

# Chapter 3

## 1983 REPLACEMENT PART

### Circuit Courts Generally

#### JUDICIAL DISTRICTS, JUDGES AND JURISDICTION

- 3.011 Judicial districts; judges and position numbers
- 3.030 Election of circuit judges
- 3.041 Qualifications of circuit judges; residence
- 3.050 Circuit judges to be members of bar
- 3.060 Salary of judges; expenses
- 3.065 Presiding judge; designation of another judge when unable to act; powers
- 3.070 Powers of judges in chambers; filing and entering of decisions not signed in open court
- 3.075 Powers of judges to act in joint or separate session; testing process
- 3.101 District court judge acting as circuit court judge in certain cases; orders; effect
- 3.130 Transfer of judicial jurisdiction of certain county courts to circuit courts
- 3.185 Habeas corpus hearings by Circuit Court for Marion County
- 3.220 Rules; procedure when judges disagree
- 3.225 Establishing specialized subject-matter departments; approval by Chief Justice; eligibility and assignment of judges

#### CIRCUIT COURT TERMS

- 3.232 Types of terms
- 3.235 Regular terms; minimum number required in certain districts
- 3.238 Power or duty to call special terms; procedure

#### JURISDICTION OVER JUVENILE AND FAMILY-RELATED MATTERS

- 3.250 Definitions for ORS 3.250 to 3.280
- 3.255 Policy and intent
- 3.260 Juvenile jurisdiction vested in circuit courts; authority for transfer of jurisdiction over family-related matters to circuit courts
- 3.265 Limits on transfer of juvenile jurisdiction
- 3.270 Transfer of juvenile jurisdiction and jurisdiction over family-related matters to circuit courts
- 3.275 Procedure for transfer of jurisdiction over certain family-related matters
- 3.280 Court services for circuit courts

#### CROSS REFERENCES

Administrative supervision over courts, 1.002  
Circuit judge acting for county judge, 5.090  
Circuit judge acting for district judge, 46.099  
Circuit judge acting justice of peace, 51.300  
Conciliation jurisdiction, 107.510 to 107.610  
County law, offenses, 203.810  
Courts and judicial officers generally, Ch. 1  
Credit card transactions for security deposits, 1.005  
Department of Revenue granted access to court records and dockets in collection of fines, penalties and forfeitures due to state, 305.830

Enforcement of city and charter county ordinances and resolutions, 30.315  
Exclusion from cases coming under tax court jurisdiction, 305.410  
Felony and misdemeanor convictions, required reports to Corrections Division, 179.045  
Guardianships and conservatorships, Ch. 126  
Inspection of public records, court authority in reviewing action, docketing of proceedings, 192.490  
Judicial conference, 1.810  
Judicial fitness, determination, discipline, 1.410 to 1.480  
Judicial power of the state, Const. Art. VII (A), §1  
Jurisdiction of circuit courts, Const. Art. VII (O), §9  
Juvenile court proceedings, 419.472 to 419.597  
Leaves of absence, 1.290  
Liquidating assets and affairs:  
    Business corporations, 57.595  
    Nonprofit corporation, 61.565  
Mediation proceedings established by circuit court, 107.755 to 107.785  
Open meeting law not applicable to any judicial proceeding, 192.690  
Oregon Tax Court has powers of circuit court, 305.405  
Performance of duties relating to administration of justice, mandamus to enforce, 1.025  
Post-conviction relief, 138.510 to 138.680  
Probate commissioner, appointment, powers, 111.175, 111.185  
Probate jurisdiction:  
    Description, powers, 111.085, 111.095  
    Transfer from district and certain county courts to circuit court, 111.055, 111.065  
Pro tempore judges, 1.600 to 1.665  
Public defender, state and county, Ch. 151  
Records and files of courts, Ch. 7  
Seal of court, 1.030  
Senior judge, designation of retired judge, 1.300  
Summary dissolution procedure in circuit court, 107.485 to 107.500  
Temporary appointment and assignment of judges, Const. Art. VII (A), §2a  
Transfer of contested adoptions to circuit court, 109.345  
Unclaimed property held for owner by court or public officer, 98.336, 98.302 to 98.436

#### 3.011

Powers of circuit judges, 1.240, 1.260

#### 3.030

Nomination and election of judges, Ch. 249  
Term of circuit judges, Const. Art. VII (A), §1

#### 3.060

Expenditures without allotment prohibited, 291.238  
Salary, 292.415  
Salary not to be diminished during term, Const. Art. VII (A), §1  
Salary payable monthly, 292.010

#### 3.070

Powers of judge out of court, 1.230

#### 3.130

Transfer of certain judicial jurisdiction to district courts in certain counties, 46.092

## **COURTS OF RECORD; COURT OFFICERS; JURIES**

---

### **3.220**

Juvenile court cases, hearing, 419.496

### **3.232**

Terms in newly created counties, 202.300

## JUDICIAL DISTRICTS, JUDGES AND JURISDICTION

**3.010** [Amended by 1957 c.713 §3; repealed by 1961 c.724 §34]

**3.011 Judicial districts; judges and position numbers.** The judicial districts, the counties constituting the judicial districts, the number of circuit court judges for each judicial district and the position numbers of circuit court judges for each judicial district having two or more circuit court judges are as follows:

