

Chapter 3

1959 REPLACEMENT PART

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JUDICIAL DISTRICTS, JUDGES AND JURISDICTION

3.010 Circuit court districts. There are nineteen judicial districts, designated as follows and composed respectively of the following counties:

(1) First District: Jackson and Josephine.

(2) Second District: Lane.

(3) Third District: Marion.

(4) Fourth District: Multnomah.

(5) Fifth District: Clackamas.

(6) Sixth District: Morrow and Umatilla.

(7) Seventh District: Hood River and Wasco.

(8) Eighth District: Baker.

(9) Ninth District: Harney and Malheur.

(10) Tenth District: Union and Wallowa.

(11) Eleventh District: Gilliam, Grant, Sherman and Wheeler.

(12) Twelfth District: Polk and Yamhill.

(13) Thirteenth District: Klamath.

(14) Fourteenth District: Lake.

(15) Fifteenth District: Coos and Curry.

(16) Sixteenth District: Douglas.

*

(17) Eighteenth District: Crook, Deschutes and Jefferson.

(18) Nineteenth District: Clatsop, Columbia, Tillamook and Washington.

*

(19) Twenty-first District: Benton, Lincoln and Linn. [Amended by 1957 c.713 §3]

*Note: In 1915 the legislature created judicial district 17 by substituted House Bill No. 308 which was vetoed by the Governor.

In 1951, the twentieth judicial district was abolished by Oregon Laws 1951, c. 441 §11.

3.020 [Amended by 1955 c.677 §2; 1957 c.665 §2; 1957 c.713 §4; repealed by 1959 c.557 §1 (ORS 3.022 enacted in lieu of ORS 3.020)]

3.021 [1953 c.52 §§1, 2, 3; repealed by 1955 c.677 §6]

3.022 Number of circuit judges in each district. There is one circuit judge for each judicial district, except that the following judicial districts have the number of circuit court judges indicated as follows:

(1) First District, three judges.

(2) Second District, three judges.

(3) Third District, four judges.

(4) Fourth District, fifteen judges.

(5) Fifth District, two judges.

(6) Fifteenth District, two judges.

(7) Sixteenth District, two judges.

(8) Nineteenth District, three judges.

(9) Twenty-first District, three judges. [1959 c.557 §2 (enacted in lieu of ORS 3.020)]

3.030 Election of circuit judges. Each circuit judge shall hold office for the term for which he was elected; and at the general election next prior to the expiration of his term of office there shall be elected a circuit judge to succeed him.

3.040 Qualifications of circuit judges; residence. (1) The judges of the circuit courts shall be citizens of the United States, and shall have resided in Oregon at least three years next preceding their election or appointment. They shall also be residents of their districts and shall have maintained such residence for at least one year immediately prior to becoming candidates either for election or appointment; provided, that in districts comprising but one county having a population of 200,000 or more, judges of the circuit courts shall be residents of their districts or shall have resided within 10 miles of the district boundary for a period of at least one year immediately prior to becoming candidates either for election or appointment.

(2) In the first judicial district, one circuit judge shall reside in Josephine County during his term of office and shall have maintained such residence for a period of at least one year immediately prior to becoming a candidate either for election or appointment to such judicial office, and one circuit judge shall reside in Jackson County during his term of office and shall have maintained such residence for a period of at least one year immediately prior to becoming a candidate either for election or appointment to such judicial office.

(3) At the time of appointment or election, one of the circuit judges of the nineteenth judicial district shall be a resident of Washington County, one a resident of Clatsop County, and one a resident either of Columbia County or Tillamook County.

(4) In the twenty-first judicial district one circuit judge shall be a resident of Linn County and one shall be a resident of Benton or Lincoln County. [Amended by 1955 c.677 §3; 1957 c.665 §4; 1957 c.713 §5]

3.050 Circuit judges to be members of bar. All persons elected circuit judges must, at the time of their election, have been admitted to practice in the Supreme Court of Oregon.

