

Chapter 8

1955 REPLACEMENT PART

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CRIERS AND BAILIFFS

8.010 Bailiffs of Supreme Court. The Supreme Court may appoint such number of bailiffs for the term as may be necessary. The bailiffs shall be executive officers of the court. 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. [Amended by 1953 c.382 §4]

8.020 Crier and bailiffs of circuit and county courts; fees. Each circuit court and county court has the power to appoint a crier and such number of bailiffs as may be necessary for the term; provided, that in counties where the circuit court is in session for 10 months or more of each year the bailiffs of the circuit court may be appointed for the year at a monthly salary. The legal fees of the crier, bailiff and other officers of the court for attendance thereon shall be ascertained by the court, and directed to be paid by an order thereof, and not otherwise. Upon the presentation of a certified copy of such order to the proper officer of the county, such officer shall draw his warrant on the county treasurer for the amount therein specified.

8.030 Criers' duties. It is the duty of the crier of a court:

- (1) To attend the sittings of the court for which he is appointed.
- (2) To call parties, witnesses, and other persons bound to appear at the court.
- (3) To make proclamation of the opening or adjournment of the court, or of any other matter under its direction.

8.040 to 8.100 [Reserved for expansion]

CLERK OF THE SUPREME COURT

8.110 Appointment of clerk; term; compensation. The Supreme Court or a majority of the judges thereof shall appoint a clerk of court and fix his compensation. The clerk shall hold his office during the pleasure of the court. The salary of the clerk shall be paid monthly in the same manner as other state officers are paid. [Amended by 1953 c.382 §4]

8.120 Powers and duties of the clerk. The Clerk of the Supreme Court has power

to 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, and it is the duty of the Clerk of the Supreme Court:

- (1) To keep the seal of the court, and affix it in all cases where he is required by law.
- (2) To record the proceedings of the court.
- (3) To keep the records, files, books and papers appertaining to the court.
- (4) To file all papers delivered to him for that purpose in any action, suit or proceeding in the court.
- (5) To attend to the terms of the court, including each session at Pendleton, unless excused therefrom by the court, and to administer oaths.
- (6) To keep the journal of the proceedings of the court at its terms, and under the direction of the court to enter its orders, judgments, and decrees.
- (7) To authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any paper appertaining thereto, and filed with him.
- (8) To exercise the powers and perform the duties conferred upon him by statute.
- (9) In the performance of his duties, to conform to the direction of the court.

8.130 Payment by clerk to State Treasurer of fees collected. Unless otherwise provided by law, all fees and charges required to be paid to and collected by the Clerk of the Supreme Court shall be by him paid over to the State Treasurer monthly, to be credited to the General Fund, and the Secretary of State shall not draw his warrant for the payment of the salary of the clerk until the clerk has filed in the secretary's office a verified, itemized statement of the fees so collected and paid over to the State Treasurer.

8.140 Office location and hours. (1) The office of the Clerk of the Supreme Court is to be kept at the seat of government, in such building or room as the court may by order designate.

(2) The Clerk of the Supreme Court shall keep his office open for the transaction of business as the court may by order direct.

8.150 Clerk not to practice or have partner practicing in Supreme Court. The Clerk of the Supreme Court is prohibited, during his continuance in office, from acting, or having a partner who acts as an attorney in said court.

8.160 Deputies. The Clerk of the Supreme Court shall be allowed one deputy at Salem and one deputy who shall reside at Pendleton. The deputies shall be appointed by the clerk, by and with the consent and approval of the court, and shall serve at the pleasure of the clerk. The salaries of the deputies shall be fixed by the court or a majority of the judges thereof and shall be paid monthly in the same manner as other state officers are paid. [Amended by 1953 c.382 §4]

8.170 to 8.200 [Reserved for expansion]

REPORTER OF THE SUPREME COURT

8.210 Appointment; location and term of office. The Supreme Court shall appoint a Supreme Court Reporter, who shall hold his office during the pleasure of the court. The office of the reporter shall be at the state capital.

