Chapter 145

1959 REPLACEMENT PART
(1963 reprint)

Prevention of Crime and Security to Keep Peace

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PREVENTION OF CRIME BY PUBLIC OFFICERS

145.010 General provisions. Crimes may be prevented by the intervention of the officers of justice:

(1) By requiring security to keep the peace, which shall also be deemed an undertaking of good behavior, and which cannot be required except as provided in this chapter.

(2) By forming a police in cities, towns and villages and requiring their attendance at exposed places.

(3) By suppressing riots.

145.020 Dispersal of unlawful or riotous assemblages. (1) When any three or more persons, whether armed or not, are unlawfully or riotously assembled in any county, city, town or village, the sheriff of the county and his deputies, the mayor of the city, town or village, or chief executive officer or officers thereof, and the justice of the peace of the district where the assemblage takes place, or such of them as can forthwith be collected, shall go among the persons assembled, or as near to them as they can with safety, and command them in the name of the State of Oregon to disperse. If, so commanded, they do not immediately disperse, the officer must arrest them or cause them to be arrested; and they may be punished according to law.

(2) For the purpose of arresting or causing the arrest of persons who fail to disperse when so commanded, the arresting officer or officers may command the aid of persons present or within the county, except members of the National Guard. No person, when so commanded, shall fail to give such aid and, if he does fail so to do, he shall be deemed one of the rioters and may be treated accordingly.

(3) No such officer, having notice of such unlawful or riotous assemblage, shall neglect to exercise the authority with which he is vested under this section.

145.030 Justification of persons aiding officers. When the officers of justice act in the prevention of crime, other persons who by their command act in their aid are justified in so doing.

145.040 Order to give security after disturbance in presence of court or magistrate. A person who in the presence of a court or magistrate assaults or threatens to assault another or to commit an offense against his property, or who contends with another with angry words to the disturbance of the peace, may be ordered by the court or magistrate, without warrant or other proof, to give security, as provided in ORS 145.210, or, if he omits so to do, may be committed, as provided in ORS 145.230.

145.050 Power of court to require undertaking by convicted person. The court before whom any person is convicted of a crime, which by the judgment of such court is punished otherwise than by death or imprisonment in the penitentiary, may require such person to enter into an undertaking as provided in ORS 145.210 for a period not exceeding two years and in default thereof may commit him until the undertaking is given or the period expired.

145.060 Governor's power to enter into agreements with other states for crime prevention purposes. The Governor of Oregon may enter into agreements or compacts with the Governor of any or all the states of Washington, Idaho, California and Nevada, each acting on behalf of his own state, in order to effectuate cooperative effort and mutual assistance in the prevention of crime in those states and in the enforcement of their respective criminal laws and policies.

145.070 to 145.100 [Reserved for expansion]

PREVENTION OF CRIME BY PRIVATE PERSONS

145.110 Use of force to prevent crimes to person or property. Resistance to the commission of a crime may be lawfully made by a person about to be injured or by any other person in his aid or defense:

(1) To prevent a crime against his person.

(2) To prevent an illegal attempt by force to take or injure property in his possession.

145.120 Threatened commission of crime; information before magistrate. An information may be laid before any of the magistrates mentioned in ORS 133.030 that a person has threatened to commit a crime against the person or property of another.

145.130 Examination of complainant by magistrate; depositions. When complaint is made to a magistrate, the magistrate shall

examine the complainant on oath, reduce his statement to writing and cause it to be subscribed by him. The magistrate shall also take the depositions of any witnesses that the complainant may produce in support thereof.

145.140 Warrant of arrest. (1) Thereupon, if it appears to the magistrate that there is good reason to fear the commission of the crime threatened by the person complained of, he shall issue a warrant for the arrest of such person.

(2) The warrant shall be directed and executed as a warrant of arrest and may be substantially in the same form, except that, instead of reciting the commission of a crime, it shall recite the substance of the threat to commit one, according to the information.

145.150 Authority of magistrates to issue warrants. A judge of the Supreme Court may issue the warrant for a threat made in any county in the state and any other magistrate has like authority for a threat made within his county.

145.160 Examination of charge; taking of testimony; preservation of evidence. When the person complained of is brought before a magistrate, if the charge is controverted, the magistrate shall take the testimony in relation thereto, and the evidence shall be reduced to writing and subscribed by the witness.

145.170 Commitment or bail during adjournment. The magistrate may adjourn the examination and commit the person complained of or take bail or a deposit of money in lieu thereof, as provided in ORS 133.640 and 133.650.

