

# Chapter 10

## 1977 REPLACEMENT PART

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## JURIES GENERALLY

**10.010 Jury defined.** A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power:

- (1) To present or indict a person for a public offense; or
- (2) To try a question of fact.

**10.020 Kinds of juries.** A jury is of three kinds:

- (1) A grand jury.
- (2) A trial jury.
- (3) A jury of inquest.

**10.030 Competency and qualifications of jurors; availability for service.** (1) A person is competent to act as a juror if he or she is:

- (a) A citizen of the United States;
- (b) An inhabitant of the county in which he or she is drawn or called, and has been an inhabitant thereof for the year next preceding the time he or she is drawn or called;
- (c) Over 18 years of age; and
- (d) Of a sound mind.

(2) A person who is blind or physically handicapped shall not be deemed incompetent for jury duty or have his or her name excluded from a jury list or jury box on the basis of blindness or physical handicap alone.

(3) No person shall be summoned as a juror in any circuit or district court more than once in one year.

[Amended by 1971 c 630 §1; 1975 c 781 §4, 1977 c 262 §1]

**10.040 Exemptions.** A person is exempt from duty to act as a juror if he is:

(1) A judicial officer as defined in ORS 1.210.

(2) Any other civil officer of this state or of the United States, whose duties are at the time inconsistent with his attendance as a juror.

(3) An attorney.

(4) A practicing physician, dentist, optometrist, chiropractor, osteopath, Christian Science practitioner, naturopath, veterinarian or undertaker.

(5) An acting member of a company of firemen duly organized, and who is paid an annual or monthly salary for his services and who has been such member for a period of six months next preceding the time when the exemption is claimed.

(6) A member of the state Senate or House of Representatives, and the Legislative Assembly is in session.

(7) An active member of the Oregon National Guard.

[Amended by 1961 c 454 §208, 1975 c 84 §1]

**10.050 Excuse from jury duty.** (1) The court may excuse a person from acting as a juror upon a showing of undue hardship or extreme inconvenience to that person or his employer.

(2) Notwithstanding subsection (2) of ORS 10.030, a judge may, on his own motion, excuse a juror whose presence on the jury would substantially impair the progress of the action on trial or prejudice the parties thereto.

(3) A person shall not be required to serve as a petit juror at any one term of the court for more than four weeks, and shall, upon application, be entitled to be discharged from further attendance upon the court as a juror at such term, after having served for a reasonable period of time, as determined by the court, not to exceed four weeks.

[Amended by 1967 c 389 §1, 1975 c 160 §3, 1977 c 262 §2, 1977 c.631 §2]

**10.055 Deferment of jury service.** The judge of the circuit court or the judge of the district court for any county or his authorized court officer may allow, with respect to the court of which he is a judge or court officer, for good cause shown, a person selected to serve as a juror at a term of the court to defer his jury service to any term of court beginning within one year after the term of court for which the person was selected to serve. The name of a person allowed to defer his jury service shall be included with the names of persons drawn as jurors for the subsequent term of such court to which jury service is deferred.

[1967 c 473 §2, 1969 c 176 §1, 1971 c 207 §1, 1975 c 342 §13]

**10.060 Fees of jurors.** The fees of jurors shall be as follows:

(1) For every day's attendance upon a court of record, \$10.

(2) For each juror sworn in the justice court, or upon an inquest, \$10.

A talesman acting as juror is entitled to the same per diem as a regular summoned juror; but if a talesman in a court of record is not accepted and sworn to try the case for which he has been summoned, he is entitled to only \$5 for every day in attendance.

[Amended by 1955 c 296 §1, 1971 c 358 §1]

**10.065 Additional fees of jurors.**

Every juror whose fees are prescribed in ORS 10.060 who is required to travel from his usual place of abode in order to execute or perform service as a juror, in addition to the fees prescribed in ORS 10.060, shall be entitled to mileage at the rate of eight cents a mile, and no more, for travel in going to and returning from the place where the service is performed. Such juror shall be entitled to such mileage for each day's attendance upon court.