8.220 Compensation. The Supreme Court Reporter shall receive in full compensation for his services an amount per volume of Oregon Reports, to be fixed by the court, payable whenever the printing of a volume is completed, at which time the Secretary of State shall draw his warrant for that sum in favor of the reporter.

8.230 to 8.250 [Reserved for expansion]

ADMINISTRATIVE ASSISTANT TO CHIEF JUSTICE

8.260 Compensation of administrative assistant. The Supreme Court shall fix the salary of the administrative assistant to the Chief Justice, which with the necessary expenses of the maintenance and operation of his office, including traveling expenses and clerical assistance, shall be ascertained and ordered paid by the Supreme Court from the State Treasury in the same manner as the expenses of the Clerk of the Supreme Court are ascertained and paid. [1953 c.34 §6]

8.270 to 8.300 [Reserved for expansion]

REPORTERS AND SECRETARIES FOR CIRCUIT COURTS

8.310 Appointment of circuit court re-

porters; term; oath. Each circuit judge, or the county court or county courts of each judicial district, with the approval of the circuit judge or judges of such judicial district, may appoint a stenographer, to be attached to the court held by him, who shall be skilled in the practice of his art, and shall be an officer of the court, and be designated as the official reporter of the ——— judicial district of the State of Oregon, and shall hold office during the pleasure of the appointing authority. Before entering upon the discharge of his official duties, each such reporter shall take and subscribe an oath faithfully to perform the duties of his office.

8.320 Reporters pro tem. Any circuit judge or circuit judge pro tem not having available the services of an official reporter may appoint a competent stenographer to act as reporter pro tem, who shall perform the same duties as the official reporter and whose report when certified to shall have the same legal effect as the certified report of the official reporter. Such reporter pro tem shall possess the qualifications and take the oath prescribed for the official reporter and shall receive the same compensation.

8.330 When reporter to be secretary for circuit judge; appointment and compensation of secretary. It shall be the duty of each official reporter who is paid a salary to act as secretary to the judge by or for whom appointed, in connection with the official duties of such judge. Each circuit judge may, if he does not have an official reporter available to act as secretary, appoint a private secretary and fix his compensation, which compensation shall be paid by the county of the residence of the judge, as county salaries are paid.

8.340 Duty to attend court and make reports of proceedings. (1) It shall be the duty of each official reporter to attend the court for which he is appointed at such times as the circuit judge presiding may direct.

(2) Upon the trial of any cause, the judge upon his own motion 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 (3) of this section, make a report of the oral testimony and other proceedings of the trial to the extent required by the court or by the requesting party.

(3) When a report is required, the reporter:

(a) Shall take accurate notes by shorthand or, if the judge in his discretion so authorizes, by means of a mechanical typing device using paper tapes, and

(b) If the judge in his discretion so authorizes, may, in combination with and in addition to either of the methods prescribed in paragraph (a) of this subsection, make audio records by any mechanical, electrical or electronic device by which the voices of speakers are recorded so that they may be reproduced in audible form at any time.

(4) The notes, tapes or audio records of the reporter shall be filed in the office of the clerk of the court and shall permanently remain in the custody of the clerk. [Amended by 1955 c.497 §2]

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 his attorney requests a transcript of the notes, tapes 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, for the use of the court or parties. [Amended by 1955 c.497 §3]

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, tapes 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 in the cases mentioned in ORS 45.170.

(2) When the official reporter in any cause has ceased to be the official reporter of that court, any transcript by him made therefrom, or made by a competent person under direction of the court, and duly certified to by him, under oath, as a full, true and complete transcript of said notes, tapes 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 §4]

8.370 Duties and salary of reporter in department of probate in Multnomah County.

(1) In any county having a population of more than 300,000 wherein jurisdiction in probate matters and in matters involving the mentally diseased is vested in the department of probate of the circuit court, the judge of such department of probate is empowered to appoint an official reporter, whose duties, in addition to those peculiarly applicable to the proper functioning of the probate department, shall be those provided by law for official court reporters generally, and who shall be subject to the law relating to employment of official court reporters generally.

