

Chapter 51

TITLE 6

JUSTICE COURTS AND
CIVIL PROCEEDINGS THEREIN

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Chapter 51

1999 EDITION

Justice Courts and Civil Jurisdiction Thereof

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ORGANIZATION AND JURISDICTION

51.010 Justice court defined; no terms of court; court always open for business. A justice court is a court held by a justice of the peace within the justice of the peace district for which the justice of the peace may be chosen. There are no particular terms of such court, but the same is always open for the transaction of business, according to the mode of proceeding prescribed for it.

51.020 Justice of the peace districts; establishing and modifying boundaries; maximum number of districts. (1) The county court or board of county commissioners of every county may set off and establish, or modify the boundaries of, justice of the peace districts within the county. No more than six justice of the peace districts shall be set off or established or permitted to remain in existence within any county. Except in the counties of Baker, Gilliam, Grant, Harney, Morrow, Sherman, Tillamook and Wheeler, a justice of the peace district may not include any portion of the city that is the county seat for the county or any portion of a city in which a circuit court regularly holds court. In the counties of Baker, Gilliam, Grant, Harney, Morrow, Sherman, Tillamook and Wheeler, a justice of the peace district in existence on January 15, 1998, may include any portion of the city that is the county seat for the county, or any portion of a city in which a circuit court regularly holds court, until such time as the justice court ceases to provide judicial services within the county seat or city. If the justice court ceases to provide judicial services within the county seat or city, the district that includes portions of the county seat or city shall cease to exist and may not thereafter be reestablished.

(2) At the time that the county court or board of county commissioners of a county sets off and establishes the boundaries of a justice of the peace district, the county court or board of county commissioners may require as a qualification for the office that a person serving as justice of the peace in the district be a member of the Oregon State Bar. [Amended by 1965 c.568 s.5; 1995 c.658 s.53; 1997 c.801 s.105; 1999 c.449 s.1]

51.025 Justice court as court of record. (1) Except as provided in subsection (4) of this section, any justice court may become a court of record by the passage of an ordinance by the governing body of the county in which the court is located. The county shall ensure that a court reporter is provided for each justice court made a court of record under this section.

(2) Notwithstanding ORS 53.005 to 53.125 and ORS chapter 157, the appeal from a judgment entered in a justice court that becomes a court of record under this section shall be as provided in ORS chapters 19 and 138 for appeals from judgments of circuit courts.

(3) As a qualification for the office, the justice of the peace for any justice court that becomes a court of record must be a member of the Oregon State Bar.

(4) A justice court may not become a court of record under the provisions of this section if the court is located within 50 driving miles of the circuit court for the county in which the justice court is located, measured by the shortest distance by public roads between the justice court and the circuit court. [1999 c.682 s.1]

Note: Section 4, chapter 682, Oregon Laws 1999, provides:

Sec. 4. Sections 1 (3) and 3 (3) of this 1999 Act [51.025 (3) and 221.342 (3)] do not affect the term of office of any justice of the peace or municipal judge serving on the effective date of an ordinance passed for the purpose of making a justice court or municipal court a court of record. Any justice of the peace or municipal judge elected or appointed after the effective date of the ordinance must, as a qualification for the office, be a member of the Oregon State Bar. [1999 c.682 s.4]

51.030 [Amended by 1963 c.614 s.3; repealed by 1997 c.487 s.2 and 1997 c.801 s.106]

51.035 Justice of peace as municipal judge. Except as provided in ORS 3.136, any city situated wholly or in largest part within the boundaries of a justice of the peace district may enter into an agreement pursuant to ORS 190.010 with the county in which the justice of the peace district is located providing that the justice court for the district shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the city and the judges thereof with respect to all or any violations of the charter or ordinances of the city. [1975 c.713 s.1]

