

Chapter 2

1975 REPLACEMENT PART

Supreme Court; Court of Appeals

SUPREME COURT

- 2.010 Number of judges of Supreme Court
- 2.020 Qualifications of judges
- 2.040 Position number of judges
- 2.045 Chief Justice
- 2.070 Clerical assistants for judges
- 2.080 Terms of court
- 2.090 Place of holding Pendleton session; supplies
- 2.100 Quorum
- 2.111 Departments of court; sitting in departments or in banc
- 2.120 Rules, generally
- 2.130 Rules governing original jurisdiction

OREGON REPORTS

- 2.141 Court decisions; filing; printing of and charges for advance sheets
- 2.150 Publication of Oregon Reports
- 2.160 Distribution of Oregon Reports
- 2.170 Receipts from advance sheets and Oregon Reports; payment of costs

COURT OF APPEALS

- 2.510 Court of Appeals; creation; appellate jurisdiction
- 2.515 Jurisdiction where state agency a party
- 2.520 Procedure for review of decisions of Court of Appeals
- 2.530 Determination of jurisdiction; dismissal on sole issue of jurisdiction prohibited
- 2.540 Number of judges of Court of Appeals; qualifications; term
- 2.550 Chief Judge
- 2.560 Clerical assistants for court; reporter; administrator; place of sessions; supplies; rules
- 2.570 Departments of court; sitting in departments or in banc
- 2.590 Expenses for judges when away from state capital

CROSS REFERENCES

- Administrative supervision by Supreme Court over other courts, 1.002
 - Appeals, Ch. 19
 - Appellate jurisdiction, 19.010; Const. Art. VII (O), s.6
 - Appointment of public defender on appeal, 138.480
 - Attorneys, discipline, 9.470 to 9.580
 - Contempt of court, 33.010 to 33.150
 - Court records, electronic data processing, Supreme Court rules, 7.095
 - Duties relating to administration of justice, enforcement of performance, 1.025
 - Election of judges, Ch. 252; Const. Art. VII (A), s.1, Const. Art. VII (O), s.2 (superseded)
 - Files of court, what are, custody, 7.090, 7.110
 - Judicial Conference, 1.810
 - Judicial fitness, determination, discipline, 1.410 to 1.480
 - Judicial power vested in Supreme Court, Const. Art. VII (A), s.1
 - Jurisdiction may be changed by law, Const. Art. VII (A), s.2
 - Leaves of absence, 1.290
 - Library of Supreme Court, Ch. 9
 - Minor Court Rules Committee, 1.510
 - Open meeting law not applicable to any judicial proceeding, 192.690
 - Original jurisdiction, Const. Art. VII (A), s.2
 - Pro tempore judges, 1.600 to 1.665
 - Records of Supreme Court, what constitute, 7.010 to 7.030, 7.060
 - Retirement of judges, 1.310 to 1.380
 - Rules for certain offenses and violations, 1.520
 - Seal of court, 1.030
 - Senior judge, designation of retired judge, 1.300
 - Term of office of judges, Const. Art. II, s.14, Art. VII (A), s.1, Art. VII (O), s.3
 - Unclaimed property held for owner by court, 98.336, 98.302 to 98.436
 - Vacancy in office of judge, filling of, Const. Art. VII (O), s.4
 - Waiver of fees and costs for indigents, 21.605
- 2.010**
- Number of judges not to exceed seven, Const. Art. VII (O), s.2
 - Salary of justices, 292.410
- 2.020**
- Judge may not accept other nonjudicial office during term, Const. Art. VII (A), s.7
 - Oath of office, Const. Art. VII (A), s.7
 - Qualifications of judges, Const. Art. VII (O), s.2
 - Removal of judge, Const. Art. VII (O), s.20
- 2.040**
- Districts, election from (superseded), Const. Art. VII (O), s.2
 - Election of judges by position number; designation of position number on ballots, 252.110
- 2.045**
- Administrative duties of Chief Justice, 1.006

Appointment of circuit judges pro tempore, 3.510 to 3.560

Chief justice, who to serve as (superseded), Const. Art. VII (O), s.5

Disability of Governor, conference to determine, 176.040

2.080

Terms of court generally, 1.055

Terms to be appointed by law; must be one annual term at capital, Const. Art. VII (A), s.4