| Judicial District | Counties   | No. of Judges | Position Numbers   |
|-------------------|--|---------------|--|
| 1                 | Jackson and Josephine                                  | 5             | 1, 2, 3, 4 and 5   |
| 2                 | Lane   | 9             | 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10   |
| 3                 | Marion   | 7             | 1, 2, 3, 4, 5, 6 and 7   |
| 4                 | Multnomah  | 20            | 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 |
| 5                 | Clackamas  | 5             | 1, 2, 3, 4 and 5   |
| 6                 | Morrow and Umatilla                                    | 2             | 1 and 2  |
| 7                 | Hood River, Sherman and Wasco                          | 1             |  |
| 8                 | Baker  | 1             |  |
| 9                 | Harney and Malheur                                     | 1             |  |
| 10                | Union and Wallowa                                      | 1             |  |
| 11                | Crook, Deschutes, Gilliam, Grant Jefferson and Wheeler | 3             | 1, 2 and 3   |
| 12                | Polk and Yamhill                                       | 3             | 1, 2 and 3   |
| 13                | Klamath and Lake                                       | 3             | 1, 2 and 3   |
| 15                | Coos and Curry   | 3             | 1, 2 and 3   |
| 16                | Douglas  | 3             | 1, 2 and 3   |
| 17                | Lincoln  | 2             | 1 and 2  |
| 19                | Clatsop, Columbia and Tillamook                        | 4             | 1, 2, 3 and 4  |
| 20                | Washington   | 5             | 1, 2, 3, 4 and 5   |
| 21                | Benton and Linn  | 5             | 1, 2, 3, 4 and 5   |

[1961 c.724 §1; 1963 c.491 §1; 1965 c.510 §1; 1965 c.618 §1; 1967 c.532 §1; 1967 c.533 §1; 1969 c.370 §1; 1971 c.640 §1; 1971 c.777 §1; 1973 c.572 §1; 1975 c.629 §1; 1977 c.386 §1; 1979 c.568 §14; 1981 c.215 §2; 1981 c.759 §1]

**3.015** [1961 c.724 §32; repealed by 1965 c.510 §24 and 1965 c.618 §11]

**3.020** [Amended by 1955 c.677 §2; 1957 c.665 §2; 1957 c.713 §4; repealed by 1959 c.557 §1 (3.022 enacted in lieu of 3.020)]

**3.021** [1953 c.52 §§1, 2, 3; repealed by 1955 c.677 §6]

**3.022** [1959 c.557 §2 (enacted in lieu of 3.020); repealed by 1961 c.724 §34]

**3.030 Election of circuit judges.** Each circuit judge shall hold office for the term for which he was elected; and at the general election next prior to the expiration of his term of office there shall be elected a circuit judge to succeed him.

**3.040** [Amended by 1955 c.677 §3; 1957 c.665 §4; 1957 c.713 §5; repealed by 1961 c.724 §34]

**3.041 Qualifications of circuit judges; residence.** (1) Each judge of the circuit court shall be a citizen of the United States and a resident of this state.

(2) Each judge of the circuit court shall be a resident of or have principal office in the judicial district for which the judge is elected or appointed, except that in any judicial district having a population of 500,000 or more, according to the latest federal decennial census, any judge of the circuit court may reside within 10 miles of the boundary of the judicial district.

(3) In the first judicial district, two of the judges of the circuit court shall be residents of or have principal offices in Jackson County and two shall be residents of or have principal offices in Josephine County.

(4) In the eleventh judicial district, one of the judges of the circuit court shall be a resident of or have principal office in Crook, Deschutes or Jefferson County and one shall be a resident of or have principal office in Gilliam, Grant or Wheeler County.

(5) In the twelfth judicial district, one of the judges of the circuit court shall be a resident of or have principal office in Polk County and one shall be a resident of or have principal office in Yamhill County.

(6) In the fifteenth judicial district, two of the judges of the circuit court shall be residents of or have principal offices in Coos County and one shall be a resident of or have principal office in Curry County.

(7) In the nineteenth judicial district, one of the judges of the circuit court shall be a resident of or have principal office in Clatsop County, two shall be residents of or have principal offices in Columbia County and one shall be a resident of or have principal office in Tillamook County.

(8) In the twenty-first judicial district, three of the judges of the circuit court shall be resi-

dents of or have principal offices in Linn County and two shall be residents of or have principal offices in Benton County.

(9) The residence within this state required by subsection (1) of this section shall have been maintained for at least three years, and the residence or principal office required by subsections (2) to (8) of this section shall have been maintained for at least one year, immediately prior to appointment or becoming a candidate for election to the office of circuit court judge.

[1961 c.724 §2; 1963 c.491 §6; 1965 c.510 §2; 1965 c.618 §4; 1967 c.532 §3; 1967 c.533 §7; 1971 c.777 §2; 1973 c.572 §2; 1977 c.386 §4; 1979 c.568 §15; 1981 c.759 §8]

**3.050 Circuit judges to be members of bar.** No person is eligible to the office of judge of the circuit court unless he is a member of the Oregon State Bar. [Amended by 1961 c.724 §3]

**3.060 Salary of judges; expenses.** Each of the judges of the circuit court shall receive such salary as is provided by law. When any judicial district is composed of more than one county a judge thereof is entitled to reimbursement for his hotel bills and traveling expenses necessarily incurred by him in the performance of his duties outside the county of his residence. When any circuit judge holds court in any county outside of the judicial district for which he was elected or appointed, his hotel bills and traveling expenses necessarily incurred by him in the performance of that duty shall be paid by the state. Such hotel bills and traveling expenses are to be paid by the state upon the certificate of the judge to the truth of an itemized statement of such hotel bills and traveling expenses. The certificate of expenses is a sufficient voucher upon which the Executive Department shall review the claim as required by ORS 293.295 and draw its warrant upon the State Treasurer for the amount thereof in favor of such circuit judge. [Amended by 1953 c.516 §3; 1955 c.531 §1; 1957 c.646 §1; 1959 c.552 §14; 1961 c.702 §2; 1965 c.171 §1; 1965 c.619 §1; 1967 c.38 §1; 1967 c.111 §1; 1969 c.365 §1; 1971 c.95 §2; 1971 c.642 §1]

**3.065 Presiding judge; designation of another judge when unable to act; powers.** (1) The presiding judge of the circuit court in a judicial district having two or more circuit court judges shall be a judge of the court appointed as provided in ORS 1.003. The judge of the circuit court in a judicial district having one circuit court judge is the presiding judge of the court.