3.060 Salary of judges; expenses; fund for paying portion of salary. (1) Each of the judges of the circuit court shall receive an annual salary of \$13,000 to be payable monthly. They shall receive no other allowance for their services, except as authorized by this section. When any judicial district is composed of more than one county a judge thereof is entitled to reimbursement for his hotel bills and traveling expenses necessarily incurred by him in the performance of his duties outside the county of his residence. When any circuit judge holds court in any county outside of the judicial district for which he was elected or appointed, his hotel bills and traveling expenses necessarily incurred by him in the performance of that duty shall be paid by the state. Each circuit judge is entitled to reimbursement for his hotel bills and traveling expenses necessarily incurred by him in the performance of his duties as a member of the Judicial Council of the State of Oregon. Such hotel bills and traveling expenses are to be paid by the state upon the certificate of the judge to the truth of an itemized statement of such hotel bills and traveling expenses. The certificate of expenses is a sufficient voucher upon which the Secretary of State shall audit the claim and draw his warrant upon the State Treasurer for the amount thereof in favor of such circuit judge.

(2) All money collected and paid to the State Treasurer as provided in ORS 21.120 and 21.240 shall constitute a continuing appropriation for the purpose of paying a portion of the monthly salaries of the judges of the circuit courts. The Secretary of State shall keep a separate account of all money so collected and shall issue warrants on such account in payment of the monthly salaries of the judges of the circuit courts, to the extent that there are sufficient funds in the special account to pay the total monthly salary of one or more circuit judges. When the funds in such special account are insufficient to pay at least one circuit judge's monthly salary, the balance of the monthly salaries of the circuit judges shall be paid from the regular biennial appropriation for the payment of salaries of circuit judges. The Secretary of State is authorized and directed to audit and allow all duly verified claims against such special account and to draw his warrants on the State Treasurer in payment thereof. [Amended by 1953 c.516 §3; 1955

c.531 §1; 1957 c.646 §1; 1959 c.552 §14]

3.070 Powers of judges in chambers; filing and entering of decisions not signed in open court. Any judge of a circuit court in any judicial district may, in chambers, grant and sign defaults, judgments, decrees, interlocutory orders, provisional remedies, make findings, decide motions, demurrers and other like matters relating to any judicial business coming before him from any judicial district in which he has presided in such matters. He may hear, in chambers, contested motions, demurrers and other similar matters pending within his own county or counties, at any place within his district, and, upon stipulation of counsel, he may try and determine any issue in equity or in law where a jury has been waived, hear and decide motions, demurrers and other like matters, in chambers, at any place within the state where he may happen to be, relating to any judicial business coming before him from any judicial district in which he has presided in such matters. He may exercise these powers as fully and effectively as though the motions, demurrers, matters or issues were granted, ordered, decided, heard and determined in open court in the county where they may be pending. If signed other than in open court, all such orders, findings, judgments and decrees issued, granted or rendered, other than orders not required to be filed and entered with the clerk before becoming effective, shall be transmitted by the judge to the clerk of the court within the county where the matters are pending. They shall be filed and entered upon receipt thereof and shall become effective from the date of filing.

3.075 Powers of judges to act in joint or separate session; testing process. If two or more persons are sitting as judges of the circuit court in a judicial district:

(1) Any two or more of them may act in joint session for the trial or determination of any cause, matter or proceeding before the court in the judicial district, including jury cases. If the judges acting in joint session are equally divided in opinion, the opinion of the presiding judge, or if none, then of the judge senior in continuous service, or if neither, then of the judge senior in age, prevails; otherwise the decision of the majority prevails.

(2) Each of them may proceed separately with and try, simultaneously in the judicial district and during the same term,

all causes, matters and proceedings brought before the court.

(3) Process may be tested in the name of any of them. [1959 c.552 §9]

3.080 [Repealed by 1959 c.552 §16]

3.081 Temporary assignment by Supreme Court of circuit judge to other district or of district court judge as circuit judge. (1) The Supreme Court may assign a circuit court judge to serve temporarily as judge of any other circuit court or a district court judge to serve temporarily as judge of any circuit court whenever it appears to the Supreme Court that:

(a) Any judge of such other circuit court is absent therefrom, ill or otherwise temporarily unable to perform the duties of his office;

(b) Any judge of such other circuit court is disqualified from sitting in a particular case which he otherwise would hear;

(c) The docket of such other circuit court is so congested as to cause undue delay in the disposition of pending cases; or

(d) The assignment will promote the more speedy and efficient administration of justice.

