

Chapter 5

County Courts (Judicial Functions)

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|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 5.010 Who holds court | 5.070 When court open to probate business |
| 5.020 Jurisdiction as a juvenile court | 5.080 County judge as interested party |
| 5.030 Power of county judge to grant injunctions and orders in suits in circuit court | 5.090 Absence of county judge, or vacancy; authority of circuit judge |
| 5.040 Jurisdiction as a court of probate | 5.100 Order of docketing and disposal of business; records of proceedings |
| 5.050 Transfer of contested probate matters to circuit court | 5.110 Jury |
| 5.060 Times of holding court | 5.120 Appeals |

CROSS REFERENCES

- Bailiff, 8.020
County, proceedings by and against, control by county court, 30.340
Crier, 8.020
Fees in county court, 21.310 to 21.340, 21.360 to 21.380
Habeas corpus, jurisdiction of county court in respect to, Const. Art. VII (O), § 13, ORS 34.320
Inheritance tax cases, jurisdiction, 118.410
Judicial functions of county court transferred to circuit court in certain counties, 3.130
Multnomah County, county court abolished in, 1919 c. 59 § 3
Nuisance, abatement of by county court, 105.525, 105.530
Probate records, restoration of destroyed, 7.160
Record, court of, county court is, Const. Art. VII (O), § 1
Records of county court, 7.010 to 7.130
Salaries and expenses in counties with less than 10,000 inhabitants, Const. Art. VII (O), § 14
Seal of county court, 1.030
Writ of review granted by county court, 34.030
- 5.010
Appointment of judge in new county, 202.100
Pro tem judge, 204.065 to 204.075
Salaries of judges, Ch. 204
Term of office of judge, Const. Art. VII (O), § 11, Const. Art. VII (A), § 1
Who holds court when in exercise of administrative functions, 203.110
- 5.020
County court abolished in Multnomah County, 1919 c. 59 § 3
Transfer of judicial functions of county court to circuit court in certain counties, 3.130
- 5.030
Preliminary injunction, procedure, Ch. 32
Service by publication in suit or action pending in circuit court, county judge may authorize, 15.120
- 5.040
Actions and suits affecting decedents' estates and administration, Ch. 120
Admeasurement of dower, 113.210
County court abolished in Multnomah County, 1919 c. 59 § 3
Guardianship proceedings, Ch. 126
Inheritance tax cases, jurisdiction, 118.410
Mentally deficient person, commitment of, 427.030 to 427.050
Mentally ill, commitment of, 426.070 to 426.250
Notice of administration of estate to be given by probate judge to State Treasurer, 118.420
Probate records generally, 7.240
Probate records, restoration of destroyed, 7.160
Transfer of judicial functions of county court to circuit court in certain counties, 3.130
- 5.050
Escheat, ouster of county court's jurisdiction, 120.070
- 5.060
Terms of county court for transaction of county business, 203.170
- 5.090
Appointment of pro tem judge in case of illness of regular judge, 204.065
- 5.100
Juvenile court records, 419.552
Probate records generally, 7.240
Probate records, restoration of destroyed, 7.160
Special session required for juvenile cases, 419.550
- 5.110
Fees of jurors, 10.060
Formation of trial jury, 17.105 to 17.185
Selection of jury panel, 10.210 to 10.310
- 5.150
Appellate jurisdiction and supervisory control of circuit court over county court, Const. Art. VII (O), § 9
Review of decisions made in transaction of county business, by writ of review, 203.200
Trial de novo on appeal, 19.120

5.010 Who holds court. The county court is held by the county judge, except when county business is being transacted therein.

5.020 Jurisdiction as a juvenile court. Those county courts having judicial functions shall have original jurisdiction in all matters coming within the terms of ORS 419.102, 419.106, 419.128, 419.130, 419.502 to 419.554, 419.560 to 419.564 and 419.570 to 419.574.

5.030 Power of county judge to grant injunctions and orders in suits in circuit court. The judge of any county court having judicial functions shall grant preliminary injunctions or orders in any suit in the circuit court commenced in the county, upon application of the plaintiff or his attorney, made in the manner prescribed by ORS chapter 32. The order or injunction shall be made returnable to the circuit court of such county, to be there heard and determined.