(2) The presiding judge may designate another judge of the court to perform the functions of the office of presiding judge when the presid-

ing judge is temporarily unable to perform those functions.

(3) The presiding judge, to facilitate exercise of administrative authority and supervision over the court and consistent with applicable provisions of law and the Oregon Rules of Civil Procedure, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the court.

(b) Make rules, issue orders and take other action appropriate to that exercise. [1967 c.531 §1; 1981 s.s. c.1 §8]

**3.070 Powers of judges in chambers; filing and entering of decisions not signed in open court.** Any judge of a circuit court in any judicial district may, in chambers, grant and sign defaults, judgments, decrees, interlocutory orders and provisional remedies, make findings and decide motions, demurrers and other like matters relating to any judicial business coming before the judge from any judicial district in which the judge has presided in such matters. The judge may hear, in chambers, contested motions, demurrers and other similar matters pending within the judicial district, at any location in the district designated under ORS 1.085. Upon stipulation of counsel, the judge may try and determine any issue in equity or in law where a jury has been waived and hear and decide motions, demurrers and other like matters, in chambers, at any location in the state where the judge may happen to be, relating to any judicial business coming before the judge from any judicial district in which the judge has presided in such matters. The judge may exercise these powers as fully and effectively as though the motions, demurrers, matters or issues were granted, ordered, decided, heard and determined in open court in the county where they may be pending. If signed other than in open court, all such orders, findings, judgments and decrees issued, granted or rendered, other than orders not required to be filed and entered with the clerk before becoming effective, shall be transmitted by the judge to the clerk of the court within the county where the matters are pending. They shall be filed and entered upon receipt thereof and shall become effective from the date of filing. [Amended by 1983 c.763 §5]

**3.075 Powers of judges to act in joint or separate session; testing process.** If two or more persons are sitting as judges of the circuit court in a judicial district:

(1) Any two or more of them may act in joint session for the trial or determination of any cause, matter or proceeding before the court in

the judicial district, including jury cases. If the judges acting in joint session are equally divided in opinion, the opinion of the presiding judge, or if none, then of the judge senior in continuous service, or if neither, then of the judge senior in age, prevails; otherwise the decision of the majority prevails.

(2) Each of them may proceed separately with and try, simultaneously in the judicial district and during the same term, all causes, matters and proceedings brought before the court.

(3) Process may be tested in the name of any of them. [1959 c.552 §9]

**3.080** [Repealed by 1959 c.552 §16]

**3.081** [1959 c.552 §5; repealed by 1975 c.706 §10]

**3.090** [Repealed by 1959 c.552 §16]

**3.091** [1959 c.552 §6; repealed by 1975 c.706 §10]

**3.096** [1959 c.552 §7; repealed by 1975 c.706 §10]

**3.100** [Repealed by 1959 c.552 §16]

**3.101 District court judge acting as circuit court judge in certain cases; orders; effect.** (1) Whenever by reason of absence, illness or injury there is not within a county in which a district court organized under ORS 46.025 is located, a judge of the circuit court able to preside over and conduct the business of the circuit court, any judge of the district court for the county may, within the county, exercise the powers and duties of judge of the circuit court for the county in so far as they pertain to:

(a) The commencement, trial and disposition of juvenile court matters and proceedings.

(b) Sanity inquests and the commitment of mentally diseased persons.

(c) The appointment of guardians ad litem for infants and others under legal disability.

(d) The granting of orders to make service of summons by publication.

(e) The granting of preliminary injunctions.

(2) If the district court judge is not a party to, or directly interested in, the suit, action or proceeding, and if the question or matter passed upon by him has not been presented to, or passed upon by, any circuit court judge, any decree, judgment or order given and made by a district court judge pursuant to his powers and duties under this section, when filed and entered in the suit, action or proceeding, has the same effect as though given and made by a circuit court judge. [1961 c.405 §1; 1969 c.591 §263]

**3.102** [Formerly 3.110; amended by 1959 c.576 §1; renumbered 3.570]

**3.105** [1953 c.35 §1; repealed by 1959 c.549 §7]

**3.106** [1953 c.35 §2; repealed by 1959 c.549 §7]

**3.107** [1953 c.35 §3; repealed by 1959 c.549 §7]

**3.108** [1953 c.35 §4; repealed by 1959 c.549 §7]

**3.109** [1953 c.35 §5; repealed by 1959 c.549 §7]

**3.110** [Renumbered 3.102 and then 3.570]

**3.111** [1953 c.35 §6; repealed by 1959 c.549 §7]

**3.112** [1953 c.35 §9; repealed by 1959 c.549 §7]

**3.113** [1953 c.35 §7; repealed by 1959 c.549 §7]

**3.114** [1953 c.35 §8; repealed by 1959 c.549 §7]

**3.115** [1953 c.35 §10; repealed by 1959 c.549 §7]

**3.120** [Repealed by 1959 c.552 §16]

**3.130 Transfer of judicial jurisdiction of certain county courts to circuit courts.** (1) All judicial jurisdiction, authority, powers, functions and duties of the county courts and the judges thereof, except the jurisdiction, authority, powers, functions and duties exercisable in the transaction of county business, are transferred to the circuit courts and the judges thereof:

(a) In Baker, Clackamas, Columbia, Coos, Douglas, Jackson, Josephine, Klamath, Lake, Lane, Marion and Tillamook Counties.