(2) The assignment of a judge under this section shall be made by an order which shall designate the duration of his assignment. Promptly after the assignment of a judge under this section, the Chief Justice of the Supreme Court shall cause a certified copy of the order of assignment, under the seal of the court to be sent to the judge assigned and like copies to be filed in the offices of:

(a) The Secretary of State; and

(b) The clerk of the court to which the judge is assigned. The clerk shall enter a copy of the order in the journal of the court.

(3) It is the duty of a judge assigned under this section to comply with such assignment. [1959 c.552 §5]

3.090 [Repealed by 1959 c.552 §16]

3.091 Powers of judge assigned under ORS 3.081; reimbursement for expenses. (1) Each judge assigned under ORS 3.081 has all the powers and duties, during the term of his assignment, of a regularly elected judge of the other court in which he is to serve.

(2) Each judge assigned under ORS 3.081 shall receive reimbursement for his hotel bills and traveling expenses necessarily incurred by him in the performance of his duties under the assignment, which shall be

paid in the same manner as like expenses of circuit court judges are paid. [1959 c.552 §6]

3.096 Challenge of temporary assignment. The assignment of the judge assigned as provided in subsection (1) of ORS 3.081, or his right to serve as judge of the other court during the term of such assignment, shall be subject to challenge only in a direct proceeding instituted for that purpose as provided in ORS 30.510 to 30.640. Such proceeding may be instituted in the Supreme Court if it consents to take original jurisdiction thereof. [1959 c.552 §7]

3.100 [Repealed by 1959 c.552 §16]

3.102 [Formerly 3.110; amended by 1959 c.576 §1; renumbered 3.570]

3.105 [1953 c.35 §1; repealed by 1959 c.549 §7]

3.106 [1953 c.35 §2; repealed by 1959 c.549 §7]

3.107 [1953 c.35 §3; repealed by 1959 c.549 §7]

3.108 [1953 c.35 §4; repealed by 1959 c.549 §7]

3.109 [1953 c.35 §5; repealed by 1959 c.549 §7]

3.110 [Renumbered 3.102]

3.111 [1953 c.35 §6; repealed by 1959 c.549 §7]

3.112 [1953 c.35 §9; repealed by 1959 c.549 §7]

3.113 [1953 c.35 §7; repealed by 1959 c.549 §7]

3.114 [1953 c.35 §8; repealed by 1959 c.549 §7]

3.115 [1953 c.35 §10; repealed by 1959 c.549 §7]

3.120 [Repealed by 1959 c.552 §16]

3.130 Transfer of judicial jurisdiction of certain county courts to circuit courts.

(1) All judicial jurisdiction, authority, powers, functions and duties of the county courts and the judges thereof, except the jurisdiction, authority, powers, functions and duties exercisable in the transaction of county business, are transferred to the circuit courts and the judges thereof:

(a) In any judicial district consisting of only one county and having less than 300,000 population and more than 35,000 population; and

(b) In any judicial district consisting of

two counties and having less than 100,000 population and more than 70,000 population and having two circuit judges; and

(c) In any county having a population of more than 35,000 and less than 55,000 and located within a judicial district consisting of two counties and having two circuit judges; and

(d) In any judicial district consisting of only one county and having less than 14,000 population and more than 6,500 population.

(2) All matters, causes and proceedings, except those relating to county business, pending in a county court at the time a county or district comes within the scope of this section, shall be transferred to the circuit court for that county. [Amended by 1955 c.677 §4; 1957 c.275 §1; 1957 c.713 §6]

Note: Pursuant to this section judicial jurisdiction of the county court and judge thereof was transferred to the circuit court in the following counties: (1) (a)—Clackamas, Douglas, Klamath, Lane and Marion; (1) (b)—Jackson and Josephine; (1) (c)—Coos; (1) (d)—Lake.

Pursuant to 1919 c.59 §4 (repealed by 1949 c.530 §7), all judicial jurisdiction of the county court and judge thereof was transferred to the circuit court in Multnomah County.