(2) Such reporter's salary shall be fixed by the judge, not in excess of \$500 per month, except that he shall receive in addition thereto, the fees for transcribing his shorthand notes. [Amended by 1953 c.566 §2]

8.380 Salaries of reporters in certain circuit courts. (1) The official reporter or reporters for the circuit court for the following counties of the indicated judicial districts shall be paid by such counties the following respective annual salaries, payable monthly as county salaries are paid:

(a) Jackson, of the first judicial district, \$4,800.

(b) Josephine, of the first judicial district, \$4,800.

(c) Douglas, of the second judicial district, \$4,800.

(d) Coos, of the second judicial district, \$4,800.

(e) Lane, of the second judicial district, \$5,200 each.

(f) Tillamook, of the nineteenth judicial district, \$4,800 each.

(2) The official reporter or reporters for the circuit court for the following judicial districts shall be paid by the county composing such judicial district the following respective annual salaries, payable monthly as county salaries are paid:

(a) Third judicial district, Marion, \$5,200 each.

(b) Fourth judicial district, Multnomah, \$5,200 each.

(c) Fifth judicial district, Clackamas, \$5,200 each.

(d) Eighth judicial district, Baker, \$2,700.

(e) Thirteenth judicial district, Klamath, \$4,800 each.

(3) The official reporter or reporters for the circuit court for the following judicial districts shall receive from the counties of such judicial districts the following respective annual salaries, to be paid by the counties in the indicated amounts, payable monthly as county salaries are paid:

(a) Sixth judicial district, \$4,800; Umatilla paying \$3,900 and Morrow paying \$900.

(b) Seventh judicial district, \$4,800; Wasco paying \$2,900 and Hood River paying \$1,900.

(c) Ninth judicial district, \$4,800; Malheur paying \$3,200 and Harney paying \$1,600.

(d) Tenth judicial district, \$4,800; Union paying \$3,200 and Wallowa paying \$1,600.

(e) Eleventh judicial district, \$4,800; Gilliam paying \$933.34, Sherman paying \$933.33, Wheeler paying \$933.33 and Grant paying \$2,000.

(f) Twelfth judicial district, \$4,800; Yamhill paying \$2,880 and Polk paying \$1,920.

(g) Eighteenth judicial district, \$4,800; Crook paying \$1,200, Jefferson paying \$850 and Deschutes paying \$2,750.

(h) Twenty-first judicial district, \$4,800 each; Linn paying \$2,400, Benton paying \$1,200 and Lincoln paying \$1,200. [Amended by 1953 c.550 §22]

8.390 Per diem pay for other reporters. Each official reporter for the circuit court for any judicial district for which a salary is not provided shall be entitled to receive compensation at the rate of \$20 per diem for every day actually in attendance upon the circuit court pursuant to the direction of the court, which compensation shall be paid by the county in which the court is held. The certificate of the reporter as to the number of days of attendance upon the court, when certified as correct by the judge presiding, shall be a sufficient voucher to the county clerk upon which he shall draw his warrant upon the treasurer of the county in favor of the official reporter. [Amended by 1953 c.550 §22]

8.400 Reporting default divorce cases; transcript. Each default divorce case shall be reported, and if the court in any such case shall order that a transcript of the testimony be prepared, the official reporter shall prepare and file such transcript. Nothing herein

contained shall be construed as preventing the reference of divorce cases for the taking of testimony. [Amended by 1953 c.550 §22]

8.410 Traveling expenses. All official circuit court reporters, while serving away from home, shall be entitled to reimbursement for their actual and necessary living and traveling expenses incurred in the performance of their duties outside of the county of their residence, to be paid by or prorated to the counties in the same proportion or manner as their salaries or per diem compensation.

