Chapter 14

1971 REPLACEMENT PART
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Jurisdiction; Venue; Change of Judge

JURISDICTION

14.010 Jurisdiction of natural person
14.020 Jurisdiction over corporation
14.030 Jurisdiction as affected by place where cause of action or suit arises
14.035 Jurisdiction arising out of certain acts in this state

VENUE

14.040 Actions and suits that are to be brought where subject is situated
14.050 Actions that are to be brought where cause arose
14.060 Venue of suits against state departments and officials
14.070 Dissolution of marriages; venue
14.080 Actions and suits that are to be brought where defendant resides or is found, or where plaintiff designates

CHANGE OF VENUE

14.110 When place of trial may be changed
14.120 Time of motion; to what county changed; number of changes
14.130 Transmission of transcript of proceedings and original papers
14.140 Payment of costs
14.150 When court may vacate order
14.160 When change of place of trial deemed complete
14.170 Repayment to certain counties of compensation of jury and bailiffs

DISQUALIFICATION OF JUDGE

14.210 Disqualification of judicial officers for cause; application of section; waiver
14.250 Disqualification of judge for prejudice; transfer of cause or calling judge; making up issues
14.260 Affidavit and motion for change of judge; time for making; limit of two changes of judge
14.270 Affidavit and motion in counties with presiding judge; time for making; limit of two changes of judge

CROSS REFERENCES

Condition of class actions, Supreme Court rules governing procedure therefor, 13.370
Coordination of class actions, determination of appropriate site or sites, 13.340
Guardians and conservators, submission to personal jurisdiction of court by acceptance of appointment, 126.075, 126.113, 126.247
Guardianship, state of residence of ward, concurrent jurisdiction, 126.090, 126.143
Joinder of causes of action, same place of trial required, 16.220
Venue for guardianship and conservatorship proceedings:
Conservators and protective proceedings, 126.167
Incapacitated persons, 126.100
Minor, 126.065

14.010

Appearance by defendant, what constitutes, 16.140
Appearance when service on Corporation Commissioner, 15.040
Decree of adoption, jurisdiction of court presumed, 109.381
Guardians, venue for appointment, 126.111
Jurisdiction of the court over nonresident personal representative in proceeding relating to the estate, 113.087
Jurisdiction, when it is acquired, 15.030
Marriage dissolution or annulment, residence requirements, 107.075
Special appearance not waived by subsequent entrance of a general appearance, 16.150
Transfer of proceeding to juvenile court, 419.478

14.020

Appearance by defendant, what constitutes, 16.140
Foreign corporations, service of process on, 57.700
Jurisdiction, when it is acquired, 15.030
Service of summons and complaint upon corporations, 15.080
Special appearance not waived by subsequent entrance of a general appearance, 16.150

14.040

Boundary disputes, suits to determine, 105.705
Forcible entry and detainer, action for, 105.110
Forfeitures of realty to the state, recovery of, 30.420

14.050

Cigarette tax, cases involving, 323.420
Forfeitures of personalty to the state, recovery of, 30.420
Public Utility Commissioner, venue of proceeding against, 756.580

14.060

Judicial review of state agency's decision in a contested case, 183.480
Public Utility Commissioner, venue of proceeding against, 756.580
Tax court proceedings, place of hearing, 305.475

14.080

Certain corporations must appoint agent for service of summons, 57.075, 57.700
Cooperative corporation, agent for service of summons, 62.155
Juvenile proceeding, venue, 419.480
Service of summons on corporations, 15.080

14.110

Change of judge in contempt proceeding arising from a labor dispute, 662.130
Changing place of trial of action in justices' courts, 52.530
Conservatorship and protective proceedings, when transfer of proceedings permitted, 126.173, 126.177
Judge may be a witness, 44.050
Judicial officers may act as attorneys, exceptions, 1.220
Juvenile court proceeding, transfer to other county, 419.545
Support matters, transfer, 110.181

14.210

Change of judge in contempt proceeding arising from a labor dispute, 662.130
Judge may be a witness, 44.050
Judicial officer may act as an attorney, exceptions, 1.220