Pursuant to ORS 46.092 to 46.098, prior to amendment by 1957 c.403, probate jurisdiction was transferred from certain county courts to district courts. Pursuant to ORS 46.025, a district court was established in Coos County prior to the effective date of the transfer of judicial jurisdiction from the county court to the circuit court in Coos County under ORS 3.130(1)(c). Thus, the transfer of judicial jurisdiction pursuant to ORS 3.130(1)(c) appears not to include probate jurisdiction.

3.140 Application of laws governing county courts to circuit courts exercising judicial jurisdiction formerly vested in county courts; power to make rules. (1) The circuit courts and the judges thereof in each of these districts or counties described in ORS 3.130, shall be governed by the existing laws relating to the exercise of the transferred judicial jurisdiction, authority, powers, functions and duties of the county courts and the judges thereof, in so far as they may be applicable, as though the circuit courts and the judges thereof had originally been referred to in the existing laws; except that the circuit courts and the judges thereof shall have in the first instance exclusive jurisdiction in equity in all matters pertaining to probate, including the construction and declaration of rights under wills and the determination of questions of title to real, personal or mixed property thereunder, and in a probate proceeding in which a claim is rejected by the executor or administrator, the claimant may present the claim to the

circuit court for allowance as provided in ORS 116.525 and 116.530, or he may, and if the executor or administrator demands it in writing, he shall, in the first instance bring a separate plenary action or suit against the executor or administrator on the claim.

(2) The judges of the circuit courts may make all rules and regulations, not inconsistent with law, to facilitate the transaction of business and render effectual the provisions of ORS 3.130, 3.140 and 7.230.

3.150 Transfer of juvenile and domestic relations matters from district and justice courts in Marion County to circuit court. In every judicial district comprising but one county and having a population of more than 90,000 but less than 125,000, according to the latest federal decennial census, all jurisdiction of the district court and justice courts pertaining to proceedings involving dependent, neglected or delinquent children, proceedings for the apprehending, trial and punishment of persons charged with contributing to the delinquency or dependency of minors, or with any other offense against a minor, or with failure or refusal to support wife or children, is transferred to and vested in the circuit court. All such matters pending in the district court or a justice court are transferred to, and continued in, and shall be heard and determined by, the circuit court. The procedure and practice pertaining to matters, the jurisdiction of which is transferred by this section, shall be governed by the laws applicable to such matters, without change, and appeals may be taken direct to the Supreme Court from the judgments, decrees and other appealable orders of the circuit court therein, as in other cases. [Amended by 1957 (s.s.) c.8 §1]

3.160 Assignment of domestic relations and juvenile matters to department of domestic relations in Marion County. In every judicial district comprising but one county and having a population of more than 90,000 but less than 125,000, according to the latest federal decennial census, there shall be four circuit judges and four departments of the circuit court, one of which shall be designated the department of domestic relations. One of the circuit judges, to be designated by law, shall sit in the department of domestic relations. There shall automatically be assigned to the department of domestic relations all domestic relations matters. For the purposes of this

section, "domestic relations matters" includes suits for divorce, either absolute or from bed and board; suits for annulment of the marriage contract; separate maintenance proceedings; and matters commonly known as juvenile court matters, including the matters referred to in ORS 3.150. [Amended by 1957 (s.s.) c.8 §2; 1959 c.557 §3]

3.170 Reassignment of matters pending in department of domestic relations in Marion County. Whenever, in a circuit court having a department of domestic relations under ORS 3.160, the department becomes congested with business, matters pending in that department may be reassigned to other judges of the court, pursuant to rules made in accordance with ORS 3.220. In case of absence or disability of the judge of the domestic relations department, one of the other judges of the court may preside in that department.

3.180 to 3.200 [Reserved for expansion]

MULTIPLE JUDGE DISTRICTS, EXCEPTING MULTNOMAH COUNTY

3.210 Designation and use of position numbers. The positions of the circuit judges, and their successors in office, in the first, second, third, fifth, fifteenth, sixteenth, nineteenth and twenty-first judicial districts shall be designated by numbers as follows:

(1) First District: Position No. 1, Position No. 2 and Position No. 3.

(2) Second District: Position No. 1, Position No. 2 and Position No. 3.

(3) Third District: Position No. 1, Position No. 2, Position No. 3 and Position No. 4. The judge holding Position No. 3 shall preside over the department of domestic relations.