[1957 c 676 §1, 1971 c 358 §2]

**10.070** |Repealed by 1957 c 676 §2|

**10.080 Seeking or offering to procure place on jury or list of jurors and selection of juror pursuant to request prohibited.**

(1) No person shall ask or request any sheriff, constable or any other person, whose duty it is under the law to select or summon any jury or juror, to select or put him upon the jury; nor shall any person procure or offer to procure for himself or for another person a place upon any jury or seek to have himself or another placed upon the list of jurors that is required by law to be made

(2) No sheriff, constable or other person whose duty it is under the law to select or summon a jury shall select, summon or place upon any jury any person whom he has been asked or requested to select or summon.

**10.090 Prohibited acts by employers against jurors; notice to jurors by sheriff; remedy for violations.** (1) An employer shall not discharge or threaten to discharge, intimidate, or coerce any employe by reason of the employe's service or scheduled service as a juror on a grand jury, trial jury or jury of inquest.

(2) This section shall not be construed to alter or affect an employer's policies or agreements with his employes concerning employes' wages during times when an employe serves or is scheduled to serve as a juror.

(3) When summoning jurors, the sheriff shall notify each juror of his rights under this section.

(4) Upon complaint filed by a prospective juror or a juror who has served or upon petition of the district attorney, the circuit court shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including but not limited to, reinstatement of an employe discharged by reason of his service as a juror, with back pay for the time the employe was discharged.

[1975 c 160 §1]

**JURY SELECTION**

(List)

**10.110 Preparation of preliminary jury list, jury list and list of rejected prospective jurors.** The county clerk of each county shall, at the first term of each year of the circuit court for the county, or in case of an omission or neglect so to do then at any following term, make a list of the most competent of the permanent citizens of the county by selecting names by lot from the latest voter registration lists or any other source which will furnish a fair cross section of the county wherein the court convenes, denominated a preliminary jury list. From the preliminary jury list the names of those persons known not to be qualified by law to serve as jurors shall be deleted. The remaining names shall constitute the jury list. The names of those persons deleted from the preliminary jury list shall be placed on a separate list, denominated rejected prospective jurors, and opposite each name the reason for removing the name shall be set forth.

[Amended by 1955 c 717 §1, 1957 c 393 §1, 1973 c 836 §312]

**10.120** |Amended by 1965 c 387 §1 repealed by 1973 c 836 §358|

**10.130 Jury list to contain only names of those qualified and not exempted.** In preparing the jury list, the names of those persons only must be selected who are known or believed to be possessed of the qualifications prescribed in ORS 10.030, and not entitled to exemption as provided in ORS 10.040.

**10.135 Jurors to be from different portions of county; number of names on list.** The names entered upon the jury list shall be, as far as practicable, selected from the different portions of the county in proportion to the number of names of qualified jurors appearing on the latest voter registration list and any other source authorized by ORS 10.110. The jury list shall.

(1) For counties having a population of less than 10,000, contain the names of at least 250 persons, but not more than 1,250 persons.

(2) For counties having a population of 10,000 but less than 25,000, contain the names of at least 500 persons but not more than 1,500 persons.

(3) For counties having a population of 25,000 or more, contain the names of at least

1,500 persons but not more than 5,000 persons.

[1969 c 219 §1, 1973 c 836 §313]

10.140 [Amended by 1955 c 717 §2, repealed by 1969 c 219 §2]

**10.150 Contents of jury list; certification and filing.** The jury list shall contain the first name, the surname and the place of residence of each person named therein, and shall be certified by the county clerk and placed on file in the office of the county clerk within 10 days from the time it is prepared.

