 1953 c.652 s.6]

**8.850 Offices, supplies and stenographic assistance for district attorneys and deputies.** Each county shall provide the district attorney and any deputies for such county with such office space, facilities, supplies and stenographic assistance as is necessary to perform efficiently the duties of such office. [1953 c.652 s.3]

**8.852 Salary plan for district attorneys.** The district attorneys of the various counties shall be paid monthly

salaries as adopted in the salary plan provided for in ORS 240.240 (2), to include salary adjustments awarded management service employees. [1991 c.432 s.2; reenacted by 1993 c.290 s.2; reenacted by 1995 c.9 s.2; reenacted by 1997 c.75 s.2]

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