

Chapter 7

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COURTS OF RECORD; COURT OFFICERS; JURIES

COURT RECORDS GENERALLY

7.010 Records of court. (1) The records of the circuit, district and county courts include a register, judgment docket and jury register.

(2) The record of the Supreme Court and the Court of Appeals is a register.

(3) All references in this chapter to the clerk or court administrator relate to the office of the clerk or court administrator of the appropriate trial or appellate court. [Amended by 1969 c.198 §34; 1975 c.588 §3; 1985 c.540 §1; 1989 c.768 §2]

7.015 Consolidation of records. Any of the records of the court required under ORS 7.010 may be consolidated, as the court may deem appropriate, so long as the essential elements of information and the inherent purpose of those records are maintained. [1975 c.588 §2]

7.020 Register. The register is a record wherein the clerk or court administrator shall enter, by its title, every action, suit or proceeding commenced in, or transferred or appealed to, the court, according to the date of its commencement, transfer or appeal. Thereafter, the clerk or court administrator shall note therein all the following:

(1) The date of any filing of any paper or process.

(2) The date of making, filing and entry of any order, judgment, ruling or other direction of the court in or concerning such action, suit or proceeding.

(3) Any other information required by statute, court order or rule. [Amended by 1971 c.193 §12; 1975 c.588 §4; 1985 c.540 §2; 1989 c.768 §3]

7.030 [Amended by 1971 c.193 §13; 1975 c.588 §5; repealed by 1985 c.540 §47]

7.040 Judgment docket; contents; liability of clerk. (1) The judgment docket is a record wherein the clerk or court administrator shall docket judgments for the payment of money and such other judgments and decrees as specifically provided by statute. The judgment docket shall contain the following:

(a) For other than judgments for the payment of money, the judgment docket shall contain the information specifically required by the statute requiring the information to be docketed or by court order or rule.

(b) For judgments for the payment of money, the judgment docket shall contain the following information:

(A) Judgment debtor.

(B) Judgment creditor.

(C) Amount of judgment and whether the judgment is a child support judgment subject to the provisions of ORS 25.700 (1) to (4).

(D) Date of entry in register.

(E) When docketed.

(F) Date of appeal.

(G) Decision on appeal.

(H) Any execution or garnishment issued by the court and the return on any execution or garnishment.

(I) Satisfaction, when entered.

(J) Other such information as may be deemed necessary by court order or court rule.

(2) The judgment docket shall be maintained only during the duration of an enforceable judgment or until such time as a full satisfaction of judgment is entered.

(3) Notwithstanding subsection (1)(b) of this section, a clerk is not liable for failure to docket a judgment or to enter specific information on the judgment docket where the judgment for the payment of money is required to but does not comply with ORCP 70 A (2).

(4) The clerk is not liable for any entering of information in the judgment docket that reflects information actually contained in a judgment or decree whether or not the information in the judgment or decree is correct or properly presented. [Amended by 1975 c.588 §6; 1977 c.591 §1; 1985 c.540 §3; 1989 c.768 §4; 1993 c.763 §5]

7.050 [Amended by 1975 c.588 §7; 1977 c.592 §1; repealed by 1989 c.768 §11]

7.060 [Amended by 1971 c.193 §14; 1975 c.588 §8; repealed by 1985 c.540 §47]

7.070 Jury register. The jury register is a record wherein the clerk or court administrator shall enter the names of the persons attending upon the court at a particular term as grand or trial jurors, the time of the attendance of each, and when discharged or excused, and the amount of fees and mileage earned by each. [Amended by 1975 c.588 §9]

7.080 [Amended by 1975 c.588 §10; repealed by 1985 c.540 §47]

7.090 Files of court. The files of the court are all papers or process filed with or by the clerk of the court or court administrator, in any action, suit or proceeding therein, or before the judge. [Amended by 1975 c.588 §11]

7.095 Electronic data processing for court records; standards for preservation and security. (1) Where the application of electronic data processing techniques is determined to be feasible and expedient in maintaining records of the courts of this state, the Chief Justice of the Supreme Court may authorize records to be kept by use of electronic data processing equipment. Court records maintained as provided by this section shall contain the information otherwise

required by law for the records of courts in this state.