(b) In any county for which a county charter providing for such transfer is adopted under ORS 203.710 to 203.770, to the extent that the judicial jurisdiction, authority, powers, functions and duties were not previously transferred as provided by law.

(2) All matters, causes and proceedings relating to judicial jurisdiction, authority, powers, functions and duties transferred to the circuit courts and the judges thereof under this section, and pending in a county court on the effective date of the transfer, are transferred to the circuit court for the county. [Amended by 1955 c.677 §4; 1957 c.275 §1; 1957 c.713 §6; 1961 c.724 §4; 1963 c.512 §1; 1965 c.247 §1; 1965 c.510 §3; 1965 c.618 §5; 1967 c.268 §1; 1967 c.533 §8; 1967 c.534 §9; 1969 c.286 §1; 1969 c.591 §264]

**3.135** [1961 c.724 §5; repealed by 1965 c.510 §24]

**3.140** [Amended by 1965 c.510 §4; repealed by 1969 c.591 §305]

**3.150** [Amended by 1957 s.s. c.8 §1; 1961 c.724 §6; 1965 c.510 §5; 1979 c.77 §1; repealed by 1983 c.673 §26]

**3.160** [Amended by 1957 s.s. c.8 §2; 1959 c.557 §3; 1961 c.724 §7; 1965 c.510 §6; repealed by 1981 c.215 §8]

**3.165** [1961 c.724 §8; repealed by 1965 c.510 §24]

**3.170** [Amended by 1965 c.510 §7; repealed by 1981 c.215 §8]

**3.180** [1965 c.618 §7; 1967 c.533 §9; repealed by 1969 c.591 §305]

**3.185 Habeas corpus hearings by Circuit Court for Marion County.** (1) Notwithstanding ORS 1.040, a judge of the Circuit Court for Marion County when hearing matters relating to writs of habeas corpus as provided in ORS 34.310 to 34.730 may direct that the court be held or continued at any location designated under ORS 1.085 (2) and under such conditions as may be ordered.

(2) When a court is held at a location directed as provided by subsection (1) of this section, every person held or required to appear at the court shall appear at the location so directed. [1975 c.236 §1; 1983 c.763 §6]

**3.210** [Amended by 1955 c.677 §5; 1957 c.665 §3; 1957 c.713 §8; 1959 c.557 §4; repealed by 1961 c.724 §34]

**3.220 Rules; procedure when judges disagree.** (1) A circuit court may make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court and not inconsistent with applicable provisions of law, the Oregon Rules of Civil Procedure or rules made or orders issued by the Chief Justice of the Supreme Court or the presiding judge of the circuit court. If a majority of the judges of the court in a judicial district having two or more circuit court judges do not agree in respect to the making of rules under this subsection, the decision of the presiding judge shall control.

(2)(a) A certified copy of a rule referred to in subsection (1) of this section made or in effect before January 1, 1984, shall be filed in the office of the State Court Administrator not later than January 1, 1984. If a copy of a rule is not so filed, the rule is void.

(b) A certified copy of a rule referred to in subsection (1) of this section made or amended on or after January 1, 1984, shall be filed in the office of the State Court Administrator. No rule or amendment shall be effective unless so filed, and no rule or amendment so filed shall become effective before the 30th day after the date of filing.

(c) The State Court Administrator shall maintain the copies of all rules filed pursuant to this subsection, and shall keep a record of the date of filing thereof. The administrator shall, upon request, supply copies of the rules, and may charge a reasonable fee for such copies in order to recover the cost of compilation, copying and distribution of the rules. [Subsection (2) of 1955 part

derived from 1953 c.52 §§6, 7; 1957 c.713 §9; 1961 c.724 §9; 1967 c.531 §2; 1973 c.484 §3; 1981 c.215 §4; 1981 s.s. c.1 §9; 1983 c.763 §31]

**3.225 Establishing specialized subject-matter departments; approval by Chief Justice; eligibility and assignment of judges.** Subject to the approval of the Chief Justice of the Supreme Court, a circuit court, by rule under ORS 3.220, may establish specialized subject-matter departments of the court, and may modify or abolish departments so established. Any judge of the court may act in any department so established or modified by rule. The presiding judge of the court may assign any judge of the court to act in any department so established or modified by rule. [1981 c.215 §1]

**3.230** [Subsection (3) of 1957 part derived from 1953 c.52 §6; 1957 c.713 §10; 1957 s.s. c.8 §3; repealed by 1959 c.552 §16]

## CIRCUIT COURT TERMS

**3.232 Types of terms.** The terms of the circuit courts are either those appointed by law, or others appointed by a judge of the court. [Formerly 4.010]

**3.235 Regular terms; minimum number required in certain districts.** (1) The regular terms of the circuit court in the several districts of the state shall be held at times designated by order of the presiding circuit judge of the court. The order shall be made and entered of record each year, and may be amended by making and entering of record further orders.

(2) Notwithstanding subsection (1) of this section, in districts which are comprised of more than one county, the court shall designate sufficient regular terms in each county within the district to conduct those matters which arise from that county. In no event shall there be less than two terms per year in each such county. [Formerly 4.105]

**3.238 Power or duty to call special terms; procedure.** (1) When a term of court is appointed by a judge it shall be done by a general order to that effect, made and entered in the journal during term time, or by a special order made and filed in vacation, for the trial of a particular cause or the transaction of certain business specified in the special order, a certified copy of which special order shall be served on the parties to the cause or business 10 days prior to such term. In the former case, at the court so appointed, any business may be transacted that could be transacted during a regular term, but in

the latter case only such as is specified in the order.