51.037 Agreement between city and county for provision of judicial services. Any city may enter into an agreement pursuant to ORS 190.010 with the county in which a justice of the peace district is located for the provision

of judicial services. A justice of the peace providing services to a city pursuant to such an agreement shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the city and the judges thereof with respect to all and any violations of the charter or ordinances of the city. Unless the agreement provides otherwise, and subject to the provisions of ORS 153.630, all fines, costs and forfeited security deposits collected shall be paid to the prosecuting city, and the city shall reimburse the county providing judicial services for expenses incurred under the agreement. The exercise of jurisdiction under such an agreement by a justice of the peace shall not constitute the holding of more than one office. [1989 c.679 s.2; 1999 c.1051 s.243]

51.040 [Amended by 1971 c.743 s.312; 1979 c.777 s.43; 1987 c.907 s.13; repealed by 1999 c.605 s.8 and 1999 c.1051 s.42]

51.050 Criminal jurisdiction; transfer to circuit court. (1) Except as otherwise provided in this section, in addition to the criminal jurisdiction of justice courts already conferred upon and exercised by them, justice courts have jurisdiction of all offenses committed or triable in their respective counties. The jurisdiction conveyed by this section is concurrent with any jurisdiction that may be exercised by a circuit court or municipal court.

(2) In any justice court that has not become a court of record under ORS 51.025, a defendant charged with a misdemeanor shall be notified immediately after entering a plea of not guilty of the right of the defendant to have the matter transferred to the circuit court for the county where the justice court is located. The election shall be made within 10 days after the plea of not guilty is entered, and the justice shall immediately transfer the case to the appropriate court.

(3) A justice court does not have jurisdiction over the trial of any felony. Except as provided in ORS 51.037, a justice court does not have jurisdiction over offenses created by the charter or ordinance of any city. [Amended by 1963 c.513 s.3; 1969 c.180 s.1; 1971 c.743 s.313; 1973 c.625 s.1; 1995 c.658 s.55; 1999 c.605 s.1; 1999 c.682 s.10; 1999 c.1051 s.41]

51.060 [Amended by 1957 c.644 s.27; 1971 c.743 s.314; repealed by 1999 c.605 s.8 and 1999 c.1051 s.42]

51.070 Crimes “triable” in justice court. A crime is triable in a justice court when, by the provisions of ORS 131.205 to 131.325, an action may be commenced therefor in the county where such court is held. [Amended by 1973 c.836 s.328]

51.080 Civil jurisdiction, generally. A justice court has jurisdiction, but not exclusive, of the following actions:

(1) For the recovery of money or damages only, when the amount claimed does not exceed \$5,000.

(2) For the recovery of specific personal property, when the value of the property claimed and the damages for the detention do not exceed \$5,000.

(3) For the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$5,000.

(4) Also, to give judgment without action, upon the confession of the defendant for any of the causes specified in this section, except for a penalty or forfeiture imposed by statute.

(5) For purposes 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. [Amended by 1973 c.625 s.2; 1979 c.447 s.1; 1983 c.149 s.2; 1989 c.839 s.34; 1993 c.735 s.10; 1997 c.801 s.107; 1999 c.84 s.4]

Note: Section 7, chapter 84, Oregon Laws 1999, provides:

Sec. 7. The amendments to ORS 46.405, 46.425, 46.461, 51.080, 55.011 and 55.095 by sections 1 to 6 of this 1999 Act apply only to actions commenced on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.84 s.7]

51.090 Civil jurisdiction not to extend to certain actions. The jurisdiction conferred by ORS 51.080 does not extend:

(1) An action in which the title to real property shall come in question.

(2) An action for false imprisonment, libel, slander or malicious prosecution. [Amended by 1983 c.673 s.9]

51.100 Where action may be commenced in civil cases. (1) Except as provided in this section, a civil action subject to the jurisdiction of a justice court must be commenced in the county where one of the parties resides.

(2) If a defendant in a civil action subject to the jurisdiction of a justice court does not reside in this state, the action may be commenced in any justice district of this state.

(3) If all parties reside in the same justice district, a civil action may be brought only in the justice court for that justice district.

(4) Motions for change of venue in justice courts are subject to the same laws governing change of venue in circuit court. [Amended by 1999 c.605 s.2]

51.110 Records and files of a justice court. The records and files of a justice court are the docket and all papers and process filed in or returned to such court, concerning or belonging to any proceeding authorized to be had or taken therein, or before the justice of the peace who holds such court.