2.090

When appeals heard at Pendleton, 19.118

2.120

Class actions, coordination, rules governing, 13.370

Limitation on procedural rules, 1.002

Powers of court, generally, 1.010

2.130

Original jurisdiction, Const. Art. VII (A), s.2

2.141

Opinions must be filed with Secretary of State at end of term, Const. Art. VII (A), s.4

2.160

Applicability of section to tax court reports, 305.450

2.510

Determination of disputed jurisdiction of district court, 46.063

District courts, appeals from, 46.250 to 46.265

Invalidation of city charter or ordinance, appeal from circuit court, 221.380

Probate matters, appeals from circuit courts, 111.105

Rulemaking authority, district court appeals, 46.340

Salary, 292.405

Temporary orders relating to custody of child filed with clerk pending disposition of final appeal, 419.561

Note: Section 10, chapter 706, Oregon Laws 1975, provides:

Sec. 10. ORS 2.052, 2.055, 2.058, 2.600, 3.081, 3.091, 3.096, 3.510, 3.520, 3.530, 3.540, 3.550, 3.560, 3.570, 46.638, 46.642 and 305.465 are repealed. However, that repeal does not affect any appointment or assignment of a judge pro tempore as provided in those statute sections prior to the effective date of this Act [September 13, 1975] or the validity of any action of a judge pro tempore so appointed or assigned. The appointment or assignment of a judge pro tempore as provided in those statute sections prior to the effective date of this Act and in existence on that effective date shall continue on and after that effective date pursuant to the terms and conditions of the appointment or assignment until the appointment or assignment expires or is terminated as provided in those statute sections, and any action by the judge pro tempore pursuant to those terms and conditions while so continuing is valid.

office as such by reason of resignation, expiration of his term as Chief Justice or otherwise, a successor Chief Justice shall be selected for a term of six years.
[1959 c.384 s.2 (enacted in lieu of 2.050)]

2.050[Repealed by 1959 c.384 s.1 (2.045 enacted in lieu of 2.050)]

2.052[1959 c.44 s.1; 1969 c.198 s.31; repealed by 1975 c.706 s.10]

2.055[1959 c.44 s.2; repealed by 1975 c.706 s.10]

2.058[1959 c.44 s.3; 1961 c.387 s.1; 1969 c.198 s.32; repealed by 1975 c.706 s.10]

2.060[Amended by 1955 c.127 s.1; repealed by 1959 c.44 s.7]

SUPREME COURT

2.010 Number of judges of Supreme Court. The Supreme Court shall consist of seven judges.

2.020 Qualifications of judges. (1) The judges of the Supreme Court shall be citizens of the United States, and shall have resided in this state at least three years next preceding their election or appointment.

(2) All persons elected judges of the Supreme Court must, at time of their election, have been admitted to practice in the Supreme Court of Oregon.

2.040 Position number of judges. The positions of the members of the Supreme Court shall be designated by the numbers 1 to 7, following the designation made by section 1, chapter 241, Laws of Oregon 1929, and each incumbent shall be designated by the same position number as the judge whom he succeeds in office.

2.045 Chief Justice. (1) A Chief Justice of the Supreme Court shall be selected from their own number by vote of a majority of the members of the Supreme Court. The Chief Justice shall hold office as such for a term of six years from the date of his selection.

(2) The Chief Justice's term of office as such is not interrupted by the expiration of his term of office as judge of the Supreme Court if he is elected judge of the Supreme Court for a succeeding term.

(3) A judge selected as Chief Justice may be selected to succeed himself as such. If the Chief Justice vacates his office as judge of the Supreme Court by reason of death, resignation, failure of reelection or otherwise, or if the Chief Justice vacates his

2.070 Clerical assistants for judges. The Supreme Court may appoint and fix the compensation of such number of clerical assistants to the judges of the court as it deems necessary.

2.080 Terms of court. There shall be two terms of the Supreme Court held annually in the capital, commencing on the first Monday in March and the first Monday in October in each year, and at such other times as the court may appoint; and two terms at Pendleton, commencing on the first Monday in May and the last Monday in October of each year and at such other times as the court may appoint.

2.090 Place of holding Pendleton sessions; supplies. The courthouse at Pendleton shall be used by the Supreme Court for its sittings in that place, when the circuit court is not in session, or such other place in Pendleton as the court may direct, or the County Court of Umatilla County provide; and the Secretary of State shall furnish there the necessary stationery and books for the use of the court and for the keeping of its records.

2.100 Quorum. Subject to ORS 2.111, the presence of a majority of all the judges of the Supreme Court is necessary for the transaction of any business therein; but any less number may meet and adjourn from day to day, or for the term, with the same effect as if all were present.