(4) Fifth District: Position No. 1 and Position No. 2.

(5) Fifteenth District: Position No. 1 and Position No. 2.

(6) Sixteenth District: Position No. 1 and Position No. 2.

(7) Nineteenth District: Position No. 1, Position No. 2 and Position No. 3.

(8) Twenty-first District: Position No. 1, Position No. 2 and Position No. 3. [Amended by 1955 c.677 §5; 1957 c.665 §3; 1957 c.713 §8; 1959 c.557 §4]

3.220 Apportionment of judicial business in certain judicial districts; rules and regulations. The circuit judges of the first,

second, fifth, fifteenth, sixteenth, nineteenth and twenty-first judicial districts and, except as provided in ORS 3.160 and 3.170 with respect to domestic relations matters, the judges in any judicial district described in ORS 3.160, may apportion and otherwise regulate the disposition of the judicial business of the court as they agree among themselves. The circuit judges of the first, fifth, fifteenth, sixteenth, nineteenth and twenty-first judicial districts, and of any judicial district described in ORS 3.160, may also make and promulgate all rules and regulations necessary and convenient to facilitate the transaction of judicial business. In the case of disagreement in the first or twenty-first judicial district, the decision of the judge senior in service, or if none, then of the judge senior in age, entered in the journal, shall control; if a majority cannot agree in the fifth, fifteenth, sixteenth or nineteenth judicial district or in any judicial district described in ORS 3.160, the decision of the presiding judge shall control. In the fifth, fifteenth, sixteenth and nineteenth judicial districts and in any judicial district described in ORS 3.160, the judge having the longest continuous service, or, if two or more have been in continuous service the same length of time, the judge senior in age, shall act as presiding judge. [Subsection (2) of 1955 part derived from 1953 c. 52 §§6, 7; 1957 c.713 §9]

3.230 [Subsection (3) of 1957 part derived from 1953 c.52 §6; 1957 c.713 §10; 1957 (s.s.) c.8 §3; repealed by 1959 c.552 §16]

3.240 Lane County to provide offices, courtrooms and supplies for circuit judges. Lane County shall provide suitable offices and courtrooms for three circuit judges and clerks therefor and all blanks, papers, books, stationery and furniture necessary to the transaction of the business of the three judges and the keeping of the records of their court proceedings. [Amended by 1957 c.713 §11]

3.250 to 3.300 [Reserved for expansion]

MULTNOMAH COUNTY

3.310 Providing for judges and departments in circuit courts in judicial districts of one county with population of 300,000 or more; exceptions for Multnomah County; duties of judges in probate and domestic relations departments. (1) ORS 3.310 to 3.400 apply to every judicial district consisting of one county having a population of 300,000 or

more, according to the latest federal decennial census.

(2) There shall be 15 circuit judges in such judicial district and 15 departments, which departments shall be designated by appropriate numbers. One department shall be designated as the department of probate, and one as the department of domestic relations.

(3) One of the circuit judges of each such judicial district shall sit in the department of probate, and two others shall sit in the department of domestic relations. Their duties, authorities, powers and jurisdiction, in addition to the duties provided by ORS 3.310 to 3.400, shall be those prescribed for circuit judges generally.

(4) All laws pertaining to circuit courts shall be applicable to the departments of probate and domestic relations, unless otherwise expressly provided by this chapter or by ORS 7.220 [Amended by 1955 c.715 §2; 1959 c.557 §5]

3.320 Matters assigned to probate and domestic relations departments. There shall be assigned automatically to the department of probate all probate matters and proceedings concerning mentally diseased persons and to the department of domestic relations all suits for dissolution or annulment of marriage contracts or for separation from bed and board where there are minor children involved.

3.330 Jurisdiction of court over domestic relations matters; continuation of jurisdiction vested by laws which pertained to courts or departments of domestic relations.

(1) All causes, matters and proceedings pertaining to domestic relations shall be within the jurisdiction of the circuit court of a judicial district described in ORS 3.310; and all laws, including the provisions of subsection (2) of this section, which were in effect on July 16, 1949, and which theretofore were administered in or pertained to courts or departments of domestic relations in such districts and which are not inconsistent with the provisions of ORS 3.310 to 3.410 are continued in force.