51.120 Justice court docket. (1) The docket of a justice of the peace is a record in which the justice of the peace must enter:

(a) The title of every action or proceeding commenced in the court of the justice of the peace or before the justice of the peace, with the names of the parties thereto and the time of the commencement thereof.

(b) The date of making or filing any pleading.

(c) An order allowing a provisional remedy, and the date of issuing and returning the summons or other process.

(d) The time when the parties or either of them appears, or their failure to do so.

(e) Every postponement of a trial or proceeding, and upon whose application, and to what time.

(f) The demand for a jury, if any, and by whom made; the order for a jury, and the time appointed for trial.

(g) The return of an order for a jury, the names of the persons impaneled and sworn as a jury, and the names of all witnesses sworn, and at whose request.

(h) The verdict of the jury, and when given; and if the jury disagree and are discharged without giving a verdict, a statement of such disagreement and discharge.

(i) The judgment of the court, and when given.

(j) The date on which any judgment is docketed in the docket.

(k) The fact of an appeal having been made and allowed, and the date thereof, with a memorandum of the undertaking, and the justification of the sureties.

(L) Satisfaction of the judgment or any part thereof.

(m) A memorandum of all orders relating to security release.

(n) All other matters which may be material or specially required by any statute.

(2) The docket of a justice court may be maintained in electronic form. [Amended by 1999 c.788 s.43; 1999 c.1051 s.244]

51.130 Disposition of docket and files; docket and files are public writings. The docket and files of a justice court are to be safely and securely kept by the justice of the peace, and by the justice of the peace forthwith delivered to a successor in office. When any justice court is abolished, the docket and files of that court shall be turned over to the clerk of the circuit court for the county in which the justice court was located. Such docket and files are public writings. [Amended by 1995 c.658 s.56]

51.140 Office, courtroom and clerical assistance; books, office equipment and supplies. The county court or board of county commissioners of the county in which the justice of the peace has been elected or appointed:

(1) May provide for the office of the justice of the peace the office and courtroom and clerical assistance necessary to enable the justice of the peace to effectuate the prompt, efficient and dignified administration of justice.

(2) Shall provide for the office of the justice of the peace:

(a) The books, records, forms, papers, stationery, postage and office equipment and supplies necessary in the proper keeping of the records and files of the judicial office and the transaction of the business thereof.

(b) The latest edition of the Oregon Revised Statutes and all official materials published from time to time to supplement such edition. [Amended by 1955 c.448 s.1; 1957 c.180 s.1]

51.210 Each district to elect one justice. Each justice of the peace district shall elect one justice of the peace, who shall hold office for six years and until a successor is elected and qualified.

51.220 [Amended by 1961 c.724 s.25; 1965 c.510 s.21; repealed by 1997 c.487 s.2 and 1997 c.801 s.106]

51.230 At what election justice to be elected. The election at which a justice of the peace shall be elected shall be the general election or, if applicable, the election specified in ORS 249.088 next preceding the expiration of the term of the incumbent of the office. [Amended by 1991 c.719 s.3]

51.240 Qualifications for office; principal office. (1) A person shall not be eligible to the office of justice of the peace unless the person is a citizen of the United States and a resident of this state.

(2) Each justice of the peace shall be a resident of or have a principal office in the justice of the peace district in which the justice court is located. For purposes of this subsection, a "principal office" shall be the primary location from which a person conducts the person's business or profession.

(3) The residence within this state required by subsection (1) of this section shall have been maintained for at least three years, and the residence or principal office required by subsection (2) of this section shall have been maintained for at least one year, immediately prior to appointment or becoming a candidate for election to the office of justice of the peace. [1991 c.458 s.10; 1993 c.493 s.88]

51.245 Continuing education. (1) Each justice of the peace who is not a member of the Oregon State Bar shall attend or participate in a minimum of 30 hours of educational programs every two calendar years. The programs shall be those conducted and supervised or approved by the Chief Justice of the Supreme Court or designee.

