TITLE 15

PROCEDURE IN CRIMINAL ACTIONS IN DISTRICT AND JUSTICES' COURTS

Chapter 156. Proceedings and Judgment in Criminal Actions
157. Appeals in Criminal Actions; Writ of Review

Chapter 156

1965 REPLACEMENT PART

Proceedings and Judgment in Criminal Actions

JUSTICES' COURTS; GENERAL PROVISIONS AND PROCEEDINGS PRIOR TO JUDGMENT THEREIN

156.010 Criminal procedure statutes govern generally
156.020 Filing complaint by private person as commencement of action
156.030 Complaint is deemed an indictment to determine sufficiency
156.040 Security for costs
156.050 When warrant of arrest issues
156.060 Issuance, requisites, execution and return of warrant of arrest
156.070 Reading complaint to defendant; defendant to plead
156.080 Defendant's plea; refusal to plead
156.090 Action to be tried within one day unless continued
156.100 Change of place of trial
156.110 Trial by court or jury
156.120 Injured person must appear or be subpenaed
156.130 Demand for and selection of jury
156.140 Rendition and entry of verdict on docket
156.150 Trial fee in justice's court
156.160 Necessity of prepayment of trial fee; payment thereof

JUDGMENT AND EXECUTION IN JUSTICES' COURTS

156.210 Judgment on plea of guilty or conviction
156.220 Form of entry of judgment of conviction
156.230 Certified transcript of judgment to be filed with county clerk
156.240 Judgment entry and transcript as evidence
156.250 Execution of judgment of conviction
156.260 Copy of entry of judgment deemed execution for fine and costs
156.270 Discharge of defendant upon finding him not guilty
156.280 Entry that prosecution was malicious or without probable cause
156.290 Judgment against complainant for costs and disbursements
156.300 Enforcement of judgment again complainant
156.310 Payment of fine and costs by defendant

BAIL IN JUSTICES' COURTS

156.410 When defendant may be admitted to bail
156.420 Form of undertaking of bail
156.430 Qualifications and justification of bail
156.440 Commitment of defendant on failure to give bail
156.450 Form of commitment
156.460 How commitment is executed

MISCELLANEOUS PROVISIONS RELATING TO JUSTICES' COURTS

156.510 Proceeding when crime is not within jurisdiction of justice
156.520 Right of district attorney to prosecute, attend examinations and control proceedings
156.530 Disposition of money paid on judgment

DISTRICT COURTS

156.610 Criminal procedure in district courts generally
156.620 Challenge of jurors
156.630 Reporter
156.640 Fees, costs and disbursements in counties other than Multnomah
156.650 Disposition of fines and forfeited bail

CROSS REFERENCES

Attorneys in justices' courts, persons entitled to act as, 52.060
Contempt of justice's court, punishment for, 52.040, 52.050
Counsel, appointment by court, 133.625, 135.320
County law, offenses under, 203.810
District courts generally and civil proceedings therein, Ch. 46
Duties relating to administration of justice, enforcement of performance of, 1.025
Habitual criminals and enhanced penalties, Ch. 168
Judgment of acquittal before presentation of defense, 136.605.
Justice of the peace is a magistrate, 133.030; district judge to be magistrate, 46.050
Justice of the peace to act as a committing magistrate in certain cases, 164.510
Justices' courts generally and civil proceedings therein, Chs. 51 to 55
Post-conviction relief, 138.510 to 138.680
Preliminary examination by committing magistrate, 133.610
Prisoners, prosecution when already imprisoned in state penal institution for other crimes, 134.510
Transfer of certain proceedings involving children to juvenile court, 419.478

156.050

Issuance of warrant of arrest by committing magistrate, 133.110

156.060

Service of process or order by persons appointed by the justice of the peace, 52.130

156.100

Change of venue in certain traffic offenses, 484.040

156.130

Juries in justice's court in civil actions, 52.030, Ch. 54

156.140

Unanimous verdict required, when, 136.610

156.160

Payment, accounting for and distribution of trial fees, 52.440

156.280

Similar provision, 137.210

156.290

Deposits in lieu of undertaking, 22.020 to 22.070
Similar provision, 137.210

156.410

Deposit of money in lieu of bail or bond, 22.020 to 22.070, 140.310 to 140.340

156.510

Crimes "triable" in justices' courts, 51.070
Jurisdiction, criminal, of justices' courts, 51.040, 51.050, 51.060