14.250

Change of judge in contempt proceeding arising from a labor dispute, 662.130
City recorder's court, change of judge, 221.348
Municipal court, change of judge, 221.348
Not applicable to tax court judge, 305.455

JURISDICTION

14.010 Jurisdiction of natural person. No natural person is subject to the jurisdiction of a court of this state, unless he appear in the court, or be found within the state, or be a resident thereof, or have property therein; and in the last case only to the extent of such property at the time the jurisdiction attached. This section does not limit the power of the courts of this state to declare a marriage void, or a dissolution thereof, when the defendant is a nonresident of the state, in the cases provided for in ORS chapter 107.

14.020 Jurisdiction over corporation. No corporation is subject to the jurisdiction of a court of this state, unless it appears in the court, or has been created by or under the laws of this state, or has an agency established therein for the transaction of some portion of its business, or has an agency established therein for the purpose of soliciting some portion of its business to be transacted in this state or elsewhere, or has property in this state; and in the last case only to the extent of such property at the time the jurisdiction attached.

14.030 Jurisdiction as affected by place where cause of action or suit arises. When the court has jurisdiction of the parties, it may exercise it in respect to any cause of action or suit wherever arising, except for the specific recovery of real property situated without this state, or for an injury thereto.

14.035 Jurisdiction arising out of certain acts in this state. (1) Any person, firm or corporation whether or not a citizen or a resident of this state, who, in person or through an agent, does any of the actions enumerated in this subsection, thereby submits such person and, if an individual, his personal representative to the jurisdiction of the courts of this state, as to any cause of action or suit or proceeding arising from any of the following:

(a) The transaction of any business within this state;

(b) The commission of a tortious act within this state;

(c) The ownership, use or possession of any real estate situated in this state;

(d) Contracting to insure any person, property or risk located within this state at the time of contracting.

(2) Service of summons on any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the summons and copy of the complaint upon the defendant outside this state, in the manner provided in ORS 15.110. Such service shall have the same force and effect as though summons had been personally served within this state.

(3) Only causes of action or suit or proceedings arising from acts enumerated in this section may be asserted against a defendant in an action or suit or proceeding in which jurisdiction over such defendant is based upon this section.

(4) Nothing contained in this section limits or affects the right to serve any person in any other manner now or hereafter provided by law.

[1963 c.352 §1]

VENUE

14.040 Actions and suits that are to be brought where subject is situated. Actions and suits for the following causes shall be commenced and tried in the county in which the subject of the action or suit, or some part thereof, is situated:

(1) Actions for the recovery of real property, or an estate or interest therein, or for injuries to real property;

(2) Actions for the recovery of any personal property distrained for any cause;

(3) Suits for the partition of real property;

(4) Suits for the foreclosure of a lien or mortgage upon real property;

(5) Suits for the determination of an adverse claim, estate, or interest in real property, or the specific performance of an agreement in relation thereto.

14.050 Actions that are to be brought where cause arose. Actions for the following causes shall be commenced and tried in the county where the cause, or some part thereof, arose:

(1) For the recovery of a penalty or forfeiture imposed by statute, except that when it is imposed for an offense committed on a lake, river or other stream of water, situated in two or more counties, the action may be commenced and tried in any county bordering on such lake, river or stream, and opposite the place where the offense was committed;

(2) Against a public officer or person specially appointed to execute his duties for an act done by him in virtue of his office; or against a person who, by his command, or in his aid, shall do anything touching the duties of such officer.

14.060 Venue of suits against state departments and officials. Any suit against any department, official, officer, commissioner, commission or board of the state, as such, or in virtue of such status, other than a suit for the causes enumerated in ORS 14.040, may be brought in the county wherein the cause of suit, or some part thereof, arose.

14.070 Dissolution of marriages; venue. Any suit for the dissolution of the marriage contract shall be commenced and tried in a county in this state in which one of the parties to the suit resides.