(2) Each justice of the peace who is not a member of the Oregon State Bar shall submit a written annual report of the hours of educational programs referred to in subsection (1) of this section that are attended or participated in by the justice during each calendar year to the Oregon Justices of the Peace Association and shall submit a copy of that report to the governing body of the county in which the justice has been elected or appointed. The report and copy shall be submitted not later than March 1 of the year following the calendar year for which the report is applicable. [1989 c.1005 s.1; 1993 c.742 s.39]

51.250 Time when term begins; filing certificate of election, oath of office and undertaking. The term of office of a justice of the peace shall commence on the first Monday in January next following election. Before entering upon the duties of office, the person elected thereto shall qualify by filing with the county clerk of the county wherein the person is elected:

(1) The certificate of election of the person.

(2) An oath of office, by the person subscribed, to the effect that the person will support the Constitution of the United States and the Constitution of Oregon and will faithfully and honestly perform the duties of the office.

(3) Also an official undertaking, duly approved by the county court or board of county commissioners in the penal sum of \$2,500; provided, that the official undertaking of a justice of the peace in any district in which is located the county seat, or any part thereof, shall be in such greater penal sum, not exceeding \$10,000, as the court or board shall designate. [Amended by 1987 c.158 s.7]

51.260 Filling vacancy; temporary appointment; appointment during justice's vacation. (1) If a vacancy occurs in the office of justice of the peace, the Governor immediately shall appoint some person possessing the qualifications for election to that office to fill the vacancy until the next general election and until such appointee's successor is elected and qualified. The person appointed to fill the vacancy shall qualify in the same manner as a person elected to the office.

(2) In the event of a temporary absence or other incapacity of a justice of the peace, the county court, if it deems it in the public interest, may appoint a sitting justice of the peace from any county justice of the peace district within the State of Oregon, or may appoint a person possessing the qualifications for election as justice of the peace, to serve as justice of the peace pro tempore during the period of absence or incapacity. An appointment under this subsection may not be for a period exceeding one year.

(3) In the event of a temporary absence of a justice of the peace for a period of more than 60 consecutive days, or in the event of inability for a like period to act by reason of illness or other cause, the Governor, if the Governor deems it necessary in the public interest that a person be appointed to fill such temporary vacancy, shall appoint some person

possessing the qualifications for election to such office to fill the temporary vacancy.

(4) The person appointed by the county court or Governor pursuant to subsection (2) or (3) of this section immediately shall qualify in the same manner as a person elected to the office, and thereupon shall perform the duties of justice of the peace for the district during the temporary absence or inability. During the temporary tenure, the person shall receive the salary that the absent justice of the peace otherwise would have received during the period. When any such appointee has qualified and entered upon the duties of office, the appointment thereto shall not be revoked or rescinded during the actual trial or hearing of any action or proceeding before the appointee; but the temporary appointment may be terminated at any other time by written notice to that effect given by the appointing authority and filed with the county clerk of the county.

(5) Every justice of the peace is entitled to two weeks paid vacation every year and during such absence the county court may appoint a justice of the peace pro tempore pursuant to the provisions of subsections (2) and (4) of this section. [Amended by 1961 c.724 s.26; 1995 c.329 s.1; 1995 c.658 s.58]

51.270 Form of justice's undertaking. The official undertaking of a justice of the peace shall be in substantially the following form:

Whereas A B has been duly elected justice of the peace in and for the District of _____, in the County of _____, at an election held on the ___ day of _____, 2___, we, C D and E F, hereby undertake that if A B shall not faithfully pay over according to law all moneys that shall come into the hands of A B by virtue of such office, then we, or either of us, will pay to the State of Oregon the sum of \$____.

C D.
E F.

51.280 Qualifications of sureties; filing justification. The sureties in the undertaking provided for in ORS 51.250 shall have the qualifications of bail and shall be residents of the county, and their justification must be filed with the undertaking.