(2) The circuit court of a judicial district described in ORS 3.310 shall have original and exclusive jurisdiction in the following matters:

(a) All proceedings concerning dependent, delinquent or neglected children, and to provide medical and surgical treatment for

sick and deformed indigent children, under the supervision of the medical department of the University of Oregon.

(b) All proceedings for the apprehending, trial and punishment of persons charged with contributing to the delinquency or dependency of minors.

(c) All proceedings brought for the adoption of children and the change of name.

(d) All proceedings for the examination and commitment of feeble-minded, idiotic, epileptic or criminally inclined persons 18 years of age or under, to institutions or otherwise, for custodial care.

(e) All proceedings for the apprehending, trial and punishment of any person charged with failing or refusing to support his wife or children.

3.340 Probate jurisdiction; summary or plenary action on rejected probate claims. There also is conferred upon, and vested in, the circuit court of a judicial district described in ORS 3.310 full, complete, general and exclusive jurisdiction, authority and power in equity, in the first instance, in all matters whatever pertaining to a court of probate, including the construing of, and declaration of rights under, wills and codicils, and therein the determining of question of title to real, personal or mixed properties; and in a probate proceeding in which a claim is rejected by the executor or administrator, the claimant may present such claims to the circuit court, or a judge thereof, for allowance, as provided by ORS 116.525 and 116.530, or he may, and if such executor or administrator demand it in writing, he shall, in the first instance bring a separate plenary action or suit against such executor or administrator on the claim.

3.350 Practice and procedure in circuit courts in probate and domestic relations matters to be uniform with that governing such matters in other courts. (1) In any cause, matter or proceeding over which by existing laws the circuit court of a judicial district described in ORS 3.310 has jurisdiction, the procedure and practice shall be governed by existing laws applicable to such cause, matter or proceeding without change.

(2) In the circuit court of a judicial district described in ORS 3.310, the procedure and practice pertaining to causes, matters and proceedings in domestic relations and

probate shall be governed by the laws applicable to such causes, matters and proceedings without any change, and appeals may be taken direct to the Supreme Court from the judgments, decrees and other appealable determinative orders of the circuit court therein, as in other cases.

3.360 Transferring business between departments. Whenever the department of domestic relations and department of probate, or either of them, become congested with business, the presiding judge of the circuit court of a judicial district described in ORS 3.310, may assign such causes and proceedings as he deems necessary or desirable for the orderly and expeditious conduct of the court's business to other departments, in the manner provided by rule of the court.

3.370 [Repealed by 1959 c.552 §16]

3.380 Power of judges to make rules and regulations. The judges, or a majority of them, of the circuit court of a judicial district described in ORS 3.310 may jointly make and promulgate all rules and regulations necessary to facilitate the transaction of judicial business. In case of a want of majority in any such matter the decision thereon of the judge senior in service, or, if two or more judges have the same length of service, the decision of the judge senior in age, entered in the journal, shall control.

3.390 Continuation of causes pending in districts coming within the provisions of ORS 3.310 to 3.400; numbering of cases in order filed. (1) All causes, matters and proceedings pending in the circuit court of a judicial district described in ORS 3.310 shall be and they are continued, and shall be heard and determined in such circuit courts without interruption due to ORS 3.310 to 3.400.

(2) All cases brought in the court shall be numbered in the regular and consecutive order of the filing thereof.

3.400 ORS 3.310 to 3.400 not intended to reduce jurisdiction of circuit courts or judges or to change manner of assigning causes to departments. Nothing contained in ORS 3.310 to 3.400 shall be construed to abrogate, reduce or interfere with any of the jurisdiction, power or authority of the circuit court or any circuit judge, nor shall anything in such sections be construed to change the present manner of assigning causes, matters and proceedings to the re-

spective departments of circuit courts of such judicial district.

3.410 Judges to sit in departments in Multnomah County Circuit Court; departments of domestic relations and probate.

(1) The circuit judges of the fourth judicial district each shall perform the duties and functions of a circuit judge of the district and shall sit in a department according to the provisions contained in section 16, chapter 530, Oregon Laws 1949, chapter 643 or 644, Oregon Laws 1951, section 1, chapter 715, Oregon Laws 1955 or section 7, chapter 557, Oregon Laws 1959.

