

Chapter 3

1961 REPLACEMENT PART

Circuit Courts Generally

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JUDICIAL DISTRICTS, JUDGES AND JURISDICTION

3.010 [Amended by 1957 c.713 §3; repealed by 1961 c.724 §34]

3.011 Judicial districts; judges and position numbers. The judicial districts, the counties constituting the judicial districts, the number of circuit court judges for each judicial district and the position numbers of circuit court judges for each judicial district, except the fourth judicial district, having two or more circuit court judges are as follows:

Judicial District	Counties	No. of Judges	Position Numbers
1	Jackson and Josephine	3	1, 2 and 3
2	Lane	3	1, 2 and 3
3	Marion	4	1, 2, 3 and 4
4	Multnomah	15	
5	Clackamas	4	1, 2, 3 and 4
6	Morrow and Umatilla	1	
7	Hood River and Wasco	1	
8	Baker	1	
9	Harney and Malheur	1	
10	Union and Wallowa	1	
11	Gilliam, Grant, Sherman and Wheeler	1	
12	Polk and Yamhill	1	
13	Klamath	2	1 and 2
14	Lake	1	
15	Coos and Curry	2	1 and 2
16	Douglas	2	1 and 2
18	Crook, Deschutes and Jefferson	1	
19	Clatsop, Columbia, Tillamook and Washington	3	1, 2 and 3
21	Benton, Lincoln and Linn	3	1, 2 and 3

[1961 c.724 §1]

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.

3.015 Exceptions to ORS 3.011 for Clackamas County. Notwithstanding the provisions of ORS 3.011, there shall be three circuit court judges for the fifth judicial district on and after the date of the first vacancy, for any cause other than expiration of elective term, in the office of any circuit court judge for the fifth judicial district occurring after August 9, 1961, and the positions of such three circuit court judges, and their successors in office, shall be designated by numbers as Position No. 1, Position No. 2 and Position No. 3, as the three circuit

court judges holding office on the date of such first vacancy agree among themselves. [1961 c.724 §32]

3.020 [Amended by 1955 c.677 §2; 1957 c.665 §2; 1957 c.713 §4; repealed by 1959 c.557 §1 (ORS 3.022 enacted in lieu of ORS 3.020)]

3.021 [1953 c.52 §§1, 2, 3; repealed by 1955 c.677 §6]

3.022 [1959 c.557 §2 (enacted in lieu of ORS 3.020); repealed by 1961 c.724 §34]

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 [Amended by 1955 c.677 §3; 1957 c.665 §4; 1957 c.713 §5; repealed by 1961 c.724 §34]

3.041 Qualifications of circuit judges; residence. (1) Each judge of the circuit court shall be a citizen of the United States and a resident of this state.

(2) Each judge of the circuit court shall be a resident of or have his principal office in his judicial district, except that in any judicial district having a population of 500,000 or more, according to the latest federal decennial census first effective as provided in ORS 3.135, any judge of the circuit court may reside within 10 miles of the boundary of the judicial district.

(3) In the first judicial district, one of the judges of the circuit court shall be a resident of or have his principal office in Jackson County and one shall be a resident of or have his principal office in Josephine County.

(4) In the nineteenth judicial district, one of the judges of the circuit court shall be a resident of or have his principal office in Washington County, one shall be a resident of or have his principal office in Clatsop County and one shall be a resident of or have his principal office in either Columbia County or Tillamook County.

(5) In the twenty-first judicial district, one of the judges of the circuit court shall be a resident of or have his principal office in Linn County and one shall be a resident of or have his principal office in either Benton County or Lincoln County.

(6) The residence within this state required by subsection (1) of this section shall have been maintained for at least three years, and the residence or principal office required by subsections (2), (3), (4) and (5) of this section shall have been maintained for

at least one year, immediately prior to appointment or becoming a candidate for election to the office of circuit court judge.

[1961 c.724 §2]

3.050 Circuit Judges to be members of bar. No person is eligible to the office of judge of the circuit court unless he is a member of the Oregon State Bar.