156.520

District attorney at examination before magistrate, 133.760

156.610

Bench warrant, form of, 137.060
Juries in district courts, 46.180
Jurisdiction, criminal, of district courts, 46.040

156.640

Fees in district courts, 46.221

156.650

County financial administration, Ch. 294
Disposition of fines imposed on auctioneers, 698.755
State budget, allotment and property control, Ch. 291

JUSTICES' COURTS; GENERAL PROVISIONS AND PROCEEDINGS PRIOR TO JUDGMENT THEREIN

156.010 Criminal procedure statutes govern generally. A criminal action in a justice's court is commenced and proceeded in to final determination, and the judgment therein enforced, in the manner provided in the criminal procedure statutes, except as otherwise specially provided by statute.

156.020 Filing complaint by private person as commencement of action. In a justice's court, a criminal action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action, who is thereafter known as the complainant.
[Amended by 1959 c.426 §4]

156.030 Complaint is deemed an indictment to determine sufficiency. The complaint shall be deemed an indictment within the meaning of ORS 132.510 to 132.570, 132.590, 132.610 to 132.690, 132.710 and 132.720, which sections prescribe what is sufficient to be stated in such pleading and the form of stating it.

156.040 Security for costs. Before filing or receiving the complaint in a criminal action, the justice may require the complainant to give security for costs and disbursements in the amount authorized in civil actions; and not otherwise.
[Amended by 1959 c.426 §5]

156.050 When warrant of arrest issues. Upon the filing of the complaint, the justice shall issue a warrant of arrest for the defendant named therein.

156.060 Issuance, requisites, execution and return of warrant of arrest. A warrant of arrest in a criminal action in a justice's court is issued, directed and executed in all respects as the warrant mentioned in ORS 133.140, except that it shall be made returnable only before the justice who issues it.

156.070 Reading complaint to defendant; defendant to plead. When the defendant is brought before the justice, the complaint shall be read to him and he shall plead thereto.

156.080 Defendant's plea; refusal to plead. The defendant may plead the same pleas as upon an indictment. His plea shall be oral and entered in the docket. If the defendant refuses to plead, the justice shall enter the fact, together with the plea of not guilty, on his behalf.

156.090 Action to be tried within one day unless continued. When the defendant is brought before the justice upon the warrant of arrest, the action shall be tried within one day thereafter, unless continued for cause.

156.100 Change of place of trial. Change of place of trial in criminal actions in justices' courts is in all manners and respects governed as change of place of trial in civil actions in such courts, as provided in ORS 52.530 to 52.550.

156.110 Trial by court or jury. Upon a plea other than a plea of guilty, if the defendant does not then demand a trial by jury, the justice shall proceed to try the issue.

156.120 Injured person must appear or be subpenaed. No judgment of conviction or acquittal can be given in a criminal action in a justice's court unless the person injured appears or is subpenaed to attend the trial as a witness.

156.130 Demand for and selection of jury. If a trial by jury is demanded, a jury shall be selected and summoned as in a civil action in a justice's court. Each party may take challenges for cause and two peremptory challenges, except that when the jury is selected in the manner provided in ORS 54.060 to 54.160, as to any juror so selected, neither party may take a peremptory challenge.

156.140 Rendition and entry of verdict on docket. When the jury has agreed upon a verdict, it shall deliver the same to the justice publicly, who shall enter it in his docket.

156.150 Trial fee in justice's court. The trial fee in a justice's court, for every trial by jury, is $6.

156.160 Necessity of prepayment of trial fee; payment thereof. In a criminal action in a justice's court, prepayment of the trial fee is not a prerequisite to having a jury trial. If a jury trial is demanded and judgment is against the defendant, the fee shall be allowed and taxed in favor of the state as other disbursements in ordinary cases.

156.170 to 156.200 [Reserved for expansion]

JUDGMENT AND EXECUTION IN JUSTICES' COURTS

156.210 Judgment on plea of guilty or conviction. When the defendant pleads guilty or is convicted, either by the justice or the jury, the justice shall give judgment thereon for such punishment as may be prescribed by law for the crime.

156.220 Form of entry of judgment of conviction. When a judgment of conviction is given, either upon a plea of guilty or upon a trial, the justice shall enter the same in the docket substantially as follows:

JUSTICE'S COURT FOR THE DISTRICT OF ——

State of Oregon, County of ———

State of Oregon v. A. B., (day of the month and year)

The above-named A. B. having been brought before me, C. D., a justice of the peace for the district in the county and state aforesaid, in a criminal action for the crime of (briefly designate the crime), having thereupon pleaded ("not guilty," or as the case may be), and having been tried by (me or a jury, as the case may be) and upon such trial convicted, I have adjudged that he (be imprisoned in the jail of this county for —— days and that he pay the costs of the action, taxed at $—— or that he pay a fine of $—— and such costs and be imprisoned in such jail until such fine and costs are paid, not exceeding —— days, as the case may be).

