

Chapter 169

1957 REPLACEMENT PART

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**CREATION AND MAINTENANCE
OF JAILS**

169.010 County court's authority to erect jails. The county court or board of county commissioners in each county of this state may, whenever it deems proper, erect a county jail or prison for the reception and confinement of prisoners and criminals. Materials and dimensions of the building and its location at the seat of justice of the county shall be determined by the court or board. Every jail shall contain one or more cells, or dungeons, for the confinement of criminals sentenced to solitary confinement.

169.020 Letting of construction contract for jail or prison. Whenever the county court or board of county commissioners decides to erect a jail or prison as authorized by ORS 169.010, it may either receive sealed proposals for the performance of the whole or any part of the work, or for furnishing materials, or may sell the same at public auction to the lowest bidder. Before the court or board enters into any such contract, it shall give notice by advertisement published in some newspaper of general circulation in the county for at least three weeks in succession, or by putting up advertisements in five public places within the county, three weeks before the time for letting the contract. The advertisements shall state the day that the court or board will attend at the court house in the county for the purpose of receiving proposals or selling at public auction, and entering into such contract. The contractor shall enter into bond, payable to the State of Oregon for the use of the county, with such securities and in such sum as the court shall approve, conditioned for the faithful performance of the contract agreeably to the stipulations thereof.

169.030 Construction, maintenance and use of jails by county and city; renting suitable structure. (1) Every county and incorporated city in this state shall provide, keep and maintain at its county seat, or within the city, as the case may be, a jail or prison for the reception and confinement of prisoners committed thereto. The walls of the jail shall be built of concrete, brick or stone well laid in mortar or cement, the floor of cement, the ceiling of plaster, iron or steel, the roof of metal, slate or other noncombustible material, the doors of iron or steel, the windows of glass with no more wood than is needed to compose the window sash and frame, and the whole structure of such ma-

terial, strength, durability and workmanship as to render it as nearly fireproof as practicable. Any county, or incorporated city may rent or lease any structure answering the requirements of this section, either in connection with or separately from any other county or city building. Any county and any incorporated city which is the county seat of such county, may, by agreement, provide, maintain, and use for their separate requirements, such a jail as is required by this section.

(2) Subsection (1) of this section does not apply to jails and prisons built or constructed on or before May 19, 1905.

169.040 Inspection of prisons. The county court or board of county commissioners of each county is inspector of the prisons therein. The court or board shall visit them at least once in each regular term, and shall examine fully into the prison, health, cleanliness, and discipline. If it appears to the court or board that any provisions of law have been violated or neglected, it shall forthwith give notice of the violation or neglect to the district attorney of the district.

169.050 Contracts for boarding of prisoners. The county court or board of county commissioners of each county in this state, not having more than 300,000 inhabitants, shall advertise for bids for boarding of prisoners confined in the county jails of the county, and may award the contract for boarding them to the lowest responsible bidder. If any responsible bidder, other than the sheriff, receives the contract from the county for the boarding of prisoners, such bidder shall receive compensation for boarding such prisoners rather than the sheriff, and the sheriff shall afford to such bidder all facilities for carrying out the county's contract for boarding prisoners.

169.060 Advertising for boarding contract; bond required. The advertisements mentioned in ORS 169.050 shall be published for at least four weeks in one or more newspapers published in the county, prior to the opening of such bids. The court or board shall determine the time for letting a boarding contract, and may require a bond from the person receiving the contract, in such sum and with such sureties and conditions as it deems necessary to secure the contract fulfillment.

169.070 to 169.100 [Reserved for expansion]

TREATMENT OF PRISONERS

169.110 Deductions from sentence for observance of jail rules. Each prisoner convicted of any offense against the laws of this state, who is confined, in execution of the judgment or sentence upon any such conviction, in any county jail in this state for a definite term, whose record of conduct shows that he has faithfully observed all the rules of the jail, shall be entitled, in the discretion of the sheriff or other officer having custody of such prisoner, to a deduction from the term of his sentence to be estimated as follows, commencing on the first day of his arrival at the jail to serve his sentence:

- (1) Upon a sentence of not less than 30 days nor more than 90 days, three days for each month.
- (2) Upon a sentence of not less than three months nor more than six months, four days for each month.
- (3) Upon a sentence of not less than six months nor more than nine months, five days for each month.
- (4) Upon a sentence of more than nine months, six days for each month.

169.120 Allowances for good behavior by trustees and prisoners engaged in public works. (1) In addition to the allowances provided for in ORS 169.110, all trustees engaged in the kitchen and other work about the jail are entitled to an additional day each month.