(2) Any circuit judge of the third, seventh, ninth, nineteenth or twenty-first judicial district may, by order entered in the journal of the court, convene special terms of court between regular terms, for the trial of actions, suits or other judicial proceedings, and may summon juries for such special terms.

(3) The judge of the circuit court for Gilliam, Grant, Sherman and Wheeler Counties shall convene a sufficient number of special or adjourned terms of court in the county to speedily adjudicate all equity cases and other matters which may arise between regular terms, and shall also convene special jury terms when necessary.

[Formerly 4.410]

**3.240** [Amended by 1957 c.713 §11; repealed by 1961 c.724 §34]

### JURISDICTION OVER JUVENILE AND FAMILY-RELATED MATTERS

**3.250 Definitions for ORS 3.250 to 3.280.** As used in ORS 3.250 to 3.280 and 423.310, unless the context requires otherwise:

(1) "Child" means a person under 18 years of age.

(2) "Court services" includes but is not limited to services and facilities relating to intake screening, juvenile detention, shelter care, investigations, study and recommendations on disposition of cases, probation on matters within the jurisdiction of the court under ORS 3.260, family counseling, conciliation in domestic relations, group homes, and psychological or psychiatric or medical consultation and services provided at the request of or under the direction of the court, whether performed by employes of the court, by other government agencies or by contract or other arrangement.

(3) "Division" means the Corrections Division. [1967 c.534 §1]

**3.255 Policy and intent.** It is declared to be the policy and intent of the Legislative Assembly:

(1) Notwithstanding concurrent jurisdiction, that family and family-related matters before the courts be concentrated in a single judicial jurisdiction, the circuit court.

(2) The judges of the circuit court need adequate court services to assist them in exercising jurisdiction over the family and family-related matters. [1967 c.534 §2]

**3.260 Juvenile jurisdiction vested in circuit courts; authority for transfer of jurisdiction over family-related matters to circuit courts.** (1) On and after July 1, 1968, the circuit courts and the judges thereof shall exercise all juvenile court jurisdiction, authority, powers, functions and duties.

(2) Pursuant to ORS 3.275, in addition to any other jurisdiction vested in it by law, the circuit court shall exercise exclusive and original judicial jurisdiction, authority, powers, functions, and duties in the judicial district in any or all of the following matters that on the date specified in the order entered under ORS 3.275 are not within the jurisdiction of the circuit court:

(a) Adoption.

(b) Change of name under ORS 33.410.

(c) Filiation.

(d) Commitment of the mentally ill or mentally deficient.

(e) Any suit or civil proceeding involving custody or other disposition of a child or the support thereof or the support of a spouse, including enforcement of the Uniform Reciprocal Enforcement of Support Act and enforcement of out-of-state or foreign decrees on domestic relations.

(f) Waivers of the three-day waiting period before a marriage license becomes effective under ORS 106.077.

(g) Issuance of delayed birth certificate.

[1967 c.534 §3; 1979 c.724 §1]

**3.265 Limits on transfer of juvenile jurisdiction.** Notwithstanding ORS 3.260, no transfer of jurisdiction required by ORS 3.260 (1) shall occur in any county that as of July 1, 1968, has a population of less than 11,000 and in which the judge of the circuit court does not reside until the county court approves such transfer either as of July 1, 1968, or thereafter.

[1967 c.534 §3a]

**Note:** Based on 1980 Report of the State Court Administrator, the following counties are described by 3.265 in terms of population and nonresidency of the judge of the circuit court: Gilliam, Sherman and Wheeler.

**3.270 Transfer of juvenile jurisdiction and jurisdiction over family-related matters to circuit courts.** (1) All judicial jurisdiction, authority, powers and duties of the district courts and county courts and the judges thereof over matters described in ORS 3.260 (1), are transferred to the circuit courts and the judges thereof.

(2) All judicial jurisdiction, authority, powers and duties of the district courts, county courts and justice courts and the judges thereof over matters described in ORS 3.260 (2) or so much thereof as may be ordered under ORS 3.275, in so far as such jurisdiction, authority, powers, functions and duties are exercised by such courts and the judges thereof on the date specified in the order entered under ORS 3.275, are transferred to the circuit courts and the judges thereof by which the order was entered.

(3) All matters, causes and proceedings relating to jurisdiction, authority, powers, functions and duties transferred to the circuit court and the judges thereof under either subsection (1) or (2) of this section and pending in the district, county or justice court on the effective date of the transfer, are transferred to the circuit court for the county.

(4) Appeals pending in a circuit court under ORS 109.370, 179.650 or 419.561 immediately before the date specified in the order entered under ORS 3.275 shall be conducted and completed pursuant to the provisions of law in effect immediately before that date, except that the circuit court shall be considered to be the court appealed from in so far as further disposition of the case is concerned. [1967 c.534 §4]

**3.275 Procedure for transfer of jurisdiction over certain family-related matters.** (1) After making a determination that conditions in the judicial district make it desirable to concentrate jurisdiction over all or part of family and family-related matters in the circuit court, the circuit court by its own order shall exercise jurisdiction over any or all of the matters described in ORS 3.260 (2) on and after July 1 next following entry of the order.

(2) Any circuit court that enters an order pursuant to subsection (1) of this section shall cause copies of the order to be filed with the Oregon Supreme Court and with the district, county or justice court whose jurisdiction is affected by the order. [1967 c.534 §5]

**3.280 Court services for circuit courts.** (1) The circuit court may obtain court services by using services available without charge or, with the prior approval of the governing body of each county in the judicial district, by:

(a) Employing or contracting for personnel or services; or

(b) Contracting or entering into agreements with public or private agencies or with private firms or individuals, or any of them.

(2) Court services obtained under subsection (1) of this section shall be subject to the supervision of the circuit court.

