

TITLE 15

PROCEDURE IN CRIMINAL ACTIONS IN JUSTICES' COURTS

- Chapter 156. Proceedings and Judgment in Criminal Actions
157. Appeals in Criminal Actions; Writ of Review
-

Chapter 156

1979 REPLACEMENT PART

Proceedings and Judgment in Criminal Actions

- | | | | |
|---|--|---------|--|
| JUSTICES' COURTS; GENERAL PROVISIONS
AND PROCEEDINGS PRIOR TO JUDGMENT
THEREIN | | 156.230 | Certified transcript of judgment to be filed with county clerk |
| 156.010 | Criminal procedure statutes govern generally | 156.240 | Judgment entry and transcript as evidence |
| 156.020 | Filing complaint by private person as commencement of action | 156.250 | Execution of judgment of conviction |
| 156.030 | Form and sufficiency of complaint | 156.260 | Copy of entry of judgment deemed execution for fine and costs |
| 156.040 | Security for costs | 156.270 | Discharge of defendant upon finding him not guilty |
| 156.050 | When warrant of arrest issues; citation in lieu of arrest | 156.280 | Entry that prosecution was malicious or without probable cause |
| 156.060 | Issuance, requisites and execution of warrant of arrest | 156.290 | Judgment against complainant for costs and disbursements |
| 156.070 | Reading complaint to defendant; defendant to plead | 156.300 | Enforcement of judgment against complainant |
| 156.080 | Defendant's plea; refusal to plead | 156.310 | Payment of fine and costs by defendant |
| 156.090 | Action to be tried within one day unless continued | | |
| 156.100 | Change of place of trial | | RELEASE OR COMMITMENT |
| 156.110 | Trial by court or jury | 156.410 | Release of defendant before trial |
| 156.120 | Injured person must appear or be subpoenaed | 156.440 | Commitment of defendant |
| 156.130 | Demand for and selection of jury | 156.450 | Form of commitment |
| 156.140 | Rendition and entry of verdict on docket | 156.460 | How commitment is executed |
| 156.160 | Necessity of prepayment of trial fee; payment thereof | | |
| | | | MISCELLANEOUS PROVISIONS RELATING TO
JUSTICES' COURTS |
| JUDGMENT AND EXECUTION IN JUSTICES'
COURTS | | 156.510 | Proceeding when crime is not within jurisdiction of justice |
| 156.210 | Judgment on plea of guilty, no contest or on conviction | 156.520 | Right of district attorney to prosecute, attend examinations and control proceedings |
| 156.220 | Form of entry of judgment of conviction | 156.530 | Disposition of money paid on judgment |

PROCEDURES IN CRIMINAL ACTIONS IN JUSTICES' COURTS

CONCURRENT JURISDICTION OF JUSTICE AND DISTRICT COURTS

156.705 Jurisdiction over offenses against animals

CROSS REFERENCES

- Attorneys in justice's court, 52 060
Contempt of justice's court, punishment, 52 040, 52 050
Counsel, appointment by court, 135.045, 135.050
County law, offenses under, 203 810
District courts generally and civil proceedings therein, Ch 46
Duties relating to administration of justice, enforcement of performance of, 1.025
Judgment of acquittal before presentation of defense, 136.445
Justice of the peace is a magistrate, 133.030; district judge to be magistrate, 46 050
Justice's court generally and civil proceedings therein, Chs. 51 to 55
Post-conviction relief, 138 510 to 138 680
Preliminary examination by committing magistrate, 135.070
Prisoners, prosecution when already imprisoned in state penal institution for other crimes, 135 760
Program for persons convicted of driving under influence of alcohol, crimes committed while intoxicated, 430.850 to 430 880
Public defenders, state and county, Ch 151
Revenue department, access to court records and dockets in collection of fines, penalties and forfeitures due to state, 305 830
Scheduling of trial, priority for defendants in custody, 136 285
Transfer of certain proceedings involving children to juvenile court, 419 478
- 156.050**
- Issuance of warrant of arrest by committing magistrate, 133 110
Nonapplicability to certain violations of law, 133.080
- 156.060**
Service of process or order by persons appointed by the justice of the peace, 52.130
- 156.100**
Change of venue in certain traffic offenses, 484 040
- 156.130**
Juries in justice's court in civil actions, 52 030, Ch. 54
- 156.140**
Unanimous verdict required, when, 136.450
- 156.160**
Payment, accounting for and distribution of trial fees, 52.440
- 156.280**
Similar provision, 137 210
- 156.290**
Deposits in lieu of undertaking, 22.020 to 22.070
Similar provision, 137.210
- 156.310**
Assessment in addition to fine or bail forfeiture, 137 015
- 156.510**
Crimes "triable" in justice's court, 51.070
Jurisdiction, criminal, of justice's court, 51.040, 51.050, 51 060
- 156.520**
District attorney at examination before magistrate, 135 165