14.080 Actions and suits that are to be brought where defendant resides or is found, or where plaintiff designates. All other actions or suits shall be commenced and tried in the county in which the defendants, or one of them, reside or may be found at the commencement of the action or suit, except that an action founded on an alleged tort may be commenced either in the county where the cause of action arose or in the county where the defendants, or one of them, reside or may be found at the commencement of the action. If none of the defendants reside in this state the action or suit may be tried in any county which plaintiff may designate in his complaint.

CHANGE OF VENUE

14.110 When place of trial may be changed. (1) The court or judge thereof may change the place of trial, on the motion of either party to an action or suit, when it appears from the affidavit of such party that the motion is not made for the purpose of delay and, either:

(a) That the action or suit has not been commenced in the proper county; or,

(b) That the judge is a party to, or directly interested in the event of the action or suit, or connected by consanguinity or affinity within the third degree, with the adverse party or those for whom he prosecutes or defends; or,

(c) That the convenience of witnesses and the parties would be promoted by such change; or,

(d) In an action, that the judge or the inhabitants of the county are so prejudiced against the party making the motion that he cannot expect an impartial trial before said judge or in said county, as the case may be.

(2) When the moving party in an action is a nonresident of the county, the affidavit above required may be made by any one on his behalf.

14.120 Time of motion; to what county changed; number of changes. The motion for a change of the place of trial may be made and allowed any time after the commencement of the action or suit and before the beginning of trial, except that, if the change sought is pursuant to the provisions of paragraph (a) of subsection (1) of ORS 14.110, the motion must be made before filing of the answer. If the motion is allowed, the change shall be made to the county where the action or suit ought to have been commenced, if it is for the cause mentioned in paragraph (a) of subsection (1) of ORS 14.110, and in other cases to the most convenient county where the cause assigned as the reason for the change does not exist. Neither party shall be entitled to more than one change of the place of trial, except for causes not in existence when the first change was allowed.

[Amended by 1963 c.339 §1]

14.130 Transmission of transcript of proceedings and original papers. 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.

14.140 Payment of costs. The cost of a change of venue on the ground set forth in paragraph (a) of subsection (1) of ORS 14.110 shall be paid by the plaintiff, and failure to pay such cost within 20 days after entry of the order for change of venue is ground for dismissal of the action or suit. The cost of a change of venue on any other grounds shall be paid by the applicant. The cost of a change of venue on any ground shall not be taxed as a part of the costs of

the case; and the clerk may require payment of such costs before the transcript and papers are transmitted.
[Amended by 1963 c.339 §2]

14.150 When court may vacate order. If the transcript and papers are not transmitted to the clerk of the proper court within the time prescribed in the order allowing the change, and the delay is caused by the act or omission of the party procuring the change, the adverse party, on motion to the court or judge thereof, may have the order vacated, and thereafter no other change of the place of trial shall be allowed to such party.

14.160 When change of place of trial deemed complete. Upon the filing of the transcript and papers with the clerk of the court to which the cause is transferred, the change of venue shall be deemed complete, and thereafter the action shall proceed as though it had been commenced in that court.

14.170 Repayment to certain counties of compensation of jury and bailiffs. Whenever the place of trial of any action is changed for any of the causes set forth in paragraphs (b), (c) and (d) of subsection (1) of ORS 14.110, the compensation paid the jury and bailiffs in such action shall be repaid to the county wherein the action is tried by the county wherein the action was commenced if the transfer was to a county where the action would not lie.
[Amended by 1971 c.298 §1]

DISQUALIFICATION OF JUDGE

14.210 Disqualification of judicial officers for cause; application of section; waiver. (1) A judicial officer shall not act as such in a court of which he is a member in any of the following cases:

(a) When he is a party to or directly interested in the action, suit or proceeding;

(b) When he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision;

(c) When he is related to any party, or to the attorney for any party, or to the partner or office associate of any such attorney, by consanguinity or affinity within the third degree;

(d) When he has been attorney in the action, suit or proceeding for any party.

(2) This section does not apply to an application to change the place of trial, or the regulation of the order of business in court. In the cases specified in paragraphs (c) and (d) of subsection (1), the disqualification may be waived by the parties, and, except in the Supreme Court, shall be deemed to be waived, unless an application for a change of the place of trial is made as provided by statute.