(3) The compensation and expenses of personnel performing or providing court services and the expenses of providing court services shall be determined by the circuit court and shall be subject to the approval of and be paid by the county or counties making up the judicial district, subject to the Local Budget Law. For purposes of retirement benefits, personnel employed by the court may be considered county employees. Personnel performing or providing court services are not state employees, and their compensation and expenses shall not be paid by the state. [1967 c.534 §6; 1981 s.s. c.3 §22]

**3.310** [Amended by 1955 c.715 §2; 1959 c.557 §5; 1961 c.724 §10; 1965 c.510 §8; repealed by 1981 c.215 §8]

**3.312** [1961 c.724 §12; repealed by 1965 c.510 §24]

**3.314** [1961 c.724 §13; repealed by 1981 c.215 §8]

**3.320** [Repealed by 1981 c.215 §8]

**3.330** [Amended by 1971 c.108 §1; 1979 c.77 §2; repealed by 1981 c.215 §8]

**3.340** [Repealed by 1969 c.591 §305]

**3.350** [Repealed by 1981 c.215 §8]

**3.360** [Repealed by 1981 c.215 §8]

**3.370** [Repealed by 1959 c.552 §16]

**3.380** [Amended by 1961 c.724 §14; 1973 c.484 §4; repealed by 1981 c.215 §8]

**3.390** [Repealed by 1981 c.215 §8]

**3.400** [Repealed by 1981 c.215 §8]

**3.410** [Amended by 1955 c.715 §3; 1959 c.557 §6; repealed by 1961 c.724 §34]

**3.411** [1961 c.724 §15; 1965 c.618 §9; 1967 c.531 §3; 1967 c.533 §11; 1971 c.640 §2; repealed by 1981 c.215 §8]

**3.510** [1959 c.549 §1; 1961 c.465 §1; repealed by 1975 c.706 §10]

**3.520** [1959 c.549 §2; repealed by 1975 c.706 §10]

**3.530** [1959 c.549 §3; repealed by 1975 c.706 §10]

**3.540** [1959 c.549 §4; repealed by 1975 c.706 §10]

**3.550** [1959 c.549 §5; repealed by 1975 c.706 §10]

**3.560** [1959 c.549 §6; 1961 c.465 §2; 1965 c.521 §1; 1969 c.198 §33; 1969 c.269 §1; 1971 c.213 §1; repealed by 1975 c.706 §10]

**3.570** [Formerly 3.110 and then 3.102; 1965 c.521 §2; 1969 c.269 §2; 1971 c.213 §2; repealed by 1975 c.706 §10]

**ARBITRATION PROCEDURE**

**Note:** Chapter 670, Oregon Laws 1983, provides:

**Sec. 1.** (1) An arbitration program under this Act for civil actions may be established for:

(a) The circuit court in a judicial district by an affirmative vote of a majority of the judges of the court, subject to the approval of the Chief Justice of the Supreme Court, or by an order of the Chief Justice.

(b) The district court for a county or counties by an affirmative vote of a majority of the judges of the court, subject to the approval of the Chief Justice of the Supreme Court, or by an order of the Chief Justice.

(2) Rules consistent with this Act to govern the operation and procedure of an arbitration program established under subsection (1) of this section for a court may be made in the same manner as other rules applicable to the court pursuant to ORS 1.002 (1), 3.065 (3), 3.220, 46.280 or 46.665 (3). Rules to govern the operation and procedure of a program made pursuant to ORS 3.065 (3), 3.220, 46.280 or 46.665 (3) are subject to the approval of the Chief Justice of the Supreme Court.

(3) This Act does not apply to appeals from a county, justice's or municipal court or actions in the small claims department of a district court.

**Sec. 2.** (1) In a civil action in a circuit or district court having an arbitration program established under section 1 of this Act, where all parties have appeared, the court shall refer the action to arbitration under this Act if:

(a) The only relief claimed is recovery of money or damages, and no party asserts a claim for money or general and special damages in an amount exceeding \$15,000 in the circuit court, or in an amount exceeding \$3,000 in the district court, exclusive of attorney fees, costs and disbursements and interest on judgment.

(b) The action is a domestic relations suit, as defined in ORS 107.510, in which the only contested issue is the division or other disposition of property between the parties.

(2) The presiding judge of the court may exempt from arbitration under this Act a civil action that otherwise would be referred to arbitration under subsection (1) of this section, or may remove from further arbitration proceedings a civil action that has been referred to arbitration under subsection (1) of this section, when, in the opinion of the judge, good cause exists for that exemption or removal.

**Sec. 3.** (1) In a civil action in a circuit or district court having an arbitration program established under section 1 of this Act, where all parties have appeared and agreed to arbitration by stipulation, the court shall refer the action to arbitration under this Act if:

(a) The relief claimed is more than or other than recovery of money or damages.

(b) The action is in the circuit court, the only relief claimed is recovery of money or damages and a party asserts a claim for money or general and special damages in an amount exceeding \$15,000, exclusive of attorney fees, costs and disbursements and interest on judgment.

(2) If a civil action is referred to arbitration under subsection (1) of this section, the arbitrator may grant any

relief that could have been granted if the action were determined by a judge of the court.

**Sec. 4.** In a civil action in a circuit court having an arbitration program established under section 1 of this Act, where all parties have appeared, where the only relief claimed is recovery of money or damages, where a party asserts a claim for money or general and special damages in an amount exceeding \$15,000, exclusive of attorney fees, costs and disbursements and interest on judgment, and where all parties asserting those claims waive the amounts of those claims that exceed \$15,000, the court shall refer the action to arbitration under this Act. A waiver of an amount of a claim under this section shall be for the purpose of arbitration under this Act only and shall not restrict assertion of a larger claim in a trial de novo under section 5 of this Act.