5.040 Jurisdiction as a court of probate. County courts having judicial functions shall have exclusive jurisdiction, in the first instance, pertaining to a court of probate; that is, to:

- (1) Take proof of wills.
- (2) Grant and revoke letters testamentary of administration and of guardianship.
- (3) Direct and control the conduct, and settle the accounts of executors, administrators and guardians.
- (4) Direct the payment of debts and legacies, and the distribution of the estates of intestates.
- (5) Order the sale and disposal of the property of deceased persons.
- (6) Order the renting, sale or other disposal of the property of minors.
- (7) Take the care and custody of the person and estate of a lunatic or habitual drunkard, and to appoint and remove guardians therefor; to direct and control the conduct of such guardians, and settle their accounts.
- (8) Direct the admeasurement of dower.

5.050 Transfer of contested probate matters to circuit court. Any contested probate matter in the county court, other than upon a creditor's claim for less than \$500, shall, on motion made and filed by any party in interest, or on motion of the county court, at any time prior to the commencement of

trial thereof on an issue of fact, forthwith be transferred by the county court, by order entered in its probate journal, to the circuit court for the county in which is pending the probate proceeding out of which such contest arose, and it shall therein proceed and be tried and determined in the same manner and with like effect, except as in this section otherwise provided, as though it were in the county court. To that end, the circuit court shall have exclusively, as to such contested probate matters, all the jurisdiction and powers pertaining to a court of probate possessed in the first instance by the county court. Upon the final determination of such contested probate matter, the county court shall resume jurisdiction thereof, and pending such determination, the county court shall proceed with all uncontested matters in the probate proceeding. Upon any such transfer, all the records, files and proceedings of the county court in the probate proceeding, pertaining or germane to the contested matter, shall become likewise the records, files and proceedings of the circuit court, and the circuit court shall take judicial notice of all other matters in the probate proceeding. An appeal shall lie to the Supreme Court from the decree or other appealable determinative order of the circuit court in such contested matter, the same as from a decree or other appealable determinative order of the circuit court in a suit in equity.

5.060 Times of holding court. There shall be a term of the county court in each county for the transaction of judicial business on the first Monday of each month, and at such other times as the court in term or the judge in vacation may appoint, in like manner and with like effect as the circuit court or judge is authorized by ORS 4.410. The court shall be open at 10 a.m.

5.070 When court open to probate business. The county court is always open for the transaction of the business pertaining to a court of probate, whenever the particular proceeding or transaction is authorized to be had or done without the presence of, or notice to, another.

5.080 County judge as interested party. Any judicial proceedings commenced in the county court in which the county judge is a party or directly interested, may be certified to the circuit court for the county in which the proceedings are pending. If the matter

is one in probate, then all the original papers and proceedings shall be certified to the circuit court, and the judge of that court shall proceed in the manner in which the county judge would be required to proceed had the matter remained in the county court. If the matter is other than a probate matter, it shall be proceeded with in this circuit court as upon appeal from the county court to the circuit court.

5.090 Absence of county judge, or vacancy; authority of circuit judge. When the county judge is incapacitated, or absent from the county, or whenever there is a vacancy in the office of county judge, any circuit judge for or assigned to the county may perform the judicial functions of the county judge, hear proceedings, and enter any judgment, order or decree necessary to carry into effect the judicial jurisdiction of the county court in all matters with the same force and effect as if done by the county judge when present in the county.

5.100 Order of docketing and disposal of business; records of proceedings. (1) The business of the county court at each term shall be docketed and disposed of in the following order:

(a) The business pertaining to a court of probate as specified in ORS 5.040.

(b) County business.

(2) The proceedings and records of the court pertaining to the respective classifications of business specified in this section shall be kept in separate books.

5.110 Jury. A county court trial jury shall consist of six persons drawn by lot from the jurors in attendance upon the court at a particular term and sworn to try and determine a question of fact.

5.120 Appeals. The provisions of ORS chapter 19 relating to appeals shall apply to judgments and decrees of the county court made in the exercise of its judicial functions.

CHAPTER 6

[Reserved for expansion]