(2) Each county court or board of county commissioners is authorized and directed to provide for the allowance of credits in time and compensation for good behavior by convicts working on public roads or other work of a public nature. The allowances shall not be inconsistent with ORS 169.170 to 169.210. The credits shall not be in excess of 10 days for each calendar month.

169.130 Furnishing liquor to prisoners.

(1) Any sheriff, jailer, or keeper of any prison who under any pretense, gives, sells, or knowingly suffers to be delivered to any person committed to prison, for any cause, any spirituous, vinous or malt liquors, shall forfeit \$25 for every offense, to be recovered before a justice of the peace for the use of the county. However, if a physician certifies in writing that the health of the prisoner requires it, such sheriff, jailer or keeper may give him the quantity prescribed.

(2) Any person other than those mentioned in subsection (1) of this section, who

sells or gives to any person committed to prison for any cause, any spirituous, vinous or malt liquor or has such liquor in his possession in the precincts of any prison, with the intent to convey or deliver it to any prisoner confined therein, shall forfeit \$15 for every such offense, to be recovered and applied as in subsection (1) of this section.

169.140 Furnishing prisoners food and clothing; separating male and female prisoners. The keeper of each jail shall furnish and keep clean the necessary bedding and clothing for all prisoners in his custody, and shall supply them with wholesome food, fuel and necessary medical aid. Male and female prisoners, except husband and wife, shall not be kept or put in the same room.

169.150 Payment of expenses of keeping prisoners. The charges and expenses for safekeeping and maintaining all persons duly committed to the jail of the county for trial, sentenced to imprisonment in the county jail, or committed for the nonpayment of any fine or for any contempt, shall, unless otherwise provided by law, be paid out of the treasury of the county. The account of the keeper shall be first allowed by the county court or board of county commissioners of the county from which the prisoner was committed.

169.160 Discharge of indigents imprisoned for nonpayment of fine. When any person, sentenced by any court of this state to be imprisoned and pay a fine, or fine and costs, or to pay a fine, has been confined in a county jail 30 days, solely for the nonpayment of such fine, or fine and costs, he may apply in writing to any magistrate or court in the county wherein the conviction was had setting forth his inability to pay the fine, or fine and costs. After notice to the district attorney for the county in which the person was sentenced, who may appear, offer evidence and be heard, any magistrate or court in the county shall proceed to hear and determine the matter. If on examination it appears to the magistrate or court that the prisoner is unable to pay the fine, or fine and costs, and that he has no property exceeding \$20 in value, except such as is by law exempt from being taken on execution for debt, the magistrate or court shall administer to him the following oath: "I do solemnly swear that I have no property, real or personal, to the amount of \$20, except such as is by law exempt from being

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taken on civil process for debt by the laws of this state, and that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use and benefit. So help me God." Upon taking such oath, the magistrate or court forthwith shall discharge the prisoner and enter an order therefor.

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169.170 Assignment of county prisoners to public works. All convicts sentenced by any court or legal authority, whether in default of the payment of a fine, or committed for a definite number of days to serve sentence in a county jail or prison, during the period of such sentence, for the purposes of subsection (2) of ORS 169.120 and of 169.170 to 169.210, are under the exclusive and absolute control of the county court or board of county commissioners of the county in which the crime was committed for which the convict was sentenced. The court or board has full power to place such convicts under the control of any road supervisor or other person appointed to take charge of them, and to cause them to work upon the public roads of the county, or such other work of a public nature as said court or board may direct. All such convicts shall be delivered to the supervisor or other person appointed to take charge of them, upon the written request of the court or board. The sheriff shall obtain a receipt from the person to whom such convicts are delivered for each of the convicts, and thereupon the sheriff's liability ceases. The county court may at any time return any convict, taken under the provisions of this section, to the sheriff, who shall thereupon take charge of the convict. The court or board is authorized and directed to provide rules and regulations in regard to the employment of said convicts not inconsistent with ORS 169.170 to 169.210. In default of the payment of a fine such convict shall be made to labor at the rate of \$2 per day until such fine is fully paid.

169.180 Assignment of city prisoners to public works. All convicts sentenced by any court or legal authority in any city, whether in default of the payment of a fine or committed for a definite number of days to serve sentence in any city or county jail or prison, during the period of the sentence shall, with the consent of the proper city authorities and for the purposes of subsection (2) of ORS 169.120 and of 169.170 to 169.210, be under the absolute and exclusive

control of the county court or board of county commissioners of the county in which said city is located. Such city convicts shall be delivered to the county court by any officer having custody thereof in the same manner as county prisoners, and may be returned to the officer from whom they are received in the same manner, and shall be subject to the same rules and regulations as provided in ORS 169.170 for county prisoners.