(2) In the fourth judicial district the department of domestic relations consists of departments 11 and 12; the department of probate is department 7 and the other departments are departments 1, 2, 3, 4, 5, 6, 8, 9, 10, 13, 14 and 15. The judge senior in service in the department of domestic relations shall be the presiding judge of departments 11 and 12 and shall assign the business of the department of domestic relations.

(3) All business found in one department of the fourth judicial district belonging to another department may be transferred by order of the court, so as to be heard and determined in the proper department; but it shall be lawful to do any of the business of the court in any department.

(4) Any of the judges in the fourth judicial district may act in any department. In case of the absence or disability of a judge in any department, it shall be the duty of the judges of the other departments, so far as practicable, to act in such department. [Amended by 1955 c.715 §3; 1959 c.557 §6]

3.420 to 3.500 [Reserved for expansion]

CIRCUIT JUDGES PRO TEMPORE

3.510 Judges pro tempore appointed by Supreme Court; eligibility. (1) The Supreme Court may appoint any qualified person to serve as circuit judge pro tempore in any county or in any judicial district whenever it shall appear to the Supreme Court that:

(a) Any circuit judge of such district is absent therefrom, ill, or otherwise unable to perform the duties of his office;

(b) Any circuit judge for such district is disqualified from sitting in a particular case which he otherwise would hear;

(c) The docket for any county in such district is so congested as to cause undue delay in the disposition of pending cases; or

(d) The assignment will promote the more speedy and efficient administration of justice.

(2) To be eligible for appointment as circuit judge pro tempore the appointee must be:

(a) A resident of the State of Oregon; and

(b) An attorney who has been a member of the Oregon State Bar for a period of at least three years next preceding his appointment.

(3) The appointment of a circuit judge pro tempore shall be made by order of the Supreme Court which shall designate the county or counties or district or districts in which he is authorized to serve and the duration of his appointment. If the appointment is made pursuant to paragraph (b) of subsection (1) of this section the order shall also identify the particular case in which the appointee is authorized to sit as judge pro tempore. [1959 c.549 §1]

3.520 Oath; certification; challenge. (1)

The appointment of a circuit judge pro tempore shall not become effective until the appointee shall have subscribed and filed in the office of the Secretary of State an oath or affirmation substantially as follows:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Oregon, and that I will faithfully discharge the duties of the office of judge of the circuit court of the State of Oregon to the best of my ability."

Upon the filing of such oath or affirmation, the appointee shall become qualified to enter upon the performance of his duties as circuit judge pro tempore.

(2) Promptly after the appointment and qualification of a circuit judge pro tempore, the Chief Justice of the Supreme Court shall cause a certified copy of the order of appointment, under the seal of the court, to be sent to the appointee and like copies to be filed in the offices of:

(a) The Secretary of State;

(b) The county clerk of each county in which such circuit judge pro tempore is to serve; and

(c) The secretary of the Oregon State Bar.

Each such county clerk shall enter a copy of the order in the journal of the circuit court for his county.

(3) The eligibility, appointment or qualification of the appointee, or his right to fill the position of circuit judge pro tempore in any particular county or district during the term of such appointment, shall be subject to challenge only in a direct proceeding instituted for that purpose as provided in ORS 30.510 to 30.640. Such proceedings may be instituted in the Supreme Court if it shall consent to take original jurisdiction thereof. [1959 c.549 §2]

3.530 Authority; transfer; disqualification. (1) Every circuit judge pro tempore appointed and qualified as provided in ORS 3.510 to 3.560 shall be vested, during the term of his appointment, with all the powers, jurisdiction and judicial authority of a regularly elected and qualified judge of the circuit court for the county or counties in which such circuit judge pro tempore is appointed or assigned to serve; provided, that the powers, jurisdiction and judicial authority of a circuit judge pro tempore appointed pursuant to paragraph (b) of subsection (1) of ORS 3.510 shall be limited to the case identified in the order of appointment.

(2) A circuit judge pro tempore appointed to serve in any county or judicial district may at any time during the term of such appointment be transferred and assigned by the Chief Justice of the Supreme Court to serve as circuit judge pro tempore in any one or more other counties or judicial districts; but the original term of appointment shall not be extended by any such transfer or assignment.