[Amended by 1961 c.724 §3]

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 \$16,500 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; 1961 c.702 §2]

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]

3.101 District court judge acting as circuit court judge in certain cases; orders; effect. (1) Whenever by reason of absence, illness or injury there is not within a county in which a district court organized under ORS 46.020 or 46.025 is located, a judge of the circuit court able to preside over and conduct the business of the circuit court, any judge of the district court for the county may, within the county, exercise the powers and duties of judge of the circuit court for the county in so far as they pertain to:

(a) The commencement, trial and disposition of juvenile court matters and proceedings.

(b) Sanity inquests and the commitment of mentally diseased persons.

(c) The appointment of guardians ad litem for infants and others under legal disability.

(d) The granting of orders to make service of summons by publication.

(e) The granting of preliminary injunctions.

(2) A district court judge exercising the powers and duties of circuit court judge as provided in subsection (1) of this section also may, within the county, give and make any order, other than one setting apart

exempt property or fixing a widow's allowance, that by law is ex parte in nature or is upon default of the appearance of, or expressly consented to in writing by, the adverse party or parties, in any matter, cause or proceeding in probate pending in the county.

(3) If the district court judge is not a party to, or directly interested in, the suit, action or proceeding, and if the question or matter passed upon by him has not been presented to, or passed upon by, any circuit court judge, any decree, judgment or order given and made by a district court judge pursuant to his powers and duties under this section, when filed and entered in the suit, action or proceeding, has the same effect as though given and made by a circuit court judge.

[1961 c.405 §1]

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 and then 3.570]

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 one county having a population of 35,000 or more and less than 500,000.

(b) In any judicial district consisting of two counties and having a population of 100,000 or more.

(c) In any county having a population of 50,000 or more and less than 70,000 and located within a judicial district consisting of two counties.

(d) In any judicial district consisting of one county having a population of less than 15,000.

(e) In any county for which a county charter providing for such transfer is adopted under ORS 203.710 to 203.790.

(2) All matters, causes and proceedings relating to judicial jurisdiction, authority, powers, functions and duties transferred to the circuit courts and the judges thereof under subsection (1) of this section, and pending in a county court on the effective date of the transfer, are transferred to the circuit court for the county.

[Amended by 1955 c.677 §4; 1957 c.275 §1; 1957 c.713 §6; 1961 c.724 §4]

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.

3.135 Determination of population for purposes of ORS 3.130. The latest federal decennial census shall be used in determining the population of judicial districts and counties under subsection (1) of ORS 3.130. For purposes of this section, the latest federal decennial census is first effective on July 1 of the year of the regular session of the Legislative Assembly following the year in which the final population figures for counties in this state resulting from the census become available.

[1961 c.724 §5]

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.

(1) In each judicial district consisting of one county having a population of 115,000 or more and less than 150,000, according to the latest federal decennial census first effective as provided in ORS 3.135, all jurisdiction, authority, powers, functions and duties of the district court, justice courts and the judges thereof 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, are transferred to the circuit court and the judges thereof.

(2) All matters, causes and proceedings relating to jurisdiction, authority, powers, functions and duties transferred to the circuit court and the judges thereof under subsection (1) of this section, and pending in the district court or a justice court on the effective date of the transfer, are transferred to the circuit court for the county.

(3) The procedure and practice relating to matters, causes and proceedings, the jurisdiction of which is transferred under subsection (1) of this section, are governed by the laws applicable to such matters, causes and proceedings, without change. The circuit court and the judges thereof are governed by the laws relating to the exercise of the jurisdiction, authority, powers, functions

and duties transferred under subsection (1) of this section, in so far as they are applicable, as though the circuit court and the judges thereof were originally referred to in such laws. Appeals may be taken direct to the Supreme Court from the judgments, decrees and other appealable orders of the circuit court in such exercise, as in other cases. [Amended by 1957 (s.s.) c.8 §1; 1961 c.724 §6]

3.160 Assignment of domestic relations and juvenile matters to department of domestic relations in Marion County.

In each judicial district described in subsection (1) of ORS 3.150 there shall be a department of the circuit court which shall be designated the department of domestic relations. One of the judges of the circuit court shall sit in the department of domestic relations. All domestic relations matters shall be assigned automatically to the department of domestic relations. For 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; 1961 c.724 §7]

3.165 Assignment of judge to department of domestic relations in Marion County.

In the third judicial district the judge of the circuit court holding Position No. 3 shall sit in the department of domestic relations.