169.190 Transfer of prisoners to another county for public work. Any county court or board of county commissioners may transfer to the county court or board of county commissioners of any other county any of the convicts committed to its control, under ORS 169.170 or 169.180. The court or board to which such convicts are so transferred has the same power and authority respecting such convicts as if they had been sentenced to serve in that county. The transfer of convicts from one county to another shall be made upon such terms and conditions as may be agreed upon by the county courts or boards concerned in the transfer.

169.200 Punishment of prisoner refusing to work. Any convict held to labor under the provisions of ORS 169.170 to 169.190, who, being physically able, refuses to perform the labor required of him, may be denied all food except bread and water until he signifies his willingness to perform such labor. The time that he refuses to labor shall not be counted as service of his sentence, but he shall be held to labor until all such time has been made up and the sentence of the court has been fully complied with.

169.210 Contracts for private employment of prisoners; agencies having power to work prisoners. (1) No county or city shall enter into any agreement or contract with any private person, firm or corporation for the employment of any convict.

(2) If any board or tribunal is created which has charge and management of the public roads of the county, such board or tribunal shall have the same power and authority as is conferred upon the county court or board of county commissioners by subsection (2) of ORS 169.120 and by 169.170 to 169.210.

169.220 Care of county prisoners. All persons lawfully confined in a county jail, or as prisoners engaged in work under the

custody and jurisdiction of a county, shall be fed and maintained at actual cost to the county. All persons when held for trial, or as witnesses or on account of insanity or engaged in labor under the custody and jurisdiction of a county, shall be given three meals per day. An accurate account of each meal furnished to others than inmates of jails, together with the names of the recipients thereof, whether jail employes or otherwise, shall be kept and reported by the sheriff each month to the county court or board of county commissioners. The county court or board of county commissioners shall furnish the sheriff with adequate equipment and supplies for carrying out the provisions of this section. The sheriff has authority to employ such assistance therefor as may be necessary. All supplies and equipment needed to feed and maintain such persons as provided in this section shall be purchased by the county court or board of county commissioners upon requisitions duly verified and presented by the sheriff to the county court or board of county commissioners. All supplies so purchased shall be paid for by warrant drawn upon the general fund of the county, upon presentation of vouchers containing itemized statements of all supplies so furnished, duly verified by the sheriff and by the person selling the same, each of whom shall certify that the supplies were actually furnished and received in the quantities represented and were of good quality, and that the price charged therefor was reasonable and just. [Amended by 1957 c.698 §1]

169.230 to 169.300 [Reserved for expansion]

SHERIFF'S DUTIES AND LIABILITIES

169.310 [Repealed by 1957 c.698 §2]

169.320 Sheriff's control over prisoners. Except as otherwise provided in ORS 169.170 to 169.210, each county sheriff shall have custody and control of all persons legally committed or confined in the county jail of his county during the period of such commitment or confinement; and under the direction of the county court or board of county commissioners of his county, he shall work such prisoners in the county jail as are held to labor under existing law. The work shall be at such places and such time and in such manner as the court or board may direct. The sheriff may retain and put to work such number of such prisoners, not ex-

ceeding 10, as may be required to perform necessary services in and about the jail and in the care thereof.

169.330 Criminal and civil liability of sheriff for escape of prisoner. A prisoner committed to the county jail for contempt, for trial, upon a conviction for a public offense, or in default of security to appear as a witness in a criminal action, shall be actually confined in the jail until he is legally discharged. If he is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape, and the sheriff or jailer permitting it is guilty of a misdemeanor. When the prisoner escaping was also being held until he paid a sum of money to a private party, or a fine or penalty to the state, such party or the state may recover in a civil action against the sheriff, the damages sustained by reason of the escape.

169.340 Liability of sheriff for escape of defendant in a civil action. (1) A sheriff who suffers the escape of a prisoner, arrested or in jail, without the consent or connivance of the party on whose behalf the arrest or imprisonment was made, is liable to an action by such party, as follows:

(a) When the arrest is upon an order of arrest in a civil action, suit or proceeding; when the presence of the defendant at the return of the summons is necessary to enable the plaintiff to proceed therein, and the defendant does not appear at the time and place specified in the summons.

(b) When the arrest or imprisonment is upon an order of arrest in any other civil action, suit or proceeding, or upon a surrender in exoneration of the sheriff or of bail, and the defendant is not found upon an execution against his person issued to the proper county on a judgment or decree in such action, suit, or proceeding.