(3) A circuit judge pro tempore appointed or assigned to serve in a county or judicial district in which there is then on active duty one or more regularly elected circuit judges of the district shall be subject to the directions of the regular presiding judge with respect to the assignment of cases and the general administration of the business of the court.

(4) A circuit judge pro tempore shall be subject to disqualification to sit in any case for any of the causes specified in ORS 14.210 or 14.250. [1959 c.549 §3]

3.540 Duties; expiration, extension or termination of term. (1) It shall be the duty of every circuit judge pro tempore to hear, decide and dispose of all cases and matters submitted to him as promptly as the nature of the questions involved will permit.

(2) The powers, jurisdiction and judicial authority of a circuit judge pro tempore

with respect to any case or matter tried or heard before him during the term of his appointment shall continue beyond the expiration of such term so far as may be necessary to enable him to:

(a) Decide and dispose of any case or matter on trial or held under advisement by him when the term of his appointment expires;

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, which may be filed in the case;

(c) Settle and sign a bill of exceptions, and grant extensions of time therefor.

(3) The Supreme Court at any time by order may:

(a) Extend the term of appointment of any circuit judge pro tempore, subject to the limitations stated in ORS 3.550;

(b) Terminate the term of appointment of any circuit judge pro tempore as of a date specified in such order; but no such termination shall affect the validity of any judgment, decree, order or other action of the appointee prior to the effective date of the termination. [1959 c.549 §4]

3.550 Limitation on length of service; disqualification as attorney. No person appointed to serve as circuit judge pro tempore in any judicial district shall be eligible to:

(a) Serve as circuit judge pro tempore for more than 90 calendar days under any one appointment, or for more than 180 calendar days in any one calendar year, subject to the provisions of subsection (2) of ORS 3.540.

(b) Appear as attorney in any case tried by a jury at the same term of court during which he served as circuit judge pro tempore. [1959 c.549 §5]

3.560 Compensation; reimbursement for expenses; effect on retirement pay. (1) Each circuit judge pro tempore shall receive as compensation for his services \$50 for each day he is actually engaged in the performance of his duties. Such compensation shall be paid upon the certificate of such circuit judge pro tempore that such services were performed for the number of days shown in such certificate, and in the same manner as the salaries of the regularly elected circuit judges are paid.

(2) If any circuit judge pro tempore is appointed or assigned to serve in a county other than a county in which he resides or maintains an office he shall receive, in addition

to his per diem compensation, reimbursement for the hotel and traveling expenses necessarily incurred by him in the performance of such duties, which shall be paid upon presentation of an itemized statement of such expenses, certified by such circuit judge pro tempore to be correct, in the same manner as like expenses of regularly elected circuit judges are paid.

(3) If a retired judge of the Supreme Court or of the circuit court shall serve as judge pro tempore of the circuit court pursuant to ORS 3.510 to 3.560, neither such service nor the receipt of compensation therefor shall reduce or affect the amount of any retirement pay to which he otherwise would be entitled. [1959 c.549 §6]

3.570 Judges pro tem by stipulation of parties; oath; compensation; disqualification as attorney. (1) A case in the circuit court, including all questions of law or fact, may be heard, determined and tried by a judge pro tem who must be a member of the bar. His appointment must be agreed upon in writing by the parties litigant, or by their attorneys of record, and must be approved by the court. His action in the trial of the cause shall have the same effect as if he were a judge of the court.

(2) Before entering upon his duties in any cause being heard by him by virtue of agreement of the parties litigant, he shall take and subscribe the following oath, or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States, and the Constitution of Oregon, and that I will faithfully discharge the duties of the office of judge pro tem in the cause wherein _____ is plaintiff and _____ defendant, according to the best of my ability."

(3) A judge pro tem shall receive compensation of \$50 for each day he actually is engaged in trial, to be paid in the same manner as salaries of circuit judges, upon certificate of the county clerk that the service was performed.

(4) No person serving as a judge pro tem in counties of 300,000 or more population, in the trial of any case before a jury, shall appear as an attorney in the trial of any other case before a jury during the same term of court. [Formerly 3.102]

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 November 1, 1959.

Sam R. Haley
Legislative Counsel