[Amended by 1955 c 717 §3, 1977 c 465 §1]

**10.160 Jury box; deposit of ballots in box.** The county clerk shall keep in his office a sufficient box, carefully secured, which is denominated the jury box. After the jury list is filed, the county clerk shall destroy all ballots remaining in the box and shall prepare and deposit in such box separate ballots, containing the name, place of residence, and occupation of each person embraced in the list, and folded as nearly alike as practicable so that the name cannot be seen.

[Amended by 1955 c 717 §4]

#### (Panel)

**10.210 Drawing of jurors for circuit and district courts; exceptions.** (1) Subject to the provisions of this section, for every term of the circuit court in any county, the jurors shall be drawn from the names deposited in the jury box.

(2) For the district court the jurors may be drawn:

(a) Quarterly from the names deposited in the district court jury box; or

(b) From the names drawn for service in the circuit court under subsection (1) of this section.

(3) For any circuit court, except as otherwise is provided by law governing the summoning of jurors therefor, no jury shall be drawn at any term thereof if the judge of the circuit court, by order previously filed with the county clerk, has dispensed with the attendance of a jury at such term.

[Amended by 1957 c 594 §1, 1961 c 705 §4, 1965 c 510 §11, 1977 c 519 §1]

**10.220 Number of jurors drawn for circuit and district courts; reserve panel.**

(1) For the circuit court, 40 names shall be drawn, from which number the grand jurors and trial jurors for the term are selected as provided by law; except, that a larger number of jurors may be drawn when ordered by the

judge of the circuit court, or in judicial districts having more than one judge of the circuit court by a majority of them, or where there are only two judges in a judicial district, by the judge senior in continuous service, or if none, then the judge senior in age, or by any judge designated to make such order, either by the rules of the court or majority of the judges or by law. When a larger number of jurors than the regular panel of 40 is ordered to be drawn, the names of such jurors shall be added to the regular panel or placed on a separate list designated as a reserve panel as the order may provide. Thereafter jurors shall be specially drawn from the reserve panel whenever the regular panel has been or appears likely to become depleted. Drawings from the reserve panel shall be by lot by the county clerk pursuant to order of a judge of the court. Upon completion of the jury duty for which specially drawn, the names of such jurors shall be restored to the reserve panel until again drawn in like manner

(2) For the district court

(a) 30 names shall be drawn, in the same manner as jurors are drawn for the circuit court, from which number trial jurors are selected in the same manner as jurors are selected from the original panel of the circuit court; or

(b) The original panel of the circuit court may be used, from which number trial jurors are selected in the same manner as jurors are selected for circuit court.

[Amended by 1955 c 717 §5, 1957 c 594 §2, 1959 c 462 §1, 1961 c 705 §5, 1965 c 510 §12, 1977 c 519 §2]

**10.230 Drawing, when and where to take place.** The drawing shall take place at the office of the county clerk, not less than 10 nor more than 20 days before the holding of the term of court at which the jurors are to serve; but if the term be one appointed by the court or judge thereof, the drawing may be at any shorter time before the term, as the court or judge may prescribe in the order appointing the term.

**10.240 Manner of conducting drawing.** (1) Whenever jurors are to be drawn, the county clerk, except as otherwise provided in subsection (2) of this section, shall take to his assistance the sheriff or a justice of the peace for the county and proceed with the drawing as follows:

(a) The clerk shall shake the box containing the ballots so as to mingle them as much as possible.

(b) He shall then publicly draw out of the box as many ballots as there are jurors required.

(c) A minute of the drawing shall be kept, in which the name contained on each ballot drawn shall be entered before another ballot can be drawn.

(d) If, when the whole number of ballots is drawn, it appears that a person whose name is drawn is dead, or resides out of the county, that fact shall be entered in the minutes of the drawing, and the ballot containing the name destroyed.

(e) Another ballot must then be drawn in the place of that destroyed, and the name contained thereon shall in the same manner be entered in the minutes of the drawing.

(f) The same proceeding shall be had as often as necessary until the requisite number of names is secured.

