Chapter 7

1957 REPLACEMENT PART

(1962 reprint)

Records and Files of Courts

DESCRIPTION OF COURT RECORDS

7.010 Records of court
7.020 Register, how kept
7.030 Journal; entries
7.040 Judgment docket; arrangement
7.050 Execution docket
7.060 Fee book
7.070 Jury book
7.080 Final record
7.090 Files of court

CUSTODY AND EXAMINATION OF RECORDS AND FILES, AND THEIR SUBSTITUTION OR RESTORATION

7.110 Custody of records and files
7.120 Destruction of notes, tapes, audio records and exhibits of circuit court cases
7.130 Search and examination of records and files; certified copies
7.140 Substitution of copy of lost record
7.150 Order of restoration when no copy available
7.160 Restoration of destroyed probate records
7.170 When copy of Supreme Court record may be filed in lower court; effect when original is lost or destroyed

RECORDS IN ADOPTION, PROBATE, DOMESTIC RELATIONS AND JUVENILE PROCEEDINGS

7.211 Separate records in adoption cases; accessibility of records limited
7.220 Separation of probate and domestic relations records in Multnomah County Circuit Court
7.225 Domestic relations records in circuit court in certain counties to be kept separate
7.230 Probate and juvenile court records to be kept separate
7.240 Records in probate matters

CROSS REFERENCES

Compliance with administrative rules and orders of Supreme Court, 1.006
District court records generally, 46.730 to 46.760; in the small claims department, 46.540
Duties relating to administration of justice, enforcement of by mandamus, 1.025
Justices' courts, records and files in, 51.110
Juvenile court records, 419.498, 419.555, 419.567
Public records, Ch. 192
Tax court records, 305.485
Transfer of county court records on contested adoptions to circuit court, 109.345

7.040

Docketing decrees, 18.020, 18.060, 18.310
Docketing judgments, effect, 18.320, 18.350, 18.400

7.080

Trial court file, 18.335, 137.220

7.090

Filing of papers, 16.860
Trial court file, 18.335, 137.220

7.120

Destruction of records generally, Ch. 192

7.130

Delivery of evidence against juvenile unlawful, 419.567
Inspection of records by all persons, 192.030

7.211

Filing adoption certificate of foreign nation, 109.385
Filing adoption report form with State Registrar, 109.400

7.230

Juvenile records, 419.498, 419.555, 419.567
Rule-making power of courts with respect to records, 3.140

DESCRIPTION OF COURT RECORDS

7.010 Records of court. The records of the circuit and county courts include a register, journal, judgment docket, execution docket, fee book, jury book and final record. The records of the Supreme Court are the register, journal and fee book only.

7.020 Register, how kept. The register is a book wherein the clerk shall enter, by its title, every action, suit or proceeding commenced in, or transferred or appealed to, the court whereof he is clerk, according to the date of its commencement, transfer or appeal. And thereafter, until the entry of judgment, he shall note therein, according to the date thereof, the filing or return of any paper or process, or the making of any order, rule or other direction in or concerning such action, suit or proceeding.

7.030 Journal; entries. The journal is a book wherein the clerk shall enter the proceedings of the court during term time, and such proceedings in vacation as the statutes specially direct.

7.040 Judgment docket; arrangement. The judgment docket is a book wherein judgments and decrees are docketed, as provided by statute. Each page shall be divided into eight columns and headed as follows: Judgment Debtors; Judgment Creditors; Amount of Judgment; Date of Entry in Journal; When Docketed; Appeal, When Taken; Decision on Appeal; Satisfaction, When Entered.

7.050 Execution docket. The execution docket is a book wherein the clerk shall note, under the title of every cause, the issue and return of execution, and generally the filing or return of any paper or process, or the making of any order, rule or other direction therein, from and after the entry of judgment or decree, until satisfaction or performance thereof.

7.060 Fee book. The fee book is a book wherein the clerk shall enter, under the title of every cause, against the party to whom the service is rendered, the clerk's fees earned, and whether received or not received, and none other, except as specially directed by statute.

7.070 Jury book. The jury book is a book wherein the clerk shall enter the names of the persons attending upon the court at a particular term as grand or trial jurors, the time of the attendance of each, and when discharged or excused, and the amount of fees and mileage earned by each.

7.080 Final record. The final record is a book wherein the clerk shall record the papers, pleadings and proceedings in a cause, as provided by statute.

7.090 Files of court. The files of the court are all papers or process filed with or by the clerk of the court, in any action, suit or proceeding therein, or before the judge.

7.100 [Reserved for expansion]

CUSTODY AND EXAMINATION OF RECORDS AND FILES, AND THEIR SUBSTITUTION OR RESTORATION

7.110 Custody of records and files. The records and files of the court are to be kept in the clerk's office, in his custody, and he is responsible for them. They shall not be taken out of the office by any one, except by the judge of the court or an attorney thereof, when allowed by special order of the court or judge, or by some general rule prescribed by the court and entered in the journal.

7.120 Destruction of notes, tapes, audio records and exhibits of circuit court cases. Except as otherwise provided, a county clerk, who has possession of notes, tapes or audio records or exhibits introduced in the circuit court in cases determined more than 10 years prior thereto, may destroy those notes, tapes or audio records, and destroy or otherwise dispose of the exhibits upon order made by the presiding circuit judge of the district. This section shall not apply in cases involving the determination of water rights. [Amended by 1955 c.497 §1]

7.130 Search and examination of records and files; certified copies. Whenever requested, the clerk of a court shall furnish to any person a certified copy of any portion of the records or files in his custody. No person other than the clerk is entitled to make such copy, or to have the use of the records or files for such purpose. Whenever requested, the clerk shall search the records and files, and give a certificate thereof according to the nature of the inquiry.

