

Chapter 21

1983 REPLACEMENT PART

Fees Generally

APPELLATE COURT FEES

- 21.010 Filing and appearance fees on appeal
- 21.020 Fees for copies of papers, and for affixing seal
- 21.040 Filing fees in cases of original jurisdiction

CIRCUIT AND DISTRICT COURT FEES

- 21.060 Circuit or district court fees
- 21.070 Disposition of fees

CIRCUIT COURT FEES (OTHER THAN PROBATE MATTERS)

- 21.110 Filing and appearance fees
- 21.112 Fee for filing domestic relations suit in county with conciliation or mediation services
- 21.270 Trial fees, including jury trial fee

PROBATE FEES

- 21.310 Probate filing fees and trial fee
- 21.320 Appearance fees in adoption or change of name proceedings

LAW LIBRARY FEES

- 21.350 Law library fees

CLERK FEES

- 21.375 Clerk fees

SHERIFF AND PROCESS SERVER FEES

- 21.410 Sheriff and process server fees for services in civil actions, suits and proceedings
- 21.420 Itemized statement of fees

REPORTER FEES

- 21.460 Reporter fee
- 21.470 Transcript fees

LEGAL AID FEES

- 21.480 Legal aid fees in circuit courts
- 21.485 Legal aid fees in district courts
- 21.490 Disposition of fees

REFEREE FEES

- 21.510 Referee fees

LIABILITY FOR AND PAYMENT OF FEES

- 21.580 Exemption of state and county from certain fees
- 21.600 When and by whom trial fee to be paid in circuit and county courts; exemption of indigents; fee as disbursement

- 21.605 Waiver of fees and costs for indigents; fees and costs as judgment for public body; payment by State Court Administrator
- 21.660 Advance payment of, or security for, fees for services in court proceedings
- 21.670 Duty of officer receiving fees to give receipted cost bill

MISCELLANEOUS PROVISIONS AS TO FEES

- 21.710 "Folio" defined
- 21.730 Per diem and mileage for private persons performing services by law or in execution of process

PENALTIES

- 21.990 Penalties

CROSS REFERENCES

Audit of fee collections and payments, 210.210
Bank liquidation, dissolution proceedings; exemption from fees, 711.560, 711.615
Constable's fees, 51.440 to 51.550
Dissolution or annulment of marriage, separation, when spouse required to pay fees, 107.095
District court fees, 46.221
Fees not to be charged for certain services in connection with military justice, 398.408, 399.150
Habeas corpus proceedings, when prisoner not required to pay filing fees, 34.365
Judgment, certificate of satisfaction of, fee of county clerk for issuing, 18.400, 205.320
Jury fees and mileage, 10.060, 10.065
Justice court fees, Chs. 51, 52
Penalty for charging or taking unauthorized fee, 162.405, 162.415
Public guardians and conservators, no fee required for petition, 126.965
Recording fees, Ch. 205
Salaries of county officers to be exclusive compensation, and fees to be paid over to county, 204.116
State agencies, when required to pay fees; advance payment not required, 182.040, 182.050, 182.060
Tax court fees, 305.490 to 305.500
Trust deed, trustee of, compensation, 86.795
Witness fees:
District court, 46.210
Generally, 44.410

21.010

Supreme Court filing fee, when paid, 19.035

21.110

Civil service commission for firefighters, attendance before, 242.730
District court, appearance and filing fees, 46.221
District court, transfer of case, payment of costs of transfer, 46.075
Payment of fees to county treasurer, 210.230
Penalty for failure to charge or account for fees, 205.360
Post-conviction relief proceeding, fees, 138.590, 138.600
Reports of fee collections, 208.110

PROCEDURE IN CIVIL PROCEEDINGS

Satisfaction of judgment, fee for certificate, 18.400, 205.320
Support proceeding, filing fees, 108.130, 110.142

21.270

District court, trial fees, 46.221
Justice court, trial fees, 52.410 to 52.440, 156.160

21.350

District court, law library fees, 46.221
Use of law library fees, 9.850

21.375

See Cross References for ORS 21.110

21.410

Constables, collection of fees; payment to county treasurer,
51.540
Fee books, 206.020
Payment of fees to county treasurer, 210.230
Payment of fees to county treasurer, and report to county
clerk and accountant, in all counties, 206.020
Property taken under attachment, execution or replevin,
charges of sheriff for care, 206.325
Successor, turning over fees on expiration of term, 206.120