51.290 [Repealed by 1953 c.306 s.18]

51.300 Temporary service by circuit court judge or other justice of the peace. A judge of the circuit court for a county, or any justice of the peace for a justice court district located within the county, may exercise the powers and duties of justice of the peace of any justice court in the county:

- (1) At the request of the justice of the peace of the justice court;
- (2) In the event of a vacancy in the office of the justice of the peace, until the vacancy is filled as provided by law; or
- (3) In the event of the absence, incapacity or disqualification of the justice of the peace, during the period of such absence, incapacity or disqualification. [1965 c.377 s.2; 1979 c.69 s.1; 1999 c.605 s.3]

FEES AND FINES

51.310 Schedule of fees; payment of fees to county treasurer. (1) Except as provided in ORS 105.130, the justice of the peace shall collect, in advance except in criminal cases, and issue receipts for, the following fees:

- (a) For the first appearance of the plaintiff, \$30.
- (b) For the first appearance of the defendant, \$22.50.
- (c) In the small claims department, for a plaintiff filing a claim, \$22.50; and for a defendant requesting a hearing, \$15.
- (d) For transcript of judgment, \$6.
- (e) For transcript of judgment from the small claims department, \$5.
- (f) For certified copy of judgment, \$3.50.
- (g) For issuing writs of execution or writs of garnishment, \$5 for each writ.
- (h) For taking an affidavit of a private party, \$1.

- (i) For taking depositions, for each folio, 70 cents.
 - (j) For supplying to private parties copies of records and files, the same fees as provided or established for the county clerk under ORS 205.320.
 - (k) For each official certificate, \$1.
 - (L) For taking and certifying for a private party an acknowledgment of proof of any instrument, \$3.
 - (m) Costs in criminal cases, where there has been a conviction, or upon forfeiture of security, \$5.
- (2) Not later than the 15th day of the month following the month in which fees set forth in subsection (1) of this section are collected, the justice of the peace shall pay all such fees, other than those for performing marriage ceremonies, over to the county treasurer of the county wherein the justice of the peace was elected or appointed, for crediting to the general fund of the county, and shall take the receipt of the treasurer therefor. [Amended by 1965 c.619 s.25; 1979 c.447 s.2; 1987 c.829 s.1; 1989 c.583 s.10; 1991 c.458 s.2; 1997 c.801 s.132; 1999 c.1051 s.245]

51.340 Monthly report of fines collected. Justices of the peace in each county shall report to the county treasurer once in each month the amount of all fines collected by them, from whom collected, and what the fine was for, and at the same time pay to the county treasurer in money the full amount of the fines collected. If the justices of the peace have collected no fines, they shall report that fact to the county treasurer.

51.350 [Repealed by 1983 c.77 s.1 and 1983 c.310 s.21]

51.360 [Repealed by 1983 c.77 s.1 and 1983 c.310 s.21]

51.410 [Repealed by 1965 c.624 s.12]

CONSTABLES

51.440 Appointment of constables; term; removal. (1) The county court or board of county commissioners may appoint a constable for any justice of the peace district in the county.

(2) An appointed constable shall hold office for a term of not more than four years to be set by the county court or board of county commissioners.

(3) An appointed constable may be removed for cause by order of the county court or board of county commissioners.

(4) An order of appointment or removal under this section shall not take effect until filed with the county clerk. [Amended by 1965 c.624 s.1; 1971 c.136 s.1; 1995 c.658 s.59]

51.450 Qualifications for office. A person shall not be eligible to the office of constable of a justice of the peace district unless the person is an elector registered in the county in which the court is located. The county court or county commissioner may designate the constable as the constable for one or more justice of the peace districts within the county. [Amended by 1965 c.624 s.3; 1983 c.83 s.3; 1995 c.658 s.60]

51.460 Oath and undertaking; amount of undertaking. Before entering upon the duties of the office of constable, the person selected shall qualify by filing with the county clerk an oath of office subscribed and to the same effect as required of a justice of the peace, and also an official undertaking, duly approved as in the case of a justice of the peace, in the penal sum of \$2,500; provided, that the official undertaking of a constable of any justice of the peace district in which is located the county seat, or any part thereof, shall be in such greater penal sum, not exceeding \$10,000, as the county court or board of county commissioners shall designate. [Amended by 1965 c.624 s.4; 1995 c.658 s.61]

51.470 Form of undertaking. The official undertaking of a constable shall be in substantially the following form:

Whereas A B has been duly selected constable of the district of _____, in the County of _____, we, C D and E F, hereby undertake that if A B does not faithfully execute and return all process to A B directed and delivered, and pay over according to law all moneys that shall come into the hands of A B by virtue of office, then we, or either of us,

will pay to the State of Oregon the sum of \$____.