(g) The minutes of the drawing shall then be signed by the clerk and the attending officer, and immediately filed in the office of the former.

(2) In districts composed of no more than one county and having more than one judge of the circuit court the assistance of the sheriff and justice of the peace may be dispensed with. In such districts the drawing shall in all cases take place in open court in the presence of one or more of the judges of the court and under his or their direction; and the minutes of the drawing shall then be signed by the clerk and the judge or judges under whose direction the drawing is made.

**10.250 Panel of names drawn to be delivered to the sheriff.** A panel of the names of the persons drawn as jurors, with their places of residence and occupation, and stating for what court and the particular term thereof they were drawn, shall then be made and certified by the clerk, and delivered without delay to the sheriff of the county.

**10.260 Summoning of jurors; special venire.** At least 10 days before the first day of the term the sheriff shall summon the persons named in the panel delivered to him to attend the court, by giving written notice to each of them by mail. However, the court or judge thereof may order the sheriff to summon any special venire of jurors by giving written notice to each of them personally, or by leaving the notice at his place of residence with some person of suitable age and discretion, and such notice need be given only for a reasonable time before the day on which the special venire is required to attend

**10.270 Summoning of jurors in certain counties.** The jurors for the regular terms of the circuit court for Gilliam County shall be summoned to appear in court on Tuesday after the convening of such court on Monday, and in Grant, Sherman and Wheeler Counties the jurors shall be summoned to appear in court on the first day of the regular term, unless the attendance of any jury or jurors is dispensed with in the manner provided by law.

[Amended by 1967 c 532 §7, 1967 c 533 §17]

**10.280 Return of panel.** The sheriff shall return the panel to the court at its opening, specifying the persons summoned, the manner in which each was notified, and the date of notification.

**10.290** [Amended by 1965 c 387 §2, repealed by 1975 c 342 §1]

**10.300 Methods of drawing additional jurors to augment panel or jury list.** (1) Whenever the number of jurors required does not attend a term of the court, or when jurors have served the full time required of jurors and have been discharged, the court has power to order an additional number of jurors drawn from the jury list to fill up the regular panel, in the same manner as the original panel is required to be drawn. These jurors shall be summoned and required to attend as jurors, in the same manner and with like effect as if drawn on the original panel.

(2) Whenever the regular panel becomes exhausted, or whenever, in the opinion of the court, the regular panel is likely to become exhausted, and except as provided in subsection (4) of this section or except where jurors are to be drawn from the reserve panel authorized by ORS 10.220, the court shall order an additional number of jurors drawn from the jury list by the sheriff in the presence of the court, and the jurors so drawn shall be summoned, unless relieved by the court, and required to attend at such times as the court may order

(3) Whenever the jury list becomes exhausted, or whenever, in the opinion of the court, such list is likely to become exhausted, the court may by an order stating the reasons, and duly entered, direct the sheriff to summon forthwith from the body of the county persons whose names are upon the latest voter registration list and any other source authorized by ORS 10.110 and who have the qualifications of jurors, to serve in the court.

(4) In judicial districts having less than 400,000 inhabitants, according to the latest

federal decennial census, the trial judge, upon mutual agreement of the attorneys for the parties to the cause and without ordering an additional number of jurors drawn from the jury list to fill up the regular panel as provided in subsection (1) or (2) of this section, shall make the order mentioned in subsection (3) of this section and direct the sheriff to summon forthwith from the body of the county persons whose names are upon the latest voter registration list and any other source authorized by ORS 10.110 and who have the qualifications of jurors, to serve in the court.