(2) The Chief Justice may prescribe standards governing the use of such techniques, the preservation of the records so maintained, and controls to prevent unauthorized access to records maintained through the use of electronic data processing equipment. [1971 c.499 §1; 1985 c.540 §4]

CUSTODY AND EXAMINATION OF RECORDS AND FILES, AND THEIR DISPOSITION, SUBSTITUTION OR RESTORATION

7.110 Custody of records and files. (1) The records and files of the court shall be kept in the office of the clerk or court administrator of the respective trial or appellate court, and the clerk or court administrator is the custodian of and responsible for those records and files. The records and files shall not be taken out of the office by any person except, when allowed by special order of the court or a judge thereof or general rule made by the court, by a judge of the court or an attorney.

(2) Custody of and responsibility for records and files of the court relating to an action, suit or proceeding may be transferred to the clerk or court administrator of another court, for the purposes of storage and servicing, after the expiration of 25 years after the entry of final judgment in the action, suit or proceeding. [Amended by 1971 c.193 §15; 1975 c.588 §12; 1985 c.540 §5]

7.120 Disposition of exhibits, notes and audio records of circuit court cases; exceptions. (1) The presiding judge of a circuit court may order the return, destruction or other disposition of exhibits offered or received in any case in which final judgment was entered in the court. This subsection does not apply to exhibits in a case involving the determination of water rights, which exhibits shall be permanently retained.

(2) The presiding judge of a circuit court may order the destruction or other disposition of the notes or audio records of any case in which final judgment was entered in the court more than five years previously.

(3) Subsection (2) of this section does not apply to notes or audio records of:

(a) A case involving the determination of water rights, which notes or audio records shall be permanently retained.

(b) A case involving a criminal conviction, or the waiver of a child to an adult court under ORS 419C.349, 419C.364 or 419C.370 where the child subsequently was convicted of the offense that was the basis of the waiver order, until the expiration of

10 years after the conviction or the death of the defendant, whichever occurs first.

(c) A case involving custody of children until all the children involved reach 21 years of age. [Amended by 1955 c.497 §1; 1975 c.481 §1; 1979 c.58 §1; 1985 c.540 §6; 1993 c.33 §274; 1993 c.546 §116]

7.125 Disposition of original files, citations, exhibits and transcripts of district court cases. (1) The presiding judge of a district court may order the destruction or other disposition of the original files in:

(a) Any civil action or proceeding in the court, including an action in the small claims department, that has been dismissed for a period of five years or longer, or in which any judgment entered either has been satisfied or has remained unsatisfied for a period of 10 years or longer, or in which a renewed judgment has remained unsatisfied for a period of 10 years or longer after renewal.

(b) Any criminal action or proceeding in the court that has been dismissed or in which no judgment of conviction has been entered for a period of five years or longer.

(2) If an action for a traffic infraction or other infraction in a district court is based upon citation parts delivered to the court, if the action and proceedings therein are entered on those citation parts in lieu of entry in the register, and if final judgment in the action was so entered more than five years previously, the presiding judge of the court may order the destruction or other disposition of the citation parts.

(3) The presiding judge of a district court may order the return, destruction or other disposition of exhibits offered or received in any action or proceeding in the court in which final judgment was entered in the court.