C D.
E F.

[Amended by 1965 c.624 s.5; 1995 c.658 s.62]

51.480 Qualifications of sureties. The sureties in the undertaking provided for in ORS 51.460 shall have the qualifications of bail and shall be residents of the county; and their justification must be filed with the undertaking.

51.490 Filling vacancies; qualifying for office. If a vacancy occurs in any office of constable, the county court or board of county commissioners may appoint some person possessing the qualifications prescribed by ORS 51.450 to fill the vacancy until the expiration of the term. The person so appointed to fill the vacancy shall qualify in the manner and form prescribed by ORS 51.460. [Amended by 1965 c.624 s.6]

51.500 Deputies; appointment; revocation; oath of office; authority and powers; compensation. With the approval of the county court or board of county commissioners, a constable may have one or more deputies, who shall be appointed by the constable in writing. Each such appointment shall be filed with the county clerk of the county, and shall be revocable at any time by the constable, by a writing signed by the constable and filed with the clerk; and, upon the filing, the term of the deputy or deputies therein named shall cease. Every person appointed deputy shall, before entering upon the duties of the office, take and file with the county clerk an oath of office of like effect to that taken and filed by the constable. Each deputy shall have authority and power to perform any duty or act that the appointing constable has the authority and power to perform, and the constable shall be responsible on the official bond of the constable for any act or omission of any deputy. Each deputy shall receive monthly from the county such salary as may be fixed by order of the county court or board of county commissioners. The salary shall be payable in the same manner as the salaries of county officers are paid, and shall be in full compensation for all official duties and services performed and rendered by the deputy; and no other compensation, commissions or fees whatever shall be allowed to, or received or retained by the deputy. [Amended by 1965 c.624 s.7]

51.520 [Repealed by 1953 c.306 s.18]

51.530 [Amended by 1965 c.624 s.8; repealed by 1973 c.393 s.4]

51.540 Civil fees collected in advance; payment to county treasurer. The constable shall collect in advance in civil cases for each service performed in the execution of official duties the fees fixed by law to be charged for the same or a similar service by the sheriff of the county wherein such constable has been selected. The constable shall, not later than the 15th day of the month following the month in which such fees are collected, pay them over to the county treasurer of the county wherein the constable has been selected, for crediting to the general fund of the county, and take the receipt of the treasurer for them. [Amended by 1965 c.624 s.9]

51.550 Office; clerical assistance; books, office equipment and supplies. (1) The constable of a justice of the peace district shall have office in and with that of the justice of the peace, without charge.

(2) The county court or board of county commissioners of the county wherein a constable has been selected shall provide the constable with such office space and clerical assistance as shall be necessary to enable the constable promptly and efficiently to perform the duties of office, and also with such books, records, forms, papers, stationery, postage and office equipment and supplies as may be necessary in the proper transaction of the business of such office. [Amended by 1965 c.624 s.10]

51.610 [Amended by 1965 c.134 s.1; 1965 c.624 s.11; repealed by 1971 c.136 s.3]

51.620 [Repealed by 1971 c.136 s.3]

51.630 [Amended by 1959 c.621 s.1; repealed by 1971 c.136 s.3]

51.640 [Amended by 1965 c.613 s.26; repealed by 1971 c.136 s.3]

51.650 [Repealed by 1953 c.306 s.18]

51.660 [Repealed by 1965 c.510 s.24]

51.670 [Amended by 1965 c.510 s.22; repealed by 1965 c.624 s.12]

51.680 [Repealed by 1953 c.306 s.18]

51.690 [Repealed by 1953 c.306 s.18]

51.700 [1965 c.624 s.2; repealed by 1971 c.136 s.3]