**JUSTICES' COURTS;
GENERAL PROVISIONS AND
PROCEEDINGS PRIOR TO
JUDGMENT THEREIN**

156.010 Criminal procedure statutes govern generally. A criminal action in a justice's court is commenced and proceeded in to final determination, and the judgment therein enforced, in the manner provided in the criminal procedure statutes, except as otherwise specifically provided by statute.

[Amended by 1973 c.836 §329]

156.020 Filing complaint by private person as commencement of action. In a justice's court, a criminal action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action, who is thereafter known as the complainant. [Amended by 1959 c 426 §4]

156.030 Form and sufficiency of complaint. The form of the complaint and the sufficiency thereof shall be as provided in ORS 133.007 and 133.015. [Amended by 1973 c.836 §330]

156.040 Security for costs. Before filing or receiving the complaint in a criminal action, the justice may require the complainant to give security for costs and disbursements in the amount authorized in civil actions; and not otherwise. [Amended by 1959 c.426 §5]

156.050 When warrant of arrest issues; citation in lieu of arrest. Upon the filing of the complaint, the justice shall issue a warrant of arrest for the defendant named therein. However, on a misdemeanor charge or on a felony charge which may be deemed a misdemeanor charge after sentence is imposed he may authorize a peace officer to issue and serve a citation as provided in ORS 133.055.

[Amended by 1969 c.244 §4]

156.060 Issuance, requisites and execution of warrant of arrest. A warrant of arrest in a criminal action in a justice's court is issued, directed and executed in all respects as the warrant mentioned in ORS 133.140.

[Amended by 1977 c 746 §12]

156.070 Reading complaint to defendant; defendant to plead. When the defendant is brought before the justice, the complaint shall be read to him and he shall plead thereto.

156.080 Defendant's plea; refusal to plead. The defendant may plead the same pleas as upon an indictment. His plea shall be oral and entered in the docket. If the defendant refuses to plead, the justice shall enter the fact, together with the plea of not guilty, on his behalf.

156.090 Action to be tried within one day unless continued. When the defendant is brought before the justice upon the warrant of arrest, the action shall be tried within one day thereafter, unless continued for cause.

156.100 Change of place of trial. Change of place of trial in criminal actions in justices' courts is in all manners and respects governed as provided in ORS 131.305 to 131.415. [Amended by 1973 c.836 §331]

156.110 Trial by court or jury. Upon a plea of not guilty, if the defendant does not then demand a trial by jury, the justice shall proceed to try the issue. [Amended by 1973 c 836 §332]

156.120 Injured person must appear or be subpoenaed. No judgment of conviction or acquittal can be given in a criminal action in a justice's court unless the person injured appears or is subpoenaed to attend the trial as a witness.

156.130 Demand for and selection of jury. If a trial by jury is demanded, a jury shall be selected and summoned as in a civil action in a justice's court. Each party may take challenges for cause and two peremptory challenges, except that when the jury is selected in the manner provided in ORS 54.060 to 54.160, as to any juror so selected, neither party may take a peremptory challenge.

