# TITLE 14

# PROCEDURE IN CRIMINAL MATTERS GENERALLY


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## Chapter 131

**1961 REPLACEMENT PART**
**(1969 reprint)**

## Preliminary Provisions; Limitations; Jurisdiction; Venue


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## PRELIMINARY PROVISIONS

**131.010 Necessity of indictment.** No person can be tried for the commission of a crime but upon the indictment of a grand jury, unless otherwise expressly provided by law.

**131.020 Criminal action; parties.** The proceedings by which a person is tried and punished for the commission of a crime is denominated a criminal action. In a criminal action the State of Oregon is the plaintiff and the person prosecuted is the defendant.

**131.030 When departures, errors or mistakes in pleadings or proceedings are material.** No departure from the form or mode prescribed by law, error or mistake in any pleadings or proceedings renders them invalid, unless it has actually prejudiced the defendant, or tends to his prejudice in respect to a substantial right.

## LIMITATIONS

**131.110 Time within which criminal action must be commenced.** Unless otherwise expressly provided by law, the time within which criminal actions must be commenced is as follows:

(1) For murder or manslaughter, at any time after the death of the person killed.

(2) For any other felony, within three years after its commission.

(3) For any misdemeanor, within two years after its commission.

**131.120 Effect on limitation period of absence from state and concealment preventing service of process.** If, when the crime is committed, the defendant is out of the state, the action may be commenced within the time provided in ORS 131.110 after his coming into the state. No time during which the defendant is not an inhabitant of or usually resident within the state, or during which he secretes himself therein so as to prevent process being served upon him, is a part of the limitation prescribed in ORS 131.110.

**131.130 When action is "commenced."** An action is commenced, within the meaning of ORS 131.110 and 131.120, when the indictment is found and filed with the clerk of the court or, in cases triable without indictment, when the indictment or complaint is filed or lodged in the court or with the officer having jurisdiction of the action.

## JURISDICTION

**131.210 Punishability of offenders under state law.** Every person, whether an inhabitant of this state or any other state, territory or country, is liable to punishment by the laws of this state for a crime committed by him in this state, except where such crime is by law cognizable exclusively in the courts of the United States.

**131.220 Where crime commenced outside state is consummated within state.** When the commission of a crime commenced outside this state is consummated within its boundaries by the defendant, through the intervention of an innocent or guilty agent or by any means proceeding directly from himself, if the defendant is afterwards found in this state, he is liable to punishment therefor in this state although he was out of the state at the time of the commission of the crime charged.

**131.230 Where death resulted within state from act done outside state.** When the crime of murder or manslaughter has been committed by means of a mortal wound given, injury inflicted or poison administered without this state and the person so wounded, injured or poisoned dies therefrom within this state, the person committing such crime is liable to punishment therefor in this state if he is found or comes into this state.

**131.240 Acts punishable in two jurisdictions; conviction or acquittal as bar to action.** (1) When an act declared to be a crime is within the jurisdiction of another state, territory or country as well as of this state, a conviction or acquittal thereof in the former is a bar to a prosecution therefor in this state.

(2) When an action for a crime may be commenced and tried in either of two or more counties a conviction or acquittal thereof in one county is a bar to a prosecution therefor in another.

## VENUE

**131.310 County wherein crime was committed as place of trial.** Except as in ORS 131.210 to 131.470 otherwise provided, all criminal actions must be commenced and tried in the county where the crime was committed.

**131.320 Where crime commenced outside state is consummated within state.** When the commission of a crime commenced outside this state is consummated within its boundaries by the defendant, through the intervention of an innocent or guilty agent or by any means proceeding directly from himself, if the defendant is afterwards found in this state, the action therefor may be commenced and tried in the county in which the offense is consummated although the defendant was out of the state at the time of the commission of the crime charged.

**131.330 Where death resulted within state from act done outside state.** When the crime of murder or manslaughter has been committed by means of a mortal wound given, injury inflicted or poison administered without this state and the person so wounded, injured or poisoned dies therefrom within this state, if the person committing such crime is found or comes into this state, the action therefor may be commenced and tried in the county where the death happened.

**131.340 Where crime extended over more than one county.** When a crime is committed partly in one county and partly in another or when the acts or effects thereof constituting or requisite to the consummation of the crime occur in two or more counties, an action therefor may be commenced and tried in any of such counties.