C. D., Justice of the Peace

If the defendant has pleaded guilty, instead of using the words commencing "having thereupon pleaded" and ending "upon such trial convicted," the entry shall state as follows: "and having been thereof duly convicted upon a plea of guilty."

156.230 Certified transcript of judgment to be filed with county clerk. Within 20 days from the entry of judgment, the justice shall cause a certified transcript thereof to be filed in the office of the county clerk of the county.

156.240 Judgment entry and transcript as evidence. An entry of judgment and the transcript thereof made or filed as provided in ORS 156.220 and 156.230, or a certified copy of either, is conclusive evidence of the facts stated therein.

156.250 Execution of judgment of conviction. The judgment shall be executed by the sheriff of the county or by a constable of the district in which the conviction is had, or by any marshal or policeman authorized to act as a constable therein, upon receiving a certified copy of the entry of judgment.

156.260 Copy of entry of judgment deemed execution for fine and costs. A certified copy of the entry of judgment is deemed an execution against the property of the defendant for the purpose of collecting the amount of any fine or costs mentioned therein.

156.270 Discharge of defendant upon finding him not guilty. When the defendant is found not guilty by the justice or a jury, he shall be immediately discharged.

156.280 Entry that prosecution was malicious or without probable cause. When the defendant is found not guilty, if it appears that the prosecution was malicious or without probable cause, the justice shall make an entry to that effect in his docket.

156.290 Judgment against complainant for costs and disbursements. Upon making the entry prescribed in ORS 156.280, the justice shall give judgment against the complainant for the costs and disbursements of the action and require him to pay the same or give satisfactory security therefor, by a written undertaking with one or more sureties, to pay the same to the justice within 30 days from the date of the judgment.

[Amended by 1959 c.426 §6]

156.300 Enforcement of judgment against complainant. If the complainant does not pay the judgment, or give the required security therefor, it may be enforced against him in all respects as a judgment for a fine in a criminal action; but if he gives the required security, the judgment may be enforced at the expiration of the 30 days against the complainant and his sureties in the undertaking in all respects as a judgment for money in a civil action.

[Amended by 1959 c.426 §7]

156.310 Payment of fine and costs by defendant. If the fine and costs, or any part thereof, are paid before commitment, they shall be paid to the justice. Thereafter they shall be paid to the officer in whose custody the defendant is at the time of the payment, which officer shall immediately pay the same to the justice.

156.320 to 156.400 [Reserved for expansion]

BAIL IN JUSTICES' COURTS

156.410 When defendant may be admitted to bail. At any time before the commencement of the trial, the justice shall admit the defendant to bail, if he requires it, and take bail of him accordingly.

156.420 Form of undertaking of bail. The bail shall be given by a written undertaking, executed by one or more sufficient sureties, in substantially the following form:

Justice's Court for the district of ——
State of Oregon, County of ——

A criminal action having been commenced on the —— day of ——, 19—, in the justice's court aforesaid against A. B. for the crime of (designating it generally), and he having been duly admitted to bail by the justice of said court in the sum of $——, we, C. D., of (stating his place of residence and occupation), and E. F., of (stating the like as to him), hereby undertake that the above-named A. B. will appear at the time and place fixed for the trial of the above-mentioned action in whatever court it may be prosecuted, that he will at all times render himself amenable to the orders and process of the court, and that he will, if convicted, appear for judgment and surrender himself in execution thereof or, if he fails to perform any of those conditions, that we will pay to the State of Oregon the sum of $—— (inserting the sum in which the defendant is admitted to bail).

156.430 Qualifications and justification of bail. The qualifications and justification of bail in criminal actions in justices' court is as prescribed by the criminal procedure statutes.

156.440 Commitment of defendant on failure to give bail. If the defendant does not give bail when brought before the justice upon the warrant of arrest, he shall be continued in the custody of the officer or, if the court is held in the vicinity of the county jail, committed to jail, to answer the action, as the justice may direct.