[Amended by 1959 c.44 s.6]

2.110[Repealed by 1959 c.44 s.4 (2.111 enacted in lieu of 2.110)]

2.111 Departments of court; sitting in departments or in banc. (1) In hearing and determining causes, the Supreme Court may sit all together or in departments.

(2) A department shall consist of not less than three nor more than five judges. For convenience of administration, each department may be numbered. The Chief Justice shall from time to time designate the number of departments and make assignments of the judges among the departments. The Chief Justice may sit in one or more of the departments and when so sitting shall preside. The Chief Justice shall designate a judge to preside in each department in his absence.

(3) The majority of any department shall consist of regularly elected and qualified judges of the Supreme Court.

(4) The Chief Justice shall apportion the business to the departments. Each department shall have power to hear and determine causes and all questions which may arise therein, subject to subsection (5) of this section. The presence of three judges is necessary to transact business in any department, except such as may be done in chambers by any judge. The concurrence of three judges is necessary to pronounce a judgment.

(5) The Chief Justice or a majority of the regularly elected and qualified judges of the Supreme Court may at any time order a cause to be heard in banc. When sitting in banc, the court may include not more than two judges pro tempore of the Supreme Court. When the court sits in banc, the concurrence of a majority of the judges participating is necessary to pronounce a judgment, but if the judges participating are equally divided in their views as to the judgment to be given, the judgment, decree or order appealed from shall be affirmed.

[1959 c.44 s.5 (enacted in lieu of 2.110)]

2.120 Rules, generally. The Supreme Court shall have power to make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court, and the remanding of causes to the court below.

2.130 Rules governing original jurisdiction. The Supreme Court is empowered to prescribe and make rules governing the conduct in that court of all causes of original jurisdiction therein.

2.140[Repealed by 1953 c.345 s.3]

OREGON REPORTS

2.141 Court decisions; filing; printing of and charges for advance sheets.

(1) The judges of the Supreme Court shall cause their decisions and the decisions of the Court of Appeals to be prepared, in such number and manner as they may determine, and delivered to the State Court Administrator. The administrator shall file a copy of each decision in his office and cause other copies to be distributed as determined by the Supreme Court.

(2) The Department of General Services shall cause to be printed a sufficient number of unbound copies of such decisions as required by the administrator containing indexes and other necessary material to be used as advance sheets. The printed advance sheets shall include a subject index, which shall be prepared by a competent person to be appointed by and to be under the supervision of the judges of the Supreme Court. The administrator may furnish such advance sheets without charge or to subscribers at a price determined by him, payable in advance, keeping a mailing list and record of receipts. Individual copies of such advance sheets may be furnished upon request without charge or at a price determined by the administrator.

[1953 c.345 s.1; 1965 c.233 s.2; 1967 c.398 s.1; 1971 c.193 s.9; 1971 c.348 s.2; 1971 c.526 s.1; 1973 c.781 s.1; 1975 c.69 s.4]

2.145[Formerly 2.580; repealed by 1975 c.69 s.8]

2.150 Publication of Oregon Reports. (1) The State Court Administrator shall prepare, superintend and direct the publication of the decisions of the Supreme Court and the Court of Appeals in such form as determined by the Supreme Court.

(2) The administrator shall deliver to the State Printer the manuscript for printing as rapidly as the same is delivered to him by the judges and sufficient has accumulated for a volume, and he shall read and correct the proof of the work of the printer. The State Printer shall deliver the published volumes of Oregon Reports to the Secretary of State for distribution pursuant to ORS 2.160.

(3) The State Printer shall, upon request of the administrator, reproduce by any process a sufficient number of copies of any prior volumes of Oregon Reports to enable the Secretary of State to carry out ORS 2.160.

[Amended by 1961 c.103 s.1; 1973 c.781 s.2; 1975 c.69 s.5]

2.160 Distribution of Oregon Reports. (1) The Secretary of State shall distribute current and prior volumes of Oregon Reports as directed by the State Court Administrator.

(2) All copies of Oregon Reports shall be distributed without charge as determined by the administrator or sold by the Secretary of State at a price determined by the administrator. With the approval of the administrator, the Secretary of State also may sell such reports at wholesale or in exchange for other volumes of Oregon Reports, in such quantities, at such prices and on such terms and conditions, including the fixing of prices at which they shall be resold, as the administrator may determine.