(4) The transcript of proceedings in a civil action or proceeding in a district court shall be retained until the right to appeal has ended. The transcript of proceedings in a criminal action or proceeding in a district court shall be retained as provided by rule of the Court of Appeals. [1985 c.540 §8]

7.130 Search and examination of records and files; certified copies. Whenever requested, the clerk or court administrator shall furnish to any person a certified copy of any portion of the records or files in the custody of the clerk or court administrator. No person other than the clerk or court administrator or a representative designated by the clerk or court administrator is entitled to make such copy, or to have the use of the records or files for such purpose. Whenever requested, the clerk or court administrator shall search the records and files, and give a certificate thereof according to the nature

of the inquiry. [Amended by 1971 c.193 §16; 1979 c.833 §2; 1985 c.540 §9]

7.140 Substitution of copy of lost record. If the record of any judgment, decree or other proceeding of any judicial court of this state, or any part of the record of any judicial proceeding, is lost or destroyed, any party or person interested may, on application, by petition in writing under oath to the court and on showing to its satisfaction that the record has been lost or destroyed without fault or neglect of the applicant, obtain an order from the court authorizing the defect to be supplied by a certified copy of the original record when it can be obtained. The certified copy shall have the same effect as the original record.

7.150 Order of restoration when no copy available. If the loss or destruction of any record or part thereof as mentioned in ORS 7.140 has happened and the defect cannot be supplied as therein provided, any party or person interested may make a written application to the court, to which the record belonged, verified by affidavit showing its loss or destruction and that certified copies cannot be obtained by the applicant. It shall also show the substance of the record and that its loss or destruction occurred without the fault or neglect of the applicant. Thereupon the court shall cause the application to be entered of record in the court, and due notice of it shall be given as in actions at law, that it will be heard by the court. If, upon the hearing, the court shall be satisfied that the statements contained in the written application are true, it shall make an order reciting what was the substance and effect of the lost or destroyed record. This order shall be entered of record in the court, and have the same effect which the original record would have had so far as concerns the applicant and the persons who shall have been notified as herein provided. The record in all cases when the proceeding was in rem, and no personal service was had, may be supplied upon like notice as nearly as may be as in the original proceeding. The court in which the application is pending may in all cases in which publication is required direct, by order, to be entered of record, the form of the notice, and designate the newspaper or newspapers in which it shall be published.

7.160 Restoration of destroyed probate records. In case of the destruction of the records or any part thereof of any court having probate jurisdiction, the judge of the court may proceed, upon the motion of the judge or upon application in writing of any party in interest, to restore the records, papers and proceedings of the court relating to the estate of a deceased person, including

recorded wills and wills probated or filed for probate in the court. For this purpose the judge may cause citations to be issued to any parties designated by the judge, and the judge may compel the attendance in court of witnesses whose testimony may be necessary to the establishment of the record or part thereof. The judge may also compel the production of written or documentary evidence which the judge deems necessary in determining the true import and effect of the original record, will, paper or other document belonging to the files of the court. The judge may also make orders and decrees establishing the original record, will, paper, document or proceeding, or its substance, as to the judge shall seem just and proper. The judge may make all rules and regulations governing the proceedings for the restoration as in the judgment of the judge will best secure the rights and protect the interest of all parties concerned.

7.170 When copy of higher court record may be filed in lower court; effect when original is lost or destroyed. In case of the loss or destruction of the original record of any cause removed to the Supreme Court or to the Court of Appeals, a certified copy of the record of the cause remaining in the Supreme Court or the Court of Appeals may be filed in the court from which the cause was removed, on motion of any interested party or person. The copy filed shall have the same effect as the original record would have had if it had not been lost or destroyed. [Amended by 1969 c.198 §35]

RECORDS IN ADOPTION, FILIATION, PROBATE AND JUVENILE PROCEEDINGS

7.210 [Repealed by 1957 c.412 §1]

7.211 Separate records in adoption cases; accessibility of records limited. (1) The clerk or court administrator of any court having jurisdiction over adoption cases shall keep separate records in all cases of adoption filed in such court. The records shall not be subject to the inspection of any person, except upon order of the court. Adoption proceedings shall not be entered upon the general records of the court, nor shall the clerk or court administrator disclose to any person, without the court order, any information appearing in the adoption records. The clerk, court administrator or any other person having custody of any