21.460

District court, reporter's fees, 46.345

21.480

Commission on Judicial Branch and Oregon State Bar to
report to Sixty-second Legislative Assembly on status
of legal aid, 1981 c.664 §§3, 3a

21.580

State agencies, when required to pay fees to counties for
services, 182.040, 182.050, 182.060
State, county, city or school district not required to advance
any fees taxable as costs, 20.140
Support Enforcement Division, exemption from payment of
certain fees, 180.360

21.600

Dissolution or annulment of marriage, separation, when
spouse required to pay fees, 107.095
Justice court, payment of trial fee, 52.420, 52.570

21.620

Payment of fees to county treasurer, 210.230
Receipt forms and records, 210.230

21.660

Deposit in lieu of bond, Ch. 22
State agencies not required to pay fees in advance, 182.050
State, county or city not required to advance any fees taxable
as costs, 20.140

21.670

Penalty for charging or taking unauthorized fee, 162.405,
162.415

APPELLATE COURT FEES

21.010 Filing and appearance fees on appeal. The appellant in a civil case, upon taking an appeal to the Supreme Court or the Court of Appeals, shall pay the sum of \$100 in the manner prescribed by ORS 19.035. The respondent in such case, upon entering first appearance or filing first brief in the court, shall pay to the State Court Administrator the sum of \$60. The party entitled to costs and disbursements on such appeal shall recover from the opponent the amount so paid. [Amended by 1963 c.556 §1; 1967 c.398 §3; 1969 c.198 §50; 1981 s.s. c.3 §§66, 67]

21.020 Fees for copies of papers, and for affixing seal. For making and certifying to a copy of any opinion, pleading, judgment, decree, paper or record of his office for private parties, and not in the course of the regular court proceedings, the State Court Administrator shall collect the sum of 15 cents for each page. For affixing the seal of the court where not in the course of the regular court proceedings he shall collect \$1. [Amended by 1967 c.398 §4; 1969 c.198 §51; 1971 c.193 §25]

21.030 [Repealed by 1967 c.398 §10]

21.040 Filing fees in cases of original jurisdiction. In cases of original jurisdiction in the Supreme Court, the plaintiff or moving party shall pay \$25 and the defendant or respondent shall pay \$15 on the filing of their first paper. [Amended by 1967 c.398 §5]

21.050 [Amended by 1969 c.198 §52; 1971 c.193 §26; repealed by 1981 s.s. c.1 §25]

CIRCUIT AND DISTRICT COURT FEES

21.060 Circuit or district court fees. In the circuit or district court there shall be charged and collected in advance by the clerk of the court the following fees for the following purposes and services:

- (1) Taking depositions, for each folio, \$3.
- (2) Making transcription from judgment docket in the format provided in ORCP 70 A., \$4.
- (3) Filing and docketing transcript of judgment in the format provided in ORCP 70 A., \$4.
- (4) Issuing writs of execution or writs of garnishment, \$3 for each writ.
- (5) Preparing clerk's certificate of satisfaction of judgment, \$3.75.
- (6) For any service the clerk may be required or authorized to perform and for which no fee is

provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize, except that no fee shall be charged for location or inspection of court records. [1981 s.s. c.3 §81; 1983 c.308 §1]

21.070 Disposition of fees. Except as otherwise specifically provided by law, all fees collected by the clerk of a circuit or district court shall be deposited in the General Fund available for general governmental expenses. [1981 s.s. c.3 §82; 1983 c.763 §40]

CIRCUIT COURT FEES (OTHER THAN PROBATE MATTERS)

21.110 Filing and appearance fees. At the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, but not including any probate proceeding in a circuit court having probate jurisdiction, and not including proceedings for adoption or change of name and except as provided in ORS 105.130, the clerk of the circuit court shall collect from the plaintiff, appellant or moving party the sum of \$52 beginning January 1, 1983, and \$60 beginning September 1, 1983, as a flat and uniform filing fee. The clerk shall also, at the time of filing any appearance in any such action, suit or proceeding upon the part of any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, collect from such party or parties the sum of \$26 beginning January 1, 1983, and \$30 beginning September 1, 1983, as a flat and uniform filing fee. No paper or pleading shall be deemed filed unless the required fee is paid. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law. [Amended by 1955 c.458 §1; 1959 c.563 §2; 1965 c.619 §8; 1971 c.621 §1; 1975 c.607 §1; 1979 c.833 §3; 1981 s.s. c.3 §§68, 69; 1983 c.581 §2, 1983 c.763 §20]