(3) The copies of Oregon Reports furnished under this section to public officers of this state shall be public property and shall be delivered over by them to their successors in office.

[Amended by 1961 c.103 s.2; 1971 c.193 s.10; 1973 c.781 s.3; 1975 c.69 s.6]

2.170 Receipts from advance sheets and Oregon Reports; payment of costs. (1) All moneys collected or received by the State Court Administrator under ORS 2.141 or the Secretary of State under ORS 2.160 shall be paid into the General Fund of the State Treasury to be available for the payment of general governmental expenses.

(2) The cost of printing the advance sheets and Oregon Reports shall be paid out of moneys appropriated to the Supreme Court.

[1967 c.398 s.9 (1), (2); 1971 c.193 s.11; 1975 c.69 s.7]

2.310[1953 c.34 s.1; repealed by 1959 c.552 s.16]

2.320[1953 c.34 s.4; 1955 c.437 s.1; repealed by 1959 c.552 s.16]

2.330[1953 c.34 ss.2, 3, 7; repealed by 1959 c.552 s.16]

2.340[1953 c.34 s.5; repealed by 1959 c.552 s.16]

2.350[1959 c.552 s.2; renumbered 8.060]

COURT OF APPEALS

2.510 Court of Appeals; creation; appellate jurisdiction. (1) As part of the judicial branch of state government, there is created a court of justice to be known as the Court of Appeals.

(2) The Court of Appeals shall have exclusive jurisdiction of appeals in the following matters:

(a) Appeals from judgments, as defined in ORS 19.005, of circuit courts in criminal cases:

(A) Arising under ORS 138.010 to 138.300 and 138.510 to 138.680.

(B) In habeas corpus proceedings seeking to adjudicate the validity of any conviction or imprisonment; but this subparagraph does not abrogate the original habeas corpus jurisdiction of the Supreme Court.

(C) In extradition proceedings under ORS 133.743 to 133.857.

(D) In proceedings relating to probation or parole.

(E) In proceedings arising under ORS 221.360.

(b) Appeals from judgments, as defined in ORS 19.005, of circuit courts:

(A) In proceedings arising under ORS 111.105.

(B) In proceedings arising under ORS 118.350.

(C) In guardianship and conservatorship proceedings.

(D) In adoption proceedings under ORS 109.305 to 109.400.

(c) Appeals from judgments, as defined in ORS 19.005, of circuit courts exercising jurisdiction under ORS chapter 419.

(d) Appeals from judgments, as defined in ORS 19.005, of circuit courts:

(A) In suits for dissolution of marriage or a separation.

(B) In suits for annulment of the marriage contract.

(C) In suits or other proceedings relating to child custody or support.

(D) In filiation proceedings.

(e) Appeals from judgments, as defined in ORS 19.005, of circuit courts on any action of or failure to act by state agencies, as defined by ORS 183.310 or 291.002 or by any agency of local government, except orders and rulings that are appealable to the Oregon Tax Court.

(f) In proceedings for review of orders of state agencies in a contested case as defined in ORS 183.310.

(g) All appeals from district courts.

(3) Nothing in this section is intended to provide or create a right of appeal where such right is not otherwise provided or created by law.

[1969 c.198 s.1; 1969 c.591 s.262a; 1971 c.567 s.1; 1971 c.734 s.33; 1975 c.611 s.22]

Note: Subsection (2) of section 25, chapter 611, Oregon Laws 1975 provides that the amendments to ORS 2.510 made by section 22, chapter 611, Oregon Laws 1975, do not become operative until January 1, 1977.

2.515 Jurisdiction where state agency a party. Notwithstanding any other provision of law, all appeals from lower

court decisions where a state agency, as defined in ORS 291.002, is a party shall be taken to the Court of Appeals rather than to the Supreme Court except for those cases where the Oregon Tax Court has jurisdiction.

[1969 c.198 s.77]

2.520 Procedure for review of decisions of Court of Appeals. Any party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for review within 30 days after the date of the decision, in such manner as provided by rules of the Supreme Court.

[1969 c.198 s.2; 1973 c.516 s.1]

2.530 Determination of jurisdiction; dismissal on sole issue of jurisdiction prohibited. (1) In any appeal before the Court of Appeals where a party asserts, or the court on its own motion suggests, that the appeal filed in the court is properly within the jurisdiction of the Supreme Court, the Court of Appeals shall refer the cause to the Supreme Court, which shall decide the question of jurisdiction in a summary manner. Its determination shall be conclusive. The Supreme Court shall refer to the Court of Appeals any cause erroneously appealed to the Supreme Court.