[Amended by 1963 c 519 §4, 1973 c 836 §314]

**10.310 Juror not to be drawn twice unless jury list exhausted.** Until the ballots in the jury box have all been drawn, including those returned as provided in subsection (2) of ORS 10.320, the ballots deposited in the box of drawn jurors, described in subsection (3) of ORS 10.320, are not to be drawn from; but whenever the ballots in the jury box have all been drawn, and a new jury list has not been furnished, the ballots of drawn jurors shall all be returned to the jury box and, unless prohibited by subsection (3) of ORS 10.030, the jurors drawn therefrom as before, until a new list is furnished.

**10.320 Disposition of ballots drawn.** The county clerk shall preserve the ballots drawn as provided in ORS 10.240 until after the adjournment of the court, and shall then:

(1) Destroy the ballots containing the names of those who were discharged for want of a qualification mentioned in ORS 10.030 or by reason of an exemption mentioned in ORS 10.040.

(2) Deposit in the jury box the ballots containing the names of those who did not appear, or were discharged for any other reason than those mentioned in subsection (1) of this section.

(3) Deposit in a box, to be denominated the box of drawn jurors, the ballots containing the names of those who attended and served.

**10.330 County clerk's certificate pertaining to attendance of jurors and their fees.** The county clerk shall, within one week after the court's adjournment, make and file in his office a certified list of all the jurors returned to the court, specifying:

(1) Those who were discharged for want of qualification, or by reason of exemption.

(2) Those who did not appear, or were discharged for any other reason.

(3) Those who attended and served, and the per diem and mileage of each.

**10.340** [Amended by 1963 c 519 §5, repealed by 1975 c 342 §1]

**10.350** [Repealed by 1975 c 342 §1]

## ELECTRONIC JURY SELECTION

**10.400 Applicability of ORS 10.110 to 10.330.** The provisions of ORS 10.110 to 10.330 shall not apply to any county that selects its jury list by electronic means as provided in ORS 10.410 to 10.490.

[1975 c 342 §3, 1977 c 631 §3]

**10.410 Use of electronic selection; manner of selecting jury list.** The court administrator of any county may cause the jury list for that county to be selected by electronic means from the list of names included on the latest voter registration list and tax roll. Such jury list may be used by both district and circuit courts of any county having both courts whenever the presiding judges of both courts so jointly direct. From this preliminary jury list, the court administrator or other appropriate officer shall, under the direction of the presiding judge of the circuit court of that judicial district, direct the selection of jurors for each term of court during the ensuing year, such selection also being made by means of electronic equipment.

[1975 c 342 §4, 1977 c 631 §4]

**10.420 Jurors to be selected from different portions of county; minimum and maximum size of list.** The names entered upon the jury list shall be selected from the different portions of the county in proportion to the number of names of qualified jurors appearing on the voter registration list or tax roll, as far as practicable, and on a basis of from two to ten percent of the population of the county as shown by the last federal decennial census.

[1975 c 342 §5, 1977 c 631 §5]

**10.430 Contents of jury list; certification by court administrator or county clerk.** The jury list shall contain the first and surname and the place of residence of each person named therein and shall be certified by the court administrator or county clerk and placed on file in the administrative office of the circuit court.

[1975 c 342 §6, 1977 c 631 §6]

**10.440 Determining size of circuit and district court jury panels.** The size of the jury panel for each term shall be deter-

mined by the presiding judge or court administrator of the circuit court according to the projected needs of the circuit court and district court for that term.

[1975 c 342 §7, 1977 c 631 §7]

**10.450 Drawing of jurors; notice; special venire; return of panel.** (1) The drawing of jurors shall take place under the auspices of the court administrator or county clerk not less than 10 days before the holding of the term of court at which the jurors are to serve; but if the term be one appointed by the court or a judge thereof, the drawing may be at any shorter time before the term as the court or judge may prescribe in the order appointing the term.