7.140 Substitution of copy of lost record. If the record of any judgment, decree or other proceeding of any judicial court of this state, or any part of the record of any

judicial proceeding, is lost or destroyed, any party or person interested may, on application, by petition in writing under oath to the court and on showing to its satisfaction that the record has been lost or destroyed without fault or neglect of the applicant, obtain an order from the court authorizing the defect to be supplied by a certified copy of the original record when it can be obtained. The certified copy shall have the same effect as the original record.

7.150 Order of restoration when no copy available. If the loss or destruction of any record or part thereof as mentioned in ORS 7.140 has happened and the defect cannot be supplied as therein provided, any party or person interested may make a written application to the court, to which the record belonged, verified by affidavit showing its loss or destruction and that certified copies cannot be obtained by the applicant. It shall also show the substance of the record and that its loss or destruction occurred without the fault or neglect of the applicant. Thereupon the court shall cause the application to be entered of record in the court, and due notice of it shall be given as in actions at law, that it will be heard by the court. If, upon the hearing, the court shall be satisfied that the statements contained in the written application are true, it shall make an order reciting what was the substance and effect of the lost or destroyed record. This order shall be entered of record in the court, and have the same effect which the original record would have had so far as concerns the applicant and the persons who shall have been notified as herein provided. The record in all cases when the proceeding was in rem, and no personal service was had, may be supplied upon like notice as nearly as may be as in the original proceeding. The court in which the application is pending may in all cases in which publication is required direct, by order, to be entered of record, the form of the notice, and designate the newspaper or newspapers in which it shall be published.

7.160 Restoration of destroyed probate records. In case of the destruction of the records or any part thereof of any court having probate jurisdiction, the judge of the court may proceed, upon his own motion or upon application in writing of any party in interest, to restore the records, papers and proceedings of the court relating to the estate of a deceased person, including recorded wills and wills probated or filed for probate in the court. For this purpose he may cause citations to be issued to any parties designated by him, and he may compel the attendance in court of witnesses whose testimony may be necessary to the establishment of the record or part thereof. He may also compel the production of written or documentary evidence which he deems necessary in determining the true import and effect of the original record, will, paper or other document belonging to the files of the court. He may also make orders and decrees establishing the original record, will, paper, document or proceeding, or its substance, as to him shall seem just and proper. The judge may make all rules and regulations governing the proceedings for the restoration as in his judgment will best secure the rights and protect the interest of all parties concerned.

7.170 When copy of Supreme Court record may be filed in lower court; effect when original is lost or destroyed. In case of the loss or destruction of the original record of any cause removed to the Supreme Court, a certified copy of the record of the cause remaining in the Supreme Court may be filed in the court from which the cause was removed, on motion of any interested party or person. The copy filed shall have the same effect as the original record would have had if it had not been lost or destroyed.

7.180 to 7.200 [Reserved for expansion]

RECORDS IN ADOPTION, PROBATE, DOMESTIC RELATIONS AND JUVENILE PROCEEDINGS

7.210 [Repealed by 1957 c.412 §1]

7.211 Separate records in adoption cases; accessibility of records limited. The clerk of any court having jurisdiction over adoption cases shall keep a separate journal, index and fee book in all cases of adoption filed in such court. The journal, index and fee book shall not be subject to the inspection of any person, except upon order of the court. Adoption proceedings shall not be entered upon the general journal of the court, nor shall the clerk disclose to any person, without the court order, any information appearing in the adoption journal, index or fee book. The clerk or any other person having custody of any records or files in such cases shall not disclose them to any person without

the court order. Nothing contained in this section shall prevent the clerk from certifying copies of a decree of adoption to the petitioners in such proceeding or their attorney. At the time of the entry of any final decree of adoption, the clerk or other person having custody of the files in such cases shall cause all records, papers and files relating to the adoption to be sealed in the record of the case and such sealed records, papers and files shall not be unsealed, opened or subject to the inspection of any person except upon order of a court of competent jurisdiction. [1957 c.412 §3 (enacted in lieu of ORS 109.340)]

7.220 Separation of probate and domestic relations records in Multnomah County Circuit Court. In so far as practicable, the records, files, receipts and disbursements of the departments of probate and domestic relations shall be kept separate from each other and from those of the other departments of the circuit court described in ORS 3.310. The departments of probate and domestic relations shall, for the guidance of the clerk of the court, make their respective rules, consistent with existing laws, concerning the manner of keeping their records.

7.225 Domestic relations records in circuit court in certain counties to be kept separate. In the judicial districts described in ORS 3.160, the records, files and proceedings of the department of domestic relations shall, so far as practicable, be kept separate and apart from the other records, files and proceedings of the circuit court.

7.230 Probate and juvenile court records to be kept separate. In so far as may be practicable and convenient the records and proceedings pertaining to probate and juvenile matters shall be kept separate from the other records and proceedings of the circuit courts described in ORS 3.130.

7.240 Records in probate matters. The proceedings in probate matters shall be entered and recorded by the clerk of the court in the following books:

(1) A register, in which shall be entered a memorandum of all official business transacted by the court or judge thereof, pertaining to the estate of each decedent, under the name of such decedent, and that pertaining to each guardianship and conservatorship, under the name of the ward.

(2) A record of wills, in which shall be recorded all wills admitted to probate by the order of the court or judge thereof, with the authenticated record of all foreign wills.

(3) A probate journal, in which shall be entered all orders in probate, administration, guardianship and conservatorship proceedings.

(4) A record of bonds, in which shall be recorded the undertakings of all executors, administrators, guardians and conservators, with the approval of the judge endorsed thereon.

(5) A probate index, in which shall be kept an index of all the foregoing records under the names of the persons to whose estate, person or business the entries relate, which names shall be arranged chronologically in alphabetical order.

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