8.420 to 8.500 [Reserved for expansion]

SPECIAL ASSISTANTS FOR DEPARTMENT OF PROBATE OF MULTNOMAH CIRCUIT COURT

8.510 Special clerks and agents in probate department. (1) In any county having a population of more than 300,000, wherein jurisdiction in probate matters and in matters involving the mentally diseased is vested in the department of probate of the circuit court, the judge of such department may appoint:

(a) One chief clerk, one assistant chief clerk, and two junior clerks, to assist in matters of probate.

(b) One special agent, one assistant special agent, and one stenographer, to assist in proceedings pertaining to hearings of mentally diseased persons.

(2) The judge may fix the compensation to be paid such employes, which compensation shall in no event exceed \$450 per month for any one employe. The compensation of such employes shall be commensurate with the duties performed by them, and shall be paid in the same manner as the salaries of county officers are paid. [Amended by 1953 c.566 §2]

8.520 to 8.600 [Reserved for expansion]

DISTRICT ATTORNEYS

8.610 Election and term of office. A district attorney for each county shall be elected by the qualified electors of the county, at the general election next preceding the expiration of the term of the then incumbent. He shall hold office for the term of four years and until his successor is elected and qualified.

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 his certificate of election, with an oath of office indorsed thereon, and subscribed by him, to the effect that he will support the constitution of the United States and of this state, and faithfully and honestly demean himself in office.

8.630 Qualifications; general powers and duties. A person elected district attorney must, at the time of his 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.

8.660 Duties; attending court and prosecuting offenses. The district attorney shall attend the terms of all courts having jurisdiction of public offenses within his county, and conduct, on behalf of the state, all prosecutions for such offenses therein.

8.670 Duties; 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 he has information that any such offense has been committed, and attend upon and advise the grand jury when required.

8.680 Duties; 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 his county, 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 his county to which the state is a party.

8.690 Duties; advising and representing county officers and employes. The district attorney and his deputies shall advise the county court, county school superintendent, county clerk, sheriff, county assessor, and county surveyor on all legal questions that may arise. When any action is instituted against any such officer or other county employe for damages for alleged wrongful act or omission in the performance of his official duty, the district attorney shall defend such action. He shall also prosecute and defend all actions, suits, and proceedings to which the county may be a party. For such services he shall receive no compensation other than his salary.

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

8.710 Disqualification; appointment of special district attorney. If a district attorney fails to attend any court at which he is required to be, or is related to the accused by consanguinity or affinity, or, prior to his 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, 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 to perform the duties of such attorney during his absence, 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 his attendance, to be allowed by the court and paid from the county treasury upon order of the court.

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 his services in any criminal action, nor during the pendency of such prosecution can he act as attorney for either party in any civil action, suit or proceeding involving substantially the same controversy.

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 Salaries of deputies in certain counties to be paid by state. The annual salaries of the deputy district attorneys as listed in this section shall be paid by the state in the same manner as the salaries of district attorneys:

- (1) Benton County, one deputy at \$2,500.
- (2) Clackamas County, one deputy at \$3,600.
- (3) Clatsop County, one deputy at \$2,500.
- (4) Coos County, one deputy at \$3,000.
- (5) Deschutes County, one deputy at \$1,800.
- (6) Douglas County, one deputy at \$3,000.
- (7) Jackson County, one deputy at \$3,000.
- (8) Klamath County, one deputy at \$3,000.
- (9) Lane County, one deputy at \$3,600.
- (10) Lincoln County, one deputy at \$1,800.
- (11) Linn County, one deputy at \$3,000.
- (12) Marion County, one deputy at \$3,600.
- (13) Multnomah County:
 - (a) One deputy at \$4,620.
 - (b) One deputy at \$4,158.
 - (c) One deputy at \$3,743.
 - (d) One deputy at \$3,465.
 - (e) One deputy at \$3,036.
 - (f) Two deputies at \$2,860 each.
 - (g) One deputy at \$1,980, who shall be assigned to perform the duties prescribed by ORS 8.750.