14.220 [Repealed by 1955 c.408 §2]

14.230 [Repealed by 1955 c.408 §2]

14.240 [Repealed by 1955 c.408 §2]

14.250 Disqualification of judge for prejudice; transfer of cause or calling judge; making up issues. No judge of a circuit court of the State of Oregon, including such judge when sitting in a department of probate or a department of domestic relations or a judge hearing or trying probate or domestic relations matters or proceedings in counties in which such probate or domestic relations matters or proceedings are heard or tried by the circuit court or a judge thereof, shall sit to hear or try any suit, action, matter or proceeding when it shall be established, as provided in ORS 14.250 to 14.270, that such judge is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause, matter or proceeding. In such case the presiding judge shall forthwith transfer the cause, matter or proceeding to another department of the same court, or call in a judge from another department of the same court, or apply to the Chief Justice of the Supreme Court to send a judge to try it; or, if the convenience of witnesses or the ends of justice will not be interfered with by such course, and the action or suit is of such a character that a change of venue thereof may be ordered, he may send the case for trial to the most convenient court; except that the issues in such cause may, upon the written stipulation of the attorneys in the cause agreeing thereto, be made up in the district of the judge to whom the cause has been assigned.
[1955 c.408 §1(1)]

14.260 Affidavit and motion for change of judge; time for making; limit of two changes of judge. Any party to or any attorney appearing in any cause, matter or proceeding in a circuit court, including matters or proceedings in a department of probate or a department of domestic relations in those counties where probate or domestic relations matters or proceedings are heard or tried by the circuit court or a judge thereof, may establish the prejudice described in ORS

14.250 by motion supported by affidavit that the judge before whom the cause, matter or proceeding is pending is prejudiced against such party or attorney, or the interest of such party or attorney, so that such party or attorney cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, and that it is made in good faith and not for the purpose of delay, which affidavit shall be filed with such motion at any time prior to final determination of such cause, matter or proceedings in uncontested cases, and in contested cases before or within five days after such cause, matter or proceeding is at issue upon a question of fact or within 10 days after the assignment, appointment and qualification or election and assumption of office of another judge to preside over such cause, matter or proceeding, but no motion to disqualify a judge shall be made after the judge has ruled upon any petition, demurrer or motion other than a motion to extend time in the cause, matter or proceeding, and no motion to disqualify a judge or a judge pro tem, assigned by the Chief Justice of the Supreme Court to serve in a county other than the county in which the judge or judge pro tem resides, shall be filed more than five days after the party or attorney appearing in the cause receives notice of the assignment. In judicial districts having a population of 100,000 or more, the affidavit and motion for change of judge shall be made at the time and in the manner prescribed in ORS 14.270. No party or attorney shall be permitted to make more than two applications in any cause, matter or proceeding under this section.
[1955 c.408 §1 (2); 1959 c.667 §1]

14.270 Affidavit and motion in counties with presiding judge; time for making; limit of two changes of judge. In any county of the State of Oregon where there is a presiding judge who hears motions and demurrers and assigns cases to the other departments of the circuit court for trial, the affidavit and motion for change of judges to hear the motions and demurrers or to try the case shall be made at the time of the assignment of the case to a judge for trial or for hearing upon a motion or demurrer; oral notice of the intention to file the motion and affidavit shall be sufficient compliance with this section providing that the motion and affidavit are filed not later than the close of the next judicial day; but no motion to disqualify a judge to whom a case has been assigned for trial shall be made after the judge has ruled upon any petition, demurrer or motion other than a motion to extend time in the cause, matter or proceeding; except that when a presiding judge assigns to himself any cause, matter or proceeding in which he has previously ruled upon any such petition, motion or demurrer, then in such case any party or attorney appearing in the cause, matter or proceeding may move to disqualify the judge after assignment of the case and prior to any ruling on any such petition, motion or demurrer heard after such assignment. No party or attorney shall be permitted to make more than two applications in any action or proceeding under this section.
[1955 c.408 §1(3); 1959 c.667 §2; 1969 c.144 §1]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy
Legislative Counsel