156.140 Rendition and entry of verdict on docket. When the jury has agreed upon a verdict, it shall deliver the same to the justice publicly, who shall enter it in his docket.

156.150 [Repealed by 1979 c.447 §4]

156.160 Necessity of prepayment of trial fee; payment thereof. In a criminal action in a justice's court, prepayment of the trial fee is not a prerequisite to having a jury trial. If a jury trial is demanded and judgment is against the defendant, the fee shall be allowed and taxed in favor of the state as other disbursements in ordinary cases.

**JUDGMENT AND EXECUTION
IN JUSTICES' COURTS**

156.210 Judgment on plea of guilty, no contest or on conviction. When the defendant pleads guilty, no contest, or is convicted, either by the justice or the jury, the justice shall give judgment thereon for such punishment as may be prescribed by law for the crime. [Amended by 1973 c.836 §333]

156.220 Form of entry of judgment of conviction. When a judgment of conviction is given, either upon a plea of guilty, no contest, or upon a trial, the justice shall enter the same in the docket substantially as follows:

JUSTICE'S COURT FOR THE
DISTRICT OF _____

State of Oregon, County of _____

State of Oregon v. A. B., (day of the month and year)

The above-named A. B. having been brought before me, C. D., a justice of the peace for the district in the county and state aforesaid, in a criminal action for the crime of (briefly designate the crime), having thereupon pleaded ("not guilty," "no contest," or as the case may be), and having been tried by (me or a jury, as the case may be) and upon such trial convicted, I have adjudged that he (be imprisoned in the jail of this county for _____ days and that he pay the costs of the action, taxed at \$_____ or that he pay a fine of \$_____ and such costs and be imprisoned in such jail until such fine and costs are paid, not exceeding _____ days, as the case may be).

C. D., Justice of the Peace

If the defendant has pleaded guilty or no contest, instead of using the words commencing "having thereupon pleaded" and ending "upon such trial convicted," the entry shall state as follows: "and having been thereof duly convicted upon a plea of guilty, or having been thereof duly convicted upon a plea of no contest." [1973 c.836 §334]

156.230 Certified transcript of judgment to be filed with county clerk. Within 20 days from the entry of judgment, the justice shall cause a certified transcript thereof to be filed in the office of the county clerk of the county.

156.240 Judgment entry and transcript as evidence. An entry of judgment and the transcript thereof made or filed as provided in ORS 156.220 and 156.230, or a certified copy of either, is conclusive evidence of the facts stated therein.

156.250 Execution of judgment of conviction. The judgment shall be executed by the sheriff of the county or by a constable of the district in which the conviction is had, or by any marshal or policeman authorized to act as a constable therein, upon receiving a certified copy of the entry of judgment.

156.260 Copy of entry of judgment deemed execution for fine and costs. A certified copy of the entry of judgment is deemed an execution against the property of the defendant for the purpose of collecting the amount of any fine or costs mentioned therein.

156.270 Discharge of defendant upon finding him not guilty. When the defendant is found not guilty by the justice or a jury, he shall be immediately discharged.

156.280 Entry that prosecution was malicious or without probable cause. When the defendant is found not guilty, if it appears that the prosecution was malicious or without probable cause, the justice shall make an entry to that effect in his docket.

156.290 Judgment against complainant for costs and disbursements. Upon making the entry prescribed in ORS 156.280, the justice shall give judgment against the complainant for the costs and disbursements of the action and require him to pay the same or give satisfactory security therefor, by a written undertaking with one or more sureties, to pay the same to the justice within 30 days from the date of the judgment. [Amended by 1959 c.426 §6]

156.300 Enforcement of judgment against complainant. If the complainant does not pay the judgment, or give the required security therefor, it may be enforced against him in all respects as a judgment for a fine in a criminal action; but if he gives the required security, the judgment may be enforced at the expiration of the 30 days against the complainant and his sureties in the undertaking in all respects as a judgment for money in a civil action. [Amended by 1959 c 426 §7]

156.310 Payment of fine and costs by defendant. If the fine and costs, or any part thereof, are paid before commitment, they shall be paid to the justice. Thereafter they shall be paid to the officer in whose custody the defendant is at the time of the payment, which officer shall immediately pay the same to the justice.