(14) Umatilla County, one deputy at \$3,000.

(15) Washington County, one deputy at \$3,000.

(16) Yamhill County, one deputy at \$2,500. [Amended by 1953 c.652 §6]

8.750 Deputy district attorney for juvenile matters in Multnomah County. In counties having more than 300,000 inhabitants, the district attorney shall appoint a special deputy to prosecute cases arising under ORS 419.106 and 419.502 to 419.574, and to prepare the necessary papers for the same, and also by and with the consent of the district attorney, and under his control, to prosecute all cases in the different courts in such county wherein any person is accused of committing any unlawful act affecting the person, the rights or the welfare of any child under the age of 18 years.

8.760 Deputies may be authorized and paid by county court or board of county commissioners. Whenever, in the judgment of the county court or board of county commissioners of any county, there is business enough to warrant the appointment of a deputy district attorney, the county court or board of county commissioners may empower the district attorney to appoint a deputy 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.

8.770 Tillamook County, deputy for. The district attorney of Tillamook County may appoint a deputy district attorney for the county, whose compensation shall be fixed by the county court and paid out of the general fund of the county. The deputy shall serve during the pleasure of the district attorney.

8.780 District attorney may appoint deputy. A district attorney may appoint a deputy at any time for his county, which deputy shall have the same powers and possess the same qualifications as the district attorney. Unless the deputy is one of those whose compensation is specified by ORS 8.740 or one who is appointed and compensated as provided by ORS 8.760 or 8.770, he shall receive no compensation other than from the district attorney who appointed him.

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 this chapter.

8.800 Salaries of district attorneys. The district attorneys shall be paid annual salaries by the state, and the salaries shall be as follows:

(1) Baker County	\$4,200
(2) Benton County	4,500
(3) Clackamas County	5,800
(4) Clatsop County	4,500
(5) Columbia County	4,200
(6) Coos County	4,500
(7) Crook County	3,600
(8) Curry County	3,600
(9) Deschutes County	4,200
(10) Douglas County	5,000
(11) Gilliam County	3,000
(12) Grant County	3,600
(13) Harney County	3,600
(14) Hood River County	4,200
(15) Jackson County	5,000
(16) Jefferson County	3,600
(17) Josephine County	4,500
(18) Klamath County	4,500
(19) Lake County	3,600
(20) Lane County	5,800
(21) Lincoln County	4,200
(22) Linn County	5,000
(23) Malheur County	4,200
(24) Marion County	5,800
(25) Morrow County	3,600
(26) Multnomah County	8,800
(27) Polk County	4,200
(28) Sherman County	3,000
(29) Tillamook County	4,200
(30) Umatilla County	4,500
(31) Union County	4,200
(32) Wallowa County	3,600
(33) Wasco County	4,200
(34) Washington County	5,000
(35) Wheeler County	3,000
(36) Yamhill County	4,500

[Amended by 1953 c.652 §6]

8.810 District Attorneys' Salary Account. There is established an account in the State Treasury to be known as the District

Attorneys' Salary Account. All money coming to the State Treasury for the purpose of paying the salaries of district attorneys and their deputies shall be credited to the District Attorneys' Salary Account.

8.820 Payment of portion of salaries from divorce suit fees. All moneys collected and paid to the State Treasurer pursuant to ORS 21.130 and 21.150 shall constitute a continuing appropriation for the purpose of paying a portion of the salaries of the district attorneys. The Secretary of State shall keep a separate account of all such moneys and shall issue warrants on such account in payment of the monthly salaries of the district attorneys to the extent that there are sufficient funds in the account to pay the total monthly salary of one or more district attorneys. When the funds in such account are reduced to such an extent as not to be sufficient to pay at least one district attorney's monthly salary, the balance of the monthly salaries of the district attorneys shall be paid from the regular biennial appropriation for the payment of salaries of district attorneys.

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 §1]

8.840 [Repealed by 1953 c.652 §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 §3]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