145.180 Subpenas for witnesses. The magistrate shall issue subpenas for witnesses for the complainant or person complained of if such witnesses are within the county or 20 miles from the place where the magistrate is sitting.

145.190 Statement by accused person. The person complained of is entitled, if he chooses, to make a statement concerning the charge against him, as provided in ORS 133.690.

145.200 Discharge of accused. If from the examination it appears that there is no good reason to fear the commission of the crime alleged to have been threatened, the person complained of shall be discharged. The order for the discharge shall be indorsed upon the warrant and signed by the magistrate, with his name of office, and may be to the following effect: "There being no good reason shown to fear the commission of the crime within-mentioned by the within-named A. B., I order him to be discharged."

145.210 Undertaking by accused. If there is good reason to fear the commission of the crime, the person complained of shall be required to enter into an undertaking with one or more sufficient sureties, in such sum, not exceeding $2,000, as the magistrate directs, to abide the order of the next circuit court of the county and, in the meantime, to keep the peace towards the people of this state and particularly towards the complainant.

145.220 Qualification of sureties. The sureties in the undertaking shall have the qualifications of bail and justify thereto as provided in ORS 140.120 and 140.130.

145.230 Discharge from custody on execution of undertaking; commitment for failure to give undertaking. (1) If the undertaking required by ORS 145.210 is given, the party complained of shall be discharged; but if he does not give it, the magistrate shall commit him to the jail of the county, specifying in the commitment the requirement to give security, the amount thereof and the omission to give the same.

(2) The commitment may be in substantially the following form:

IN THE NAME OF THE STATE OF OREGON

To the sheriff of the County of ——, greeting:

An order having been this day made by me that A. B. give an undertaking in the sum of $—— as security to keep the peace and abide the order of the next circuit court for the county aforesaid, and A. B. having failed to give such undertaking, you are therefore commanded to receive him into your custody and detain him until legally discharged.

Dated at —— this —— day of ——, 19—.

C. D., Justice of the Peace (or as the case may be).

145.240 Execution of commitment. If the sheriff to whom the commitment is directed is not present, the magistrate shall

deliver the commitment, together with the person complained of, to a peace officer, first making an indorsement on the commitment similar to the one specified in ORS 133.840. The peace officer shall then deliver the commitment and person complained of according to the requirement of such indorsement.

145.250 Committed person's right to give undertaking and be discharged. A person committed for not giving an undertaking to keep the peace may at any time thereafter, upon giving the required undertaking, be discharged from custody by the order of any magistrate before whom the information might have been laid.

145.260 Transmission to circuit court of undertaking, statement of commitment and evidence. (1) An undertaking to keep the peace shall be transmitted forthwith to the next circuit court for the county, by the magistrate to whom it is given; but if the person is committed for want of an undertaking, the magistrate shall, in like manner, transmit a statement of the commitment.

(2) With the undertaking or statement mentioned in subsection (1) of this section, the magistrate shall also transmit the evidence taken by him for and against the charge.

[Amended by 1959 c.638 §24]

145.270 Appearance by accused; forfeiture of undertaking for nonappearance or breach of peace. A person who has entered into an undertaking to keep the peace shall appear before the circuit court for the county within five days after the undertaking is transmitted to the circuit court and shall abide the order thereof; and if he does not, the court shall direct the fact to be entered in its journal and the undertaking is thereupon forfeited. If the person complained of is convicted of a breach of the peace, the undertaking is forfeited.

[Amended by 1959 c.638 §25]

145.280 Relief from and remission of forfeiture. ORS 140.620 to 140.660 shall apply to and govern the excusing of a forfeiture of the undertaking, the remission of the forfeiture and the prosecution of the undertaking.

145.290 Nonappearance by complainant. If the complainant does not appear at the circuit court, the person complained of may be discharged unless good cause to the contrary is shown.

145.300 Hearing; attendance of witnesses. If both parties appear, the court shall hear the proofs and allegations transmitted by the magistrate and such other evidence as the parties may produce and may either discharge the undertaking or require a new one for a time not exceeding one year; but no person can be compelled to attend as a witness before the court who has been examined before the magistrate.

145.310 Sureties' rights and authority; exoneration. The sureties in an undertaking to keep the peace are entitled to the rights and authority of bail, as provided in ORS 140.410 to 140.440, and may be exonerated from their undertaking in the manner therein prescribed.

145.320 to 145.980 [Reserved for expansion]

PENALTIES

145.990 Penalties. (1) Violation of subsection (2) of ORS 145.020 is punishable as provided in ORS 166.050.

(2) Violation of subsection (3) of ORS 145.020 is a misdemeanor.

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