(c) When the arrest is on an execution or commitment to enforce the payment of money, and the party interested is not recaptured or surrendered into custody at the expiration of the time limited for the service thereof, or legally discharged therefrom.

(d) When a person is imprisoned on an execution or commitment to enforce the payment of money, and he escapes after the time limited for the service, and is not recaptured or surrendered before an action is commenced for the escape.

(2) The measure of damages in an ac-

tion brought under subsection (1) of this section, is as follows:

(a) For the escape mentioned in paragraph (a) of subsection (1) of this section, the actual damages sustained.

(b) In any other case, the amount expressed in the execution or commitment.

169.350 Sheriff's liability for failing to serve papers. When a sheriff or his officer, upon whom is served a paper in a judicial proceeding directed to a prisoner in his custody, fails to forthwith deliver it to the prisoner, with a note thereon of the time of its service, the sheriff is liable to the prisoner for all damages occasioned thereby, and if he wilfully fails to so act, such sheriff or officer is guilty of a misdemeanor.

169.360 Appointment of jailer by sheriff. The sheriff may appoint a keeper of the county jail, to be denominated the jailer, for whose acts as such he is responsible. The appointment shall be in writing, and the sheriff shall file a certified copy thereof in the office of the county clerk.

169.370 Sheriff's appointment of jailers and guards in counties of more than 100,000. In counties having more than 100,000 inhabitants, the sheriff may appoint one jailer for each jail within the county and may, upon order of the county commissioners or county court of the county, appoint as many assistant jailers as may be necessary. Where prisoners are worked on county roads or engaged in any public work, the sheriff may, upon order of said commissioners or court, appoint as many guards as may be necessary for the proper control and safeguarding of the prisoners. The jailer shall receive a salary not to exceed \$125 per month, each assistant jailer shall receive a salary not to exceed \$100 per month, and each guard shall receive a salary not to exceed \$3 per diem, as fixed by order of the commissioners or court. All such salaries shall be paid by the county in the same manner that other officers and employes of the county are paid. Each jailer and guard has the power and authority of a deputy sheriff.

169.380 Report of Clackamas and Multnomah County sheriffs respecting prisoners. The sheriffs of Clackamas County and Multnomah County shall, on the first day of each month, make a duly verified report to the county auditor of the number of prisoners confined in the county jail for the pre-

ceding month, and the number of days each of the prisoners was so confined.

169.390 to 169.500 [Reserved for expansion]

FINGERPRINTING; FEDERAL PRISONERS

169.510 Installation of appliances for taking fingerprints. Each county sheriff shall install and maintain at his office suitable means and appliances for taking the fingerprints of convicted persons referred to in ORS 169.520, and may procure and maintain such means and appliances at the expense of the county where he holds office.

169.520 Persons subject to being fingerprinted and photographed; disposal of prints by sheriff. (1) Whenever a person is convicted of any crime against this state for which the maximum punishment is imprisonment for any term in the county jail or state penitentiary, and is for any length of time by virtue of such conviction in the custody of the sheriff of the county where the conviction occurred, the sheriff may, at any time before releasing the convicted person from his custody, take the fingerprints of the convicted person whether or not he is paroled upon conviction.

(2) Upon conviction of a felony the sheriff of the county in which the conviction occurred shall take the photograph of the person convicted and forward it to the Central Bureau for Criminal Identification.

(3) Within 30 days after the fingerprints of the convicted person are taken as prescribed in this section, the sheriff by whom the prints were taken shall forward them and his brief written statement relative to the identity and criminal record of the convicted person to the Central Bureau for Criminal Identification to be filed.

169.530 Sheriff's duty to receive federal prisoners. The sheriff shall receive and keep in the county jail every prisoner who is committed thereto under civil or criminal process issued by a court of the United States, until he is discharged according to the laws thereof, as if he had been committed under process issued by the authority of this state. He shall receive all sums payable by the United States for the use of the jail, and remit such sums to the county treasurer not later than the first day of the month succeeding their receipt. A sheriff or

jailer to whose custody such prisoner is committed is answerable for his safekeeping in the courts of the United States, according to the laws thereof.

shall pay for the support and keeping of prisoners committed by virtue of legal process issued by or under its authority, the same charges and allowance provided for the support or keeping of prisoners committed under the laws of this state.

169.540 Liability for expenses of keeping federal prisoners. The United States

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 December 2, 1957.

Sam R. Haley
Legislative Counsel

CHAPTER 170

[Reserved for expansion]

OUTSIDE



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