**131.350 Where property is taken from one county to another or brought within state.** When property feloniously taken in one county by burglary, robbery, larceny or embezzlement is brought into another county, an action for such crime may be commenced and tried in either county. When property so taken without the state is brought within it, the action may be commenced and tried in any county therein into which such property is brought.

**131.360 Nonsupport actions.** In criminal actions for nonsupport of wife or child, or both, the action may be commenced and tried in any county of the state in which the dependent wife or child has been an actual resident for not less than 60 days while such failure and neglect to support has continued, irrespective of the domicile of the husband or father.

**131.365 Traffic offenses.** The venue of a state traffic offense, as defined in ORS 484.010, may be as provided in ORS 131.210 to 131.470 or as provided in ORS 484.040. [1959 c.664 §5]

**131.370 Doubt as to place of crime with respect to county line.** When a crime is committed on or within one mile of the boundary line of two or more counties, or when the boundary line between two or more counties is unknown or uncertain, and it is doubtful in which county the crime was committed, an action therefor may be commenced and tried in any of such counties.

**131.380 Crime committed on water bordering on county.** When a crime is committed upon any bay, lake, river or other water situate in two or more counties or forming the boundary between two or more counties, an action therefor may be commenced and tried in any county bordering on such bay, lake, river or other water and opposite the place where the crime was committed.

**131.390 Where acts of accessory are committed in county other than that of principal crime.** In the case of an accessory after the fact in the commission of a crime, the action must be commenced and tried in the county where the crime of the accessory was committed, notwithstanding the principal crime was committed in another county.

**131.400 Change of venue.** Either party may have the place of trial changed once, and no more unless for causes not in existence when the first change was allowed; and in no criminal action shall the place of trial be changed except as provided and allowed in ORS 131.410 to 131.470.

**131.410 County to which venue may be changed.** When the motion for the change of place of trial is allowed, the court shall order the action to be tried in any other county where the action might have been commenced or in the nearest county where a fair and impartial trial can be had.

**131.420 When venue in criminal action in circuit or district court may be changed.** In any criminal action in a circuit or district court when the cause is at issue upon a question of fact, the court may order the place of trial to be changed, as follows:

(1) When it is made to appear to the satisfaction of the court that a fair and impartial trial cannot be had in the county where the action is commenced;

(2) When the action is commenced in one county and might have been commenced in another, the place of trial may be changed to such other county if it appears in like manner that the ends of justice and the convenience of parties and witnesses would be promoted thereby; and,

(3) That the motion is not made for delay.

[Amended by 1961 c.442 §1]

**131.430 Transmission of transcript upon change of venue.** When the place of trial has been changed, the clerk shall forthwith transmit to the clerk of the proper court a transcript of the proceedings in such cause with all the original papers filed therein, having first made out and filed in his own office authenticated copies of all such original papers. Such transcript and papers may be transmitted by mail or by the hands of some suitable person appointed by the court or judge thereof.

**131.440 Filing of transmitted transcript and papers.** Upon the filing of the transcript and papers with the clerk of the court to which the cause is transferred, the change of the place of trial is complete and thereafter the action shall proceed as though it had been commenced in that court.

**131.450 Expense of change; taxation as costs.** The expenses of the change of the place of trial shall be taxed as expenses of the action, and the costs and expenses of the action shall be taxed in the court and paid by the county wherein the trial is had; but if such costs and expenses are not recovered of the defendant in the action, they shall be repaid to such county by the county wherein the action was commenced.

**131.460 Attendance, at new place of trial, of defendant who has given bail; obligation of bail bond.** When an order is made changing the place of trial, if the defendant has given bail, he must, without further notice, appear at the time and place appointed for trial and not depart therefrom without leave of the court. The undertaking of the bail in such case is security therefor in all respects as if the action had proceeded to final determination in the court where it was commenced.

**131.470 Conveyance of defendant who is in custody after change.** When an order is made changing the place of trial, if the defendant is in custody, the clerk shall issue a warrant directed to the sheriff of the county, commanding him to safely convey the defendant to the jail of the county where he is to be tried and to deliver him to the jailer thereof, to be there safely kept until discharged by due course of law.

**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