(2) No appeal in either the Supreme Court or the Court of Appeals shall be dismissed by either court solely for having been filed in the wrong court, but shall be considered timely filed in the court which the Supreme Court determines has jurisdiction over the appeal.

[1969 c.198 s.3]

2.540 Number of judges of Court of Appeals; qualifications; term. (1) The Court of Appeals shall consist of six judges.

(2) A judge of the Court of Appeals shall be a qualified elector of the county of his residence and be admitted to the practice of law in this state.

(3) Each judge of the Court of Appeals shall hold office for a term of six years and until his successor is elected and qualified.

[1969 c.198 s.4; 1973 c.377 s.1]

2.550 Chief Judge. (1) A Chief Judge of the Court of Appeals shall be selected from among the judges by a vote of the majority of the judges. The Chief Judge shall hold office as such for a term of six years from the date of his selection.

(2) The Chief Judge's term of office, as such, is not interrupted by the expiration of

his term of office as judge of the Court of Appeals if he is elected judge of the Court of Appeals for a succeeding term.

(3) A judge selected as Chief Judge may succeed himself. If the Chief Judge vacates his office as judge of the Court of Appeals, or if the Chief Judge vacates his office as Chief Judge, a successor Chief Judge shall be elected for a term of six years.

[1969 c.198 s.5]

2.560 Clerical assistants for court; reporter; administrator; place of sessions; supplies; rules. (1) The Court of Appeals may appoint and fix the compensation of such number of clerical assistants to the judges of the court as it considers necessary.

(2) The Supreme Court Reporter shall be the Reporter of the Court of Appeals.

(3) The State Court Administrator shall be administrator of the Court of Appeals.

(4) The Court of Appeals shall sit primarily in Salem, but also may sit in such other places as it considers convenient for the conduct of its business.

(5) The duty of the Secretary of State to furnish books and adequate quarters for the use of the Court of Appeals shall be the same as for the Supreme Court.

(6) The Court of Appeals may make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court, and the remanding of causes to the lower courts. All forms of pleadings used by the court shall be in compliance with the rules adopted under ORS 1.002.

[1969 c.198 s.7; 1971 c.193 s.7; 1973 c.484 s.2]

2.570 Departments of court; sitting in departments or in banc. (1) In hearing and determining causes, the judges of the Court of Appeals may sit together or in departments.

(2) A department shall consist of three judges. For convenience of administration, each department may be numbered. The Chief Judge shall from time to time designate the number of departments and make assignments of the judges among the departments. The Chief Judge may sit in one or more departments and when so sitting shall preside. The Chief Judge shall designate a judge to preside in each department in his absence.

(3) The majority of any department shall consist of regularly elected and qualified judges of the Court of Appeals.

(4) The Chief Judge shall apportion the business of the court between the departments. Each department shall have power to

hear and determine causes, and all questions which may arise therein, subject to subsection (6) of this section. The presence of three judges is necessary to transact business in any department, except such business as may be transacted in chambers by any judge. The concurrence of two judges is necessary to pronounce judgment.

(5) In the event a judge of a department of three judges dies or becomes disabled or disqualified and is therefore unable to participate in the decision of a case submitted to that department, another judge may be assigned to the department and may participate in the decision with the other two judges of the department without resubmission of the case.

(6) The Chief Judge or a majority of the regularly elected and qualified judges of the Court of Appeals may at any time order a cause to be heard in banc. When sitting in banc, the court may include not more than two judges pro tempore of the Court of Appeals. When the court sits in banc, the

concurrence of a majority of the judges participating is necessary to pronounce judgment, but if the judges participating are equally divided in their view as to the judgment to be given, the judgment appealed from shall be affirmed.

[1969 c.198 s.6; 1973 c.108 s.1]

2.580[1969 c.198 s.8; renumbered 2.145]

2.590 Expenses for judges when away from state capital. When a judge of the Court of Appeals holds court or performs any other official function away from the state capital, his hotel bills and traveling expenses necessarily incurred by him in the performance of that duty shall be paid by the state. Such expenses are to be paid upon the certificate of the judge to the truth of an itemized statement of the expenses in the manner provided by law.

[1969 c.198 s.10]

2.600[1969 c.198 s.30; repealed by 1975 c.706 s.10]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1975.

Thomas G. Clifford
Legislative Counsel