**Sec. 5.** (1) At least five days before the date set for an arbitration hearing, the arbitrator shall notify the clerk of the court of the time and place of the hearing. The clerk shall post a notice of the time and place of the hearing in a conspicuous place for trial notices at the principal location for the sitting of the court in the county in which the action was commenced.

(2) The arbitration proceeding and the records thereof shall be open to the public to the same extent as would a trial of the action in the court and the records thereof

(3) The compensation of the arbitrator and other expenses of the arbitration proceeding shall be the obligation of the parties or any of them as provided by rules made under subsection (2) of section 1 of this Act. However, if those rules require the parties or any of them to pay any of those expenses in advance, in the form of fees or otherwise, as a condition of arbitration, the rules shall also provide for the waiver in whole or in part, deferral in whole or in part, or both, of that payment by a party whom the court finds is then unable to pay all or any part of those advance expenses. Expenses so waived shall be paid by the state from funds available for the purpose. Expenses so deferred shall be paid, if necessary, by the state from funds available for the purpose, and the state shall be reimbursed according to the terms of the deferral.

**Sec. 6.** (1) At the conclusion of arbitration under this Act of a civil action, the arbitrator shall file the decision and award with the clerk of the court that referred the action to arbitration, together with proof of service of a copy of the decision and award upon each party.

(2)(a) Within 20 days after the filing of a decision and award with the clerk of the court under subsection (1) of this section, a party against whom relief is granted by the decision and award or a party whose claim for relief was greater than the relief granted to the party by the decision and award, but no other party, may file with the clerk a written notice of appeal and request for a trial de novo of the action in the court on all issues of law and fact. After the filing of the written notice a trial de novo of the action shall be held. If the action is triable by right to a jury and a jury is demanded by a party having the right of trial by jury, the trial de novo shall include a jury.

(b) If a party files a written notice under paragraph (a) of this subsection, a trial fee or jury trial fee, as applicable, shall be collected as provided in ORS 21.270 or 46.221.

(c) A party filing a written notice under paragraph (a) of this subsection shall deposit with the clerk of the court the sum of \$150. If the position under the arbitration decision and award of the party filing the written notice is not improved as a result of a judgment in the action on the trial de

novo, the clerk shall dispose of the sum deposited in the same manner as a fee collected by the clerk. If the position of the party is improved as a result of a judgment, the clerk shall return the sum deposited to the party. If the court finds that the party filing the written notice is then unable to pay all or any part of the sum to be deposited, the court may waive in whole or in part, defer in whole or in part, or both, the sum. If the sum or any part thereof is so deferred and the position of the party is not improved as a result of a judgment, the deferred amount shall be paid by the party according to the terms of the deferral.

(d) Notwithstanding any other provision of law or the Oregon Rules of Civil Procedure, a party filing a written notice under paragraph (a) of this subsection whose position under the arbitration decision and award is not improved as a result of a judgment in the action on the trial de novo shall not be entitled to attorney fees or costs and disbursements, and shall be taxed the costs and disbursements of the other parties to the action on the trial de novo.

(3) If a written notice is not filed under paragraph (a) of subsection (2) of this section within the 20 days prescribed, the clerk of the court shall enter the arbitration decision and award as a final judgment of the court, which shall have the same force and effect as a final judgment of the court in the civil action and may not be appealed.

**Sec. 7.** This Act is repealed January 1, 1986.

## **PANEL OF REFERENCE JUDGES**

**Note:** Chapter 704, Oregon Laws 1983, provides:

**Sec. 1.** (1) Subject to the approval of the Chief Justice of the Supreme Court, the presiding judge of the circuit court in a judicial district may establish, and may terminate, the use of a panel of reference judges for the trial and disposition of civil actions in the circuit court under this Act.

(2) The Supreme Court, upon motion of the Chief Justice and the presiding judge of the circuit court for which use of a panel of reference judges is established under subsection (1) of this section, may appoint any eligible person as a reference judge on the panel. A person is eligible for appointment as a reference judge if the person is a member in good standing of the Oregon State Bar. An eligible person need not reside within the judicial district for which use of the panel is established.

(3) A person appointed as a reference judge on a panel may be removed from the panel by the Chief Justice or the presiding judge of the circuit court, in their sole discretion.

(4) A person appointed as a reference judge on a panel is subject to the jurisdiction of the Commission on Judicial Fitness and the Supreme Court under ORS 1.420 and 1.430 in the same manner as a judge of the circuit court.

(5) A person appointed as a reference judge on a panel shall not be considered to be, or to have the judicial powers, duties, jurisdiction and authority of, a judge of the circuit court except to the extent provided in this Act.

**Sec. 2.** (1) At any time before trial of a civil action in a circuit court for which use of a panel of reference judges is established under section 1 of this Act, the parties to the action may file with the presiding judge of the court a written request for referral of the action to a reference judge on the

panel. Upon receipt of the request, the presiding judge, by order, shall refer the action to a reference judge.

(2) The parties, in their request for referral, may specify a particular reference judge, and the presiding judge shall refer the action to the reference judge so specified.

(3) If the parties do not specify a particular reference judge, the presiding judge shall select a reference judge and notify the parties of the selection. Within 10 days after selection of a reference judge by the presiding judge, the parties may file with the presiding judge a written rejection of the reference judge so selected and request that the presiding judge make another selection.

(4) A reference judge may decline to accept a referral of an action by the presiding judge. If a reference judge declines to accept a referral, the parties may file with the presiding judge a written specification of, or the presiding judge may select, another reference judge.

(5) The request by parties for referral of an action shall include a stipulation by the parties to the entry of the judgment arising from the reference as the judgment of the court. If the action is triable by right to a jury, the request shall constitute a waiver of the right of trial by jury by any party having that right.

(6) The presiding judge may revoke a referral of an action when, in the opinion of the presiding judge, the trial of the action on reference is being unduly delayed. If the referral is revoked, the presiding judge may require the person or persons responsible for the undue delay to bear all or part of the expense of the trial incurred before the revocation.

**Sec. 3.** (1) Upon entry of an order of the presiding judge of a circuit court referring an action under section 2 of this Act, the clerk of the court shall cause a copy of the order to be delivered to the reference judge. Upon receipt of the copy of the order, the reference judge shall set the action for trial on reference at a time and in a place agreeable to the parties.

(2) At least five days before the date set for a trial on reference, the reference judge shall notify the clerk of the court of the time and place of the trial. The clerk shall post a notice of the time and place of the trial in a conspicuous place for trial notices at the principal location for the sitting of the court in the county in which the action is commenced.

(3) Any person interested in attending a trial on reference is entitled to do so as in a trial of a civil action in the court. Upon receipt of written request by any person, the reference judge shall give the person written notice of the time and place set for a trial on reference.

(4) Except as otherwise provided in this Act, the reference judge has all the judicial powers and duties of a judge of the circuit court to regulate all proceedings in the trial and disposition of the action on reference.

(5) The reference judge shall provide clerical personnel necessary for the conduct of the proceedings in the trial on reference, including a trial court reporter unless waived by the parties. If use of a trial court reporter is waived by the parties, the proceedings in the trial shall be reported by an audio record reporting device.

(6) The trial on reference shall be conducted in the same manner as a trial by the circuit court without a jury. The reference judge shall apply the substantive law used in the courts of this state in deciding the issues submitted by the parties. Unless waived in whole or part by the parties, the

## CIRCUIT COURTS GENERALLY

reference judge shall apply the rules of pleading, practice, procedure and evidence used in the circuit courts of this state.

(7) The parties may procure the attendance of witnesses before the reference judge by the issuance and service of subpoenas as provided in ORCP 55. If, without adequate excuse, a witness fails to appear or give evidence, that witness may be punished as for a contempt by the reference judge and be subjected to the consequences, penalties and remedies provided in ORCP 55 G.

**Sec. 4.** (1) Within 20 days after the close of all evidence offered in a trial on reference conducted under section 3 of this Act, unless a later time is agreed upon by the parties, the reference judge shall mail to each party a copy of the proposed written report of the reference judge. The proposed report shall contain the findings of fact and conclusions of law by the reference judge, and the judgment thereon of the reference judge.

(2) Within 10 days after receipt of the copy of the proposed report, any party may serve written objections and suggested modifications or corrections to the proposed report upon the reference judge and the other parties. The reference judge without delay shall consider the objections and suggestions and prepare a final written report. If requested by any party, the reference judge shall conduct a hearing on the proposed written report and any objections or suggested modifications or corrections thereto before preparing the final written report.

(3) Upon completion of the final written report, the reference judge shall file with the clerk of the circuit court:

(a) Copies of all original papers in the action filed with the reference judge;

(b) The exhibits offered and received or rejected in the trial on reference;

(c) The transcript of the proceedings in the trial, if a trial court reporter was used in the trial;

(d) The audio record of the proceedings in the trial, if a trial court reporter was not used in the trial; and

(e) The final written report containing the findings of fact and conclusions of law by the reference judge, and the judgment thereon of the reference judge.

(4) In the interest of economy, the presiding judge of the circuit court may allow the reference judge to file the final written report under subsection (3) of this section without any of the items listed in paragraphs (a) to (d) of subsection (3) of this section. However, the presiding judge shall require the reference judge to file the items listed in paragraphs (a) to (d) of subsection (3) of this section if timely notice of appeal of the judgment is filed.

(5) At the time the reference judge files the final written report under subsection (3) of this section, the reference judge shall mail to each party a copy of the report.

(6) Upon receipt of the final written report by the clerk of the court, the referral of the action shall terminate and the presiding judge shall order the judgment contained in the report entered as the judgment of the court in the action. Subsequent motions and other related post-trial proceedings in the action may be conducted and disposed of by the reference judge upon the order of the presiding judge, in the sole discretion of the presiding judge, or may otherwise be assigned by the presiding judge.

(7) The judgment of the reference judge entered as provided in subsection (6) of this section may be appealed in the same manner as a final judgment of the circuit court in a civil action.

**Sec. 5.** (1) Unless otherwise agreed by the parties, the compensation of a reference judge to whom an action is referred under section 2 of this Act shall be an amount for each day actually engaged in the performance of duties under the referral and in the conduct and disposition of post-trial proceedings under subsection (6) of section 4 of this Act equal to five percent of the gross monthly salary of a regularly elected and qualified judge of the circuit court, or one-half of that daily compensation for services of one-half day or less.

(2) Payment of the compensation of a reference judge and the expense of the trial on reference before the reference judge shall be the obligation of the parties. The obligation shall be borne equally by the parties unless the parties agree to a different allocation.

(3) The presiding judge shall estimate the compensation of the reference judge and the expense of the trial on reference in advance of the trial, and shall notify the parties of the estimate. The parties shall deposit with the clerk of the court the amount estimated by the presiding judge. The presiding judge may order the clerk to pay a portion of the deposited amount to the reference judge during the trial on reference. Upon termination of the referral of the action, the reference judge shall cause to be delivered to the presiding judge and each party a written statement of any remaining unpaid compensation and expense. The presiding judge shall hear and decide any objection to the written statement, and thereafter shall order payment to the reference judge or refund of any remainder of the deposited amount accordingly.

**Sec. 6.** This Act is repealed January 1, 1986.