(2) A panel of the names of the persons drawn as jurors with their places of residence and stating for what term of court they were drawn shall be certified and processed by either the administrative office of the circuit court or the office of the county clerk, as follows:

(a) At least 10 days before the first day of the term the court administrator or sheriff shall summon the persons named in the panel by giving written notice to each of them by mail. However, the court or judge thereof may order the court administrator or other officer to direct that any special venire of jurors be summoned by giving written notice to each of them personally through the sheriff or civil process division or by leaving the notice at his place of residence with some person of suitable age and discretion and such notice need be given only for a reasonable time before the day on which this special venire is required to attend

(b) The court administrator or other officer shall return the panel to the court at its opening specifying the persons summoned, the manner in which each was notified and the date of notification.

[1975 c 342 §8, 1977 c 631 §8]

**10.460 Examination of jurors; disqualification procedure.** The court officers shall examine persons on the jury panels at the time they report for duty as to their competency and qualifications to act as jurors as specified by law. In the event a court officer is of the opinion that any of the persons are disqualified or incompetent to serve as jurors, he immediately shall call the matter to the attention of the presiding judge, the court administrator or other appropriate officer, who thereupon shall further examine them. If the judge or court officer finds the persons not to be competent or qualified as provided by

law to serve as jurors, he immediately shall discharge them from jury duty and their names shall be taken from the jury panel.

[1975 c 342 §9, 1977 c 631 §9]

**10.470 Adding jurors to panel.**

Whenever the number of jurors required does not attend a term of the court, or whenever the number of jurors attending is insufficient, the court has the power to order an additional number of jurors be drawn from the jury list to supplement the regular panel in the same manner as the original panel is drawn. These jurors shall be summoned and required to attend as jurors in the same manner and with like effect as if drawn on the original panel.

[1975 c 342 §10, 1977 c 631 §10]

**10.480 Exhaustion of jury list; re- placement.** Whenever the jury list becomes exhausted or in the opinion of the court such list is likely to become exhausted, the court may enter an order stating the reasons and direct the court administrator or sheriff to summon forthwith from the body of the county persons whose names are upon the voter registration list or tax roll a sufficient number as to satisfy the projected needs of the court for the balance of that panel.

[1975 c 342 §11, 1977 c 631 §11]

**10.490 Compensation and expenses.**

The fees for mileage and per diem due to each juror called to serve in Multnomah County shall be paid within two weeks after the termination of the term of court in which such juror has served. The court administrator shall provide a verified statement showing the amount due for each juror for mileage and the number of days each juror has served and shall direct Multnomah County to issue a warrant upon the county treasurer for the amount due each juror. The treasurer shall pay such amount on the presentation of the warrant the same as any other warrant is paid by him.

[1975 c 342 §12]

## JURY OF INQUEST

**10.810 Definition.** A jury of inquest is a body of six persons, legally qualified to serve as jurors, summoned from the inhabitants of a particular district before the district attorney, sheriff or other ministerial officer, to inquire of particular facts.

[Formerly 146 010 1965 c 221 §9]

**10.820 Number of jurors required to concur.** The verdict of a jury of inquest is

sufficient if two-thirds of the jurors concur therein.

[Formerly 146 020]

tunity is afforded him to be heard. The oath of the juror shall be received in his favor in any proceeding under this subsection.

### PENALTIES

**10.990 Penalties.** (1) Violation of ORS 10.080 is punishable upon conviction by a fine not exceeding \$300.

(2) The court to which the panel of jurors is returned by the sheriff may impose a fine not exceeding \$20 for each day a juror, without reasonable cause, neglects to attend. If, however, the notice to attend was not personally served, the fine shall not be imposed until, upon an order to show cause, an oppor-

**10.992 Penalty for violation of ORS 10.090.** Any employer who violates ORS 10.090 shall be subject to a civil penalty of not more than \$500 for each violation as to each juror. The district attorney, upon receipt of a sworn complaint in writing signed by a prospective juror or signed by a juror who has served, alleging a violation of ORS 10.090, may bring an action to enforce the civil penalty in the circuit court.

[1975 c 160 §2]

### 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, 1977

Thomas G Clifford  
Legislative Counsel