[1961 c.724 §8]

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]

3.210 [Amended by 1955 c.677 §5; 1957 c.665 §3; 1957 c.713 §8; 1959 c.557 §4; repealed by 1961 c.724 §34]

3.220 Apportionment of judicial business in certain judicial districts, rules and regulations.

(1) The circuit court judges for each

judicial district having two or more circuit court judges, except the fourth judicial district and except as provided in ORS 3.160 and 3.170 with respect to domestic relations matters, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the circuit court as they agree among themselves; and

(b) Make and promulgate all rules and regulations necessary and convenient to facilitate the transaction of the judicial business of the circuit court.

(2) If a majority of the circuit court judges for a judicial district described in subsection (1) of this section cannot agree with respect to matters referred to in subsection (1) of this section, the decision of the presiding judge shall control. 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; 1961 c.724 §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 [Amended by 1957 c.713 §11; repealed by 1961 c.724 §34]

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 500,000 or more. ORS 3.310 to 3.400 apply to each judicial district consisting of one county having a population of 500,000 or more, according to the latest federal decennial census first effective as provided in ORS 3.135.

[Amended by 1955 c.715 §2; 1959 c.557 §5; 1961 c.724 §10]

3.312 Separate department for each judge; probate and domestic relations departments. In a judicial district described in ORS 3.310 there shall be a department for each judge of the circuit court. Each department shall be designated by an appropriate number. There shall be a department designated the department of probate and a department designated the department of domestic relations.

[1961 c.724 §12]

3.314 Transfer of causes among departments; judges may act in any department.

(1) Any cause, matter or proceeding found in a department of the circuit court of a judi-

cial district described in ORS 3.310 and properly belonging to another department may be transferred to the other department by order of the court; but any judicial business of the court may be transacted in any department.

(2) Any judge of the circuit court of a judicial district described in ORS 3.310 may act in any department of the circuit court. In case of the absence or disability of a judge in any department, the judges in the other departments, in so far as practicable, shall act in such department.

[1961 c.724 §13]

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 and convenient to facilitate the transaction of the judicial business of the circuit court. If a majority of the judges cannot agree with respect to any such matter, the decision of the presiding judge shall control.

[Amended by 1961 c.724 §14]

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 respective departments of circuit courts of such judicial district.

3.410 [Amended by 1955 c.715 §3; 1959 c.557 §6; repealed by 1961 c.724 §34]

3.411 Departments in Multnomah County Circuit Court; presiding judge of domestic relations department. There are 15 circuit court judges in the fourth judicial district. There are 15 departments of the circuit court. Each judge shall sit in a department. One judge shall sit in the department

of probate. Two judges shall sit in the department of domestic relations. The department of probate is department 7, the department of domestic relations consists of departments 11 and 12, and the other departments are departments 1, 2, 3, 4, 5, 6, 8, 9, 10, 13, 14 and 15. The judge having the longest continuous service in the department of domestic relations, or, if both judges in the department have been in continuous service in the department the same length of time, the judge senior in age, shall act as presiding judge of the department and shall apportion and otherwise regulate the disposition of the judicial business of the department.

[1961 c.724 §15]

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 as hereinafter defined 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 appointment 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) A person 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; 1961 c.465 §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; provided, that in no case shall a retired circuit judge or a retired Supreme Court judge receive for his service as judge pro tempore of the circuit court during any calendar month, a sum which, when added to the amount of the retirement pay received by such judge for said month, exceeds the monthly salary of a regularly elected circuit judge.

[1959 c.549 §6; 1961 c.465 §2]

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 3.110 and then 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 December 1, 1961.

Sam R. Haley
Legislative Counsel