156.320 [1971 c.423 §3; repealed by 1973 c.836 §358]

RELEASE OR COMMITMENT

156.410 Release of defendant before trial. At any time before the commencement of the trial, the justice shall release the defendant under the procedures set forth in ORS 135.230 to 135.290. [Amended by 1973 c.836 §335]

156.420 [Repealed by 1973 c.836 §358]

156.430 [Repealed by 1973 c.836 §358]

156.440 Commitment of defendant. If the defendant is not released from custody as provided in ORS 135.230 to 135.290 when brought before the justice upon the warrant of arrest, he shall be continued in the custody of the officer or, if the court is held in the vicinity of the county jail, committed to jail, to answer the action, as the justice may direct. [Amended by 1973 c.836 §336]

156.450 Form of commitment. The commitment shall be signed by the justice with his name of office and may be substantially as follows:

JUSTICE'S COURT FOR THE
DISTRICT OF _____

State of Oregon, County of _____

IN THE NAME OF THE STATE
OF OREGON

To the sheriff of the county aforesaid:

An order having this day been made by me that A. B. be committed for trial in a criminal action against him for the crime of (designating it generally), you hereby are commanded to receive him into your custody and detain him accordingly or until he is otherwise legally discharged.

Dated at _____, this _____ day of _____, 19____.

C. D., Justice of the Peace _____

156.460 How commitment is executed. When committed, the defendant shall be delivered to the custody of the proper officer by any peace officer to whom the justice may deliver the commitment, first indorsing thereon, substantially, as follows: "I hereby authorize and command E. F. to deliver this commitment, together with the defendant therein named, to the custody of the sheriff of the County of _____."

**MISCELLANEOUS
PROVISIONS RELATING TO
JUSTICES' COURTS**

156.510 Proceeding when crime is not within jurisdiction of justice. If in the course of the trial it appears to the justice that the defendant has committed a crime not within the jurisdiction of a justice's court, the justice shall dismiss the action, state in the entry the reasons therefor, hold the defendant upon the warrant of arrest and proceed to examine the charge as upon an information of the commission of crime.

156.520 Right of district attorney to prosecute, attend examinations and control proceedings. The district attorney may prosecute an action in a justice's court or attend an examination before a magistrate, either in person or by someone appointed by him for that purpose, and in either case he may control the proceedings on behalf of the state.

156.530 Disposition of money paid on judgment. (1) Any money paid to the justice upon a judgment in a criminal action shall first be applied to the costs of the action. The remainder shall be paid by the justice to the treasurer of the county, to be appropriated as provided by law.

(2) Money paid pursuant to subsection (1) of this section shall be delivered by the justice to the treasurer within 30 days from the receipt thereof, or the same may be recovered from the justice, with 20 percent additional, by a civil action in the name of the county.

156.610 [Amended by 1969 c.619 §14; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156 610)]

156.620. [Amended by 1973 c.836 §337; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.620)]

156.630 [Repealed by 1975 c.611 §24]

156.640 [Amended by 1965 c.510 §23; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.640)]

156.650 [1959 c.559 §1; 1971 c.186 §1; repealed by 1977 c.876 §9 (46.800 enacted in lieu of 156.650)]

**CONCURRENT JURISDICTION
OF JUSTICE AND DISTRICT
COURTS**

156.705 Jurisdiction over offenses against animals. Justices of the peace and police judges shall have concurrent jurisdiction over all offenses committed under ORS 167.850. [Formerly 770 260]

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, 1979.

Thomas G. Clifford
Legislative Counsel