156.450 Form of commitment. The commitment shall be signed by the justice with his name of office and may be substantially as follows:

JUSTICE'S COURT FOR THE DISTRICT OF ——
State of Oregon, County of ——
IN THE NAME OF THE STATE OF OREGON

To the sheriff of the county aforesaid:

An order having this day been made by me that A. B. be committed for trial in a criminal action against him for the crime of (designating it generally), you hereby are commanded to receive him into your custody and detain him accordingly or until he is otherwise legally discharged.

Dated at ——, this —— day of ——, 19—.

C. D., Justice of the Peace

156.460 How commitment is executed. When committed, the defendant shall be delivered to the custody of the proper officer by any peace officer to whom the justice may deliver the commitment, first indorsing thereon, substantially, as follows: "I hereby authorize and command E. F. to deliver this commitment, together with the defendant therein named, to the custody of the sheriff of the County of ——."

156.470 to 156.500 [Reserved for expansion]

MISCELLANEOUS PROVISIONS RELATING TO JUSTICES' COURTS

156.510 Proceeding when crime is not within jurisdiction of justice. If in the course of the trial it appears to the justice that the defendant has committed a crime not within the jurisdiction of a justice's court, the justice shall dismiss the action, state in the entry the reasons therefor, hold the defendant upon the warrant of arrest and proceed to examine the charge as upon an information of the commission of crime.

156.520 Right of district attorney to prosecute, attend examinations and control proceedings. The district attorney may prosecute an action in a justice's court or attend an examination before a magistrate, either in person or by someone appointed by him for that purpose, and in either case he may control the proceedings on behalf of the state.

156.530 Disposition of money paid on judgment. (1) Any money paid to the justice upon a judgment in a criminal action shall first be applied to the costs of the action.

The remainder shall be paid by the justice to the treasurer of the county, to be appropriated as provided by law.

(2) Money paid pursuant to subsection (1) of this section shall be delivered by the justice to the treasurer within 30 days from the receipt thereof, or the same may be recovered from the justice, with 20 percent additional, by a civil action in the name of the county.

156.540 to 156.600 [Reserved for expansion]

DISTRICT COURTS

156.610 Criminal procedure in district courts generally. District courts are governed in their criminal and quasicriminal actions and proceedings by the provisions of law regulating such actions and proceedings before justices' courts, as provided in ORS 156.010 to 156.080, 156.110, 156.120, 156.140, 156.210, 156.220, 156.240 to 156.300, 156.410 to 156.460, 156.510, 156.520 and 109.110 to 109.230 in so far as the same are or can be made applicable in the several cases arising before them, except when other provisions of law provide for different procedure in district courts in such cases and proceedings, in which event, such other provisions shall control; provided, however, that all money required by law to be paid to or deposited with a justice of the peace in such proceedings shall in a district court be paid to or deposited with the clerk of the court.

156.620 Challenge of jurors. In criminal actions in district courts, each party may take challenges for cause and three peremptory challenges, and no more. When there are two or more plaintiffs or defendants, each must join in the challenge or it cannot be taken. The manner in which challenges may be taken shall be the same as provided for in the circuit court.

156.630 Reporter. Criminal cases in district courts organized under ORS 46.025 shall not be reported except in the discretion of the judge or upon request and prepayment of the reporter's fee, mentioned in ORS 46.200, by the defendant.

156.640 Fees, costs and disbursements in counties other than Multnomah. (1) In criminal cases in district courts for counties having a population of less than 500,000, according to the latest federal decennial census, the costs and disbursements shall be added to the fine, penalty or sentence imposed in a sum not less than $5; provided, the court, at its discretion in justifiable cases, may on behalf of the state waive payment of all or any part of the costs and disbursements in excess of $5.

(2) The clerk shall, on the day next following, pay over to the county treasurer all fees, costs and disbursements collected and taken, and the treasurer shall issue to the clerk his receipt therefor.

[Amended by 1965 c.510 §23]

156.650 Disposition of fines and forfeited bail. Except as otherwise provided in ORS 484.250, but notwithstanding any other provision of law, one-half of all fines and forfeited bail collected by the clerk of a district court in criminal cases in the district court shall be paid to the State Treasurer, who shall place the money to the credit of the General Fund available for general governmental expenses, and the other half of such fines and forfeited bail shall be paid to the county treasurer, who shall place the money to the credit of the general fund of the county. Payment of fines and forfeited bail under this section shall be made within the first 15 days of the month following the month in which they are collected.

[1959 c.559 §1]

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 15, 1965.

Sam R. Haley
Legislative Counsel