21.112 Fee for filing domestic relations suit in county with conciliation or mediation services. In a county in which the circuit court is providing conciliation services under ORS 107.510 to 107.610 or mediation services under ORS 107.755 to 107.785 or both, there shall be collected by the clerk of the circuit court at the time of filing in the circuit court of a domestic relations suit as defined in ORS 107.510, in addition to all other fees collected, a fee of \$75, or an amount exceeding \$75, determined by the governing body of the county to be

necessary, in addition to any other funds used therefor, to pay the expenses of providing the services and established by order or rule of the governing body filed with the clerk of the court. Fees so collected shall be paid, in the manner determined by the State Court Administrator, to the appropriate officer of the county within the first 25 days of the month following the month in which collected. The fees shall be used by the county to pay the expenses of providing the services. [1963 c.434 §11; 1971 c.280 §20; 1975 c.607 §2; 1979 c.833 §4; 1981 c.835 §1; 1981 s.s. c.3 §70; 1983 c.671 §6; 1983 c.763 §38]

21.115 [Formerly 21.210; 1965 c.619 §9; renumbered 21.375]

21.120 [Amended by 1959 c.453 §1; 1963 c.519 §6; 1965 c.619 §10; 1967 c.111 §2; 1971 c.621 §2; 1981 c.571 §1; 1981 s.s. c.3 §71; repealed by 1981 s.s. c.3 §141]

21.130 [Amended by 1959 c.678 §1; 1963 c.519 §7; 1965 c.619 §11; 1967 c.111 §3; 1971 c.61 §1; 1979 c.631 §1; repealed by 1981 s.s. c.3 §141]

21.140 [Amended by 1961 c.563 §1; 1963 c.519 §8; 1965 c.619 §12; renumbered 21.350]

21.150 [Amended by 1963 c.519 §9; repealed by 1965 c.619 §39]

21.210 [Amended by 1955 c.458 §2; renumbered 21.115 and then 21.375]

21.220 [Amended by 1963 c.519 §10; repealed by 1965 c.619 §39]

21.230 [Amended by 1963 c.519 §11; repealed by 1965 c.619 §39]

21.240 [Amended by 1959 c.563 §3; 1963 c.519 §12; repealed by 1965 c.619 §39]

21.250 [Amended by 1963 c.519 §13; repealed by 1965 c.619 §39]

21.260 [Amended by 1959 c.563 §4; 1963 c.519 §14; repealed by 1965 c.619 §39]

21.270 Trial fees, including jury trial fee. (1) In any civil action, suit or proceeding in the circuit court, other than probate proceedings, the trial fees are as follows:

(a) The clerk of the circuit court shall collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a trial fee of \$24 beginning January 1, 1983, and \$25 beginning September 1, 1983, for each full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in advance at the time the action, suit or proceeding comes on for trial. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes.

(b) The clerk shall collect from the plaintiff or appellant, for a trial by jury, a jury trial fee of \$72.50 beginning January 1, 1983, and \$80 beginning September 1, 1983, for the first full or

partial day of the trial and \$50 for each subsequent full or partial day of the trial. The amount of the fee for the first day of trial shall be collected in advance at the time the action, suit or proceeding comes on for trial by jury. The amount of the fee for subsequent days of trial shall be collected on the day the trial concludes. If the plaintiff or appellant waives a trial by jury, and the defendant or respondent desires a trial by jury, the clerk shall collect the jury trial fee from the defendant or respondent. Cases wherein the jury trial fee for the first day of trial has not been paid shall be tried by the court without a jury, unless the court otherwise orders. If a case in which the jury trial fee for the first day of trial has not been paid is tried by a jury by order of court, the clerk shall tax against the losing party as costs, to be collected for the benefit of the state, the total amount of the jury trial fee. The trial fee provided for in paragraph (a) of this subsection shall not be collected in any case wherein a jury trial fee has been paid by either party and not refunded.

(2) The fees provided for in this section that are paid by a party shall be considered disbursements and may be taxed and collected as other costs and disbursements by the prevailing party.

[Amended by 1963 c.519 §15; 1965 c.619 §13; 1971 c.621 §4; 1975 c.607 §4; 1979 c.833 §5; 1981 s.s. c.3 §§72, 73; 1983 c.763 §21]

21.280 [1959 c.563 §1; 1963 c.519 §16; repealed by 1965 c.619 §39]

PROBATE FEES

21.310 Probate filing fees and trial fee. (1) Except as provided in ORS 114.515, in a court having probate jurisdiction, the clerk of the court shall charge and collect the following fees before the filing of the initial papers in any proceeding in probate, including petitions for the probate of wills, for letters of administration, and will contest proceedings:

Where the amount of the estate is:

1. Not more than \$1,000—a fee of \$5.
2. More than \$1,000 and not more than \$4,000—a fee of \$15.
3. More than \$4,000 and not more than \$8,000—a fee of \$25.
4. More than \$8,000 and not more than \$25,000—a fee of \$50.
5. More than \$25,000 and not more than \$50,000—a fee of \$100.
6. More than \$50,000 and not more than \$100,000—a fee of \$150.

7. More than \$100,000—a fee of \$200.

(2) In a court having probate jurisdiction, the clerk shall charge and collect a fee of \$5 at the time of filing a will without a petition for probate.

(3) At the time of filing any answer, demurrer, motion or objection in probate proceedings, the party filing such demurrer, answer, motion or objection shall be required to pay a fee of \$12, and the papers shall not be deemed filed unless such payment is made.

(4) The clerk also shall collect from the party having the affirmative of the issue, at the time such a proceeding comes on for trial or hearing upon the issues of fact or law involved therein, an additional sum of \$12 as a trial fee, which shall be paid before any such trial or hearing shall be had therein.

(5) In determining fees under this section, the amount of a settlement in a wrongful death action brought for the benefit of the surviving spouse or dependents is not part of the estate. [Amended by 1955 c.458 §3; 1965 c.619 §14; 1971 c.621 §5; 1973 c.506 §1; 1975 c.607 §5; 1979 c.833 §6; 1981 s.s. c.3 §74]

21.313 [1959 c.452 §2; 1967 c.111 §4; repealed by 1969 c.591 §305]

21.315 [Formerly 21.360; repealed by 1965 c.619 §39]

21.320 Appearance fees in adoption or change of name proceedings. In a court having jurisdiction, the clerk of the court shall charge and collect an original appearance fee of \$25 in adoption proceedings, and an original appearance fee of \$25 in change of name proceedings. [Amended by 1963 c.519 §17; 1965 c.619 §15; 1967 c.534 §10; 1971 c.621 §6; 1975 c.607 §6; 1979 c.833 §7; 1981 s.s. c.3 §§75, 76]

21.330 [Amended by 1961 c.563 §2; 1963 c.519 §18; repealed by 1965 c.619 §39]

21.340 [Amended by 1963 c.519 §19; repealed by 1965 c.619 §39]

LAW LIBRARY FEES

21.350 Law library fees. (1) In counties containing more than 400,000 inhabitants, according to the latest federal decennial census, or when directed as provided in ORS 9.840, the clerk of the court shall collect in each civil suit, action or proceeding filed in the circuit, district or county court a law library fee determined by the county court or board of county commissioners in an amount not greater than 40 percent of the filing fee provided by law. This fee shall be collected in the same manner as other fees are

collected in the suit, action or proceeding, and in addition to the other fees provided by law.

(2) The fee provided in subsection (1) of this section may be collected if the county owns and maintains, or hereafter may acquire, own or maintain under the provisions of ORS 9.840 and 9.850, a law library at the county seat, available at all reasonable times to the use of litigants, and permitted to be used by all attorneys at law duly admitted to practice in this state, without additional fees to such litigants or attorneys.

[Formerly 21.140; 1973 c.381 §6; 1981 s.s. c.3 §77]

21.360 [Amended by 1955 c.458 §4; renumbered 21.315]

21.370 [Amended by 1963 c.519 §20; repealed by 1965 c.619 §39]

CLERK FEES

21.375 Clerk fees. In the county court there shall be charged and collected in advance by the county clerk as clerk of the court, for the benefit of the county, the following fees, and no more, for the following purposes and services:

(1) Taking depositions, for each folio, \$3.

(2) Making transcription from judgment docket in the format provided in ORCP 70 A., \$4.

(3) Filing and docketing transcript of judgment in the format provided in ORCP 70 A., \$4.

(4) Issuing writs of execution or writs of garnishment, \$3 for each writ.

(5) Preparing clerk's certificate of satisfaction of judgment, \$3.75.

(6) For any service not enumerated in this section, the fees provided or established under ORS 205.320. [Formerly 21.210 and then 21.115; 1971 c.621 §7; 1975 c.607 §8; 1979 c.833 §8; 1981 c.883 §30; 1981 c.898 §23; 1981 s.s. c.3 §83]

21.380 [Amended by 1963 c.519 §21; repealed by 1965 c.619 §39]

SHERIFF AND PROCESS SERVER FEES

21.410 Sheriff and process server fees for services in civil actions, suits and proceedings. (1) The sheriff of every county and any other person serving process, in all civil actions, suits and proceedings, for each case delivered to the office of the sheriff or other person on one day, shall collect in advance the following fees:

(a) For serving summons, subpoena, citation, order, notice or similar documents, including

small claims or writ of execution, directed to not more than two different parties, \$15. When more than two parties are to be served, \$15 for each additional two parties, or part thereof.

(b) For serving notice of seizure and sale of personal or real property, writ of restitution, or other seizure under writ of attachment or execution, or other process or proceeding, \$15.

(c) For seizure and sale of personal or real property, enforcement of writ of restitution, or other enforcement or seizure under writ of attachment or execution, or other process or proceeding, \$47, and, in addition, such sums as may be reasonable and necessary to secure each keeper or custodian of property in custody, the expense of inventory of property in custody and expense incurred in newspaper advertising required by law in the execution of process.

(d) Sheriff's fees and disbursements, as provided in this section, incurred after the docking of a judgment, shall be added to the judgment and collected from the judgment debtor.

(e) For making a conveyance of real property sold on any process, \$15, to be paid by, or for, the grantee.

(f) For making a copy of any process, order, notice or other instrument in writing, when necessary to complete the service thereof, for each folio, \$3; but no charge shall be made for copy of complaint or other paper not actually made by the sheriff.

(g) For entering and processing distraint warrants for state agencies, \$6.25 each.

(2) The fees for service may be paid to the clerk at the time of filing of the process when the process is to be served within that county. The clerk shall indorse upon the process when the sheriff's fees have been received and at the end of each month furnish to the sheriff a statement of all service fees collected.

(3) Fees collected for service shall be retained by the sheriff or clerk for the benefit of the county where the party to be served cannot be found.

(4) No mileage or commission shall be collected for service of any document or process but in any service involving travel in excess of 100 miles round trip an additional fee of \$12.50 shall be billed and collected. [Amended by 1959 c.620 §1; 1965 c.619 §16; 1969 c.252 §1; 1973 c.393 §1; 1975 c.607 §9; 1977 c.547 §1; 1979 c.833 §9; 1981 c.835 §2; 1981 c.883 §31]

21.420 Itemized statement of fees. The return on any summons, process, subpoena or other paper served by a sheriff shall be accompanied by a subjoined itemized statement of the

charges made for the service thereof, including the mileage actually and necessarily traveled in making the service.

REPORTER FEES

21.460 Reporter fee. Whenever, in a cause in the circuit court, either party, or the parties jointly, shall request the making of a report of the proceedings, as provided in ORS 8.340, or the judge upon own motion orders the making of such report, there shall be charged to the litigants a reporter's fee of \$72.50 beginning January 1, 1983, and \$80 beginning September 1, 1983, for each day the reporter is actually in attendance for more than a half day, and \$36 beginning January 1, 1983, and \$40 beginning September 1, 1983, for each day the reporter is actually in attendance for a half day or less. The clerk of the court shall collect the reporter's fees from the party requesting the services of the reporter, but when the services are required by the judge upon own motion, the clerk shall collect the reporter's fees from the parties, and each party shall pay an equal proportionate share thereof. The reporter's fees shall be taxable as disbursements in the case. [Amended by 1961 c.446 §1; 1975 c.607 §10; 1979 c.833 §10; 1981 s.s. c.3 §84, 85]

21.470 Transcript fees. (1) The fees of the official reporter of the circuit court for preparing transcripts on appeal as provided in ORS 8.350 shall be not more than \$2 per page for the original copy, such page to consist of 25 lines with margins of one and one-half inches on the left-hand side and one-half inch on the right-hand side, not more than 25 cents per page for one copy of the original, and not more than 25 cents per page for each additional copy. Except as otherwise provided by law, the fees for preparing a transcript requested by a party shall be paid forthwith by the party, and when paid shall be taxable as disbursements in the case. The fees for preparing a transcript requested by the court, and not by a party, shall be paid by the state from funds available for the purpose.

(2) Where the court provides personnel to prepare transcripts from audio records of court proceedings, the transcript fees provided in subsection (1) of this section to be paid by a party shall be paid to the clerk of the court. [Amended by 1959 c.446 §1; 1971 c.565 §15; 1973 c.195 §1; 1979 c.833 §11; 1981 s.s. c.3 §86]

LEGAL AID FEES

21.480 Legal aid fees in circuit courts. In all counties wherein legal representation is provided for the poor without fee by a nonprofit legal aid program organized under the auspices of the Oregon State Bar, the county bar association or the Legal Services Corporation Act (Public Law 93-355 or successor legislation), there shall be collected by the clerk of the circuit court from the plaintiff or other moving party in each civil suit, action or proceeding in the circuit court at the time of filing the first paper therein, in addition to all other fees collected and in the same manner, the sum of \$12.50 beginning on May 16, 1983, and \$7.50 beginning July 1, 1989, to assist in defraying the operative costs of such legal aid program. [1977 c.112 §1; 1981 c.664 §1; 1983 c.114 §1]

21.485 Legal aid fees in district courts. In all counties where a district court is maintained, and in which fees are collected pursuant to ORS 21.480 by the clerk of the circuit court in civil cases to defray the costs of a nonprofit legal aid program organized under the auspices of the Oregon State Bar, the county bar association or the Legal Services Corporation Act or successor legislation, the clerk of the district court shall collect from the plaintiff or other moving party in each civil suit, action or proceeding in the district court at the time of filing the first paper therein, in addition to all other fees collected and in the same manner, the sum of \$5 beginning on May 16, 1983, and \$3 beginning July 1, 1989, to assist in defraying the operative costs of such legal aid program. [1977 c.112 §2; 1981 c.664 §2; 1983 c.114 §2]

21.490 Disposition of fees. All fees collected pursuant to ORS 21.480 and 21.485 shall be paid, in the manner determined by the State Court Administrator, to the director of the legal aid program in the county within the first 25 days of the month following the month in which collected. [1977 c.112 §3; 1983 c.763 §39]

REFEREE FEES

21.510 Referee fees. The fees of referees shall be fixed by the court, but the parties may agree in writing upon any other rate of compensation and thereupon such rate shall be allowed.

21.520 [1979 c.429 §1; renumbered 205.245]

21.530 [1979 c.429 §2; renumbered 205.255]

LIABILITY FOR AND PAYMENT OF FEES

21.560 [Repealed by 1983 c.763 §24]

21.570 [Amended by 1965 c.619 §17; 1967 c.398 §6; repealed by 1983 c.763 §24]

21.580 Exemption of state and county from certain fees. None of the fees prescribed in ORS 21.060 for services in the circuit court shall be collected from the state or from the county in which the court is located. [Amended by 1965 c.619 §18; 1981 s.s. c.3 §87; 1983 c.763 §22]

21.590 [Repealed by 1981 s.s. c.3 §141]

21.600 When and by whom trial fee to be paid in circuit and county courts; exemption of indigents; fee as disbursement. (1) The trial fee prescribed in ORS 21.310 is to be paid by the plaintiff, appellant or moving party, before he is entitled to or can claim the trial or other proceeding upon which the fee is imposed. If the party paying such fee prevails in the action, suit or proceeding, so as to be entitled to recover costs therein, the fee shall be allowed and taxed as a disbursement, and collected off the adverse party.

(2) If at any time it appears to the satisfaction of the court or judge thereof, from the affidavit of the party or other evidence, that he cannot pay the trial fee, the court or judge may direct that he be allowed to proceed without the prepayment thereof; but if such party prevails so as to be entitled to collect costs, the fee shall be taxed as a disbursement, and when collected off the adverse party shall be retained by the clerk as if paid in advance. [Amended by 1965 c.619 §19; 1967 c.398 §7]

21.605 Waiver of fees and costs for indigents; fees and costs as judgment for public body; payment by State Court Administrator. (1)(a) The Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, a judge of a circuit or district court or a justice of the peace may waive in whole or in part, defer in whole or in part, or both, all fees and court costs payable by a party to a particular civil action or proceeding in the court of the justice or judge, upon application by the party, if the justice or judge finds that the party is then unable to pay all or any part of the fees and costs.

(b) No fee shall be required for filing an application under paragraph (a) of this subsection.

(c) In the judgment or other final written disposition of the action or proceeding the court shall note the dollar amount of the fees and costs

not waived and then unpaid, and that amount shall be a judgment in favor of the public body to which the fees and costs are owed. Failure of the court to perform the duty imposed by this paragraph does not otherwise affect the validity of the judgment or other final written disposition.

(d) The judgment or other final written disposition of the action or proceeding may also contain an order for the payment of the amount of the fees and costs not waived and then unpaid not later than a date certain or on the happening of one or more events. A default in payment by the person so ordered to pay shall subject the person to a contempt proceeding.

(e) A judgment or other final written disposition rendered under this subsection may be filed, entered and docketed as a judgment in any county in this state.

(2)(a) If fees and court costs payable by a party to a civil action or proceeding have been waived under subsection (1) of this section, the Chief Justice in an appeal to the Supreme Court pursuant to the original appellate jurisdiction of the court, the Chief Judge in an appeal to the Court of Appeals or a judge of a circuit court in an appeal to the circuit court may order that the expense of preparing the record and transcript on appeal be waived in whole or in part, deferred in whole or in part, or both. That expense, to the extent waived or deferred, shall be paid by the State Court Administrator out of funds appropriated for the purpose.

(b) If costs on appeal are awarded to a party who has obtained a waiver or deferral under paragraph (a) of this subsection, any portion of the costs awarded for the expense of preparing the record and transcript on appeal shall be ordered paid to the State Court Administrator to the extent of the expense waived or deferred and actually paid by the administrator.

(3) In any case in which fees and court costs have been waived or deferred under this section, a judgment or other final written disposition shall be rendered as in other cases, but the state shall not be liable for the payment of any fees or costs awarded.

(4) In the exercise of the authority granted by ORS 1.002, the Chief Justice of the Supreme Court may provide by rule standards and practices for waiver or deferral of fees, court costs and expense under this section. [1969 c.288 §1; 1973 c.67 §1; 1977 c.416 §2; 1981 s.s. c.3 §88; 1983 c.673 §24]

21.610 [Amended by 1963 c.519 §22; repealed by 1965 c.619 §39]

21.620 [Amended by 1963 c.519 §23; 1965 c.619 §20; repealed by 1981 s.s. c.3 §141]

21.630 [Repealed by 1955 c.458 §5]

21.640 [Repealed by 1955 c.458 §5]

21.650 [Repealed by 1955 c.458 §5]

21.660 Advance payment of, or security for, fees for services in court proceedings. Except as provided in ORS 20.140, and except the fees for which advance payment or a deposit is otherwise required by law, every officer, witness, or other person required to do or perform any act or service for any party to any action, suit or proceeding in a court of justice in this state shall be entitled to demand and receive from such party the compensation which the law allows therefor in advance; but a party may at his option pay the fees of the officers of the court in advance, or give such officers an undertaking with sufficient sureties therefor. The fees secured to the officers, or any of them, by any party to the judgment or decree, may be collected by an execution against the property of such party and that of his sureties in the undertaking therefor. Such officers' execution may issue in the name of the clerk as plaintiff in the writ, and for the benefit of all officers to whom fees are so due and secured, whenever an execution might issue to enforce the judgment or decree at the instance of the prevailing party.

21.670 Duty of officer receiving fees to give receipted cost bill. An officer receiving fees for any official services must, upon demand, give the party paying the same a receipted bill thereof, specifying the items of such fees.

MISCELLANEOUS PROVISIONS AS TO FEES

21.710 "Folio" defined. As used in this chapter, "folio" means 100 words, counting two figures as one word. Any portion of a folio, when the whole paper contains less than a folio, or when such portion is an excess over the last folio, shall be deemed a folio.

21.720 [Repealed by 1981 s.s. c.3 §141]

21.730 Per diem and mileage for private persons performing services by law or in execution of process. All private persons performing services required by law or in the execution of legal process, when no express provision is made for their compensation shall be entitled to \$3 for each day so employed, and mileage for any necessary travel, going and returning, at the rate of eight cents a mile, and no more.

PENALTIES

21.990 Penalties. Any officer refusing or neglecting to comply with ORS 21.670 shall be liable to the party demanding the receipt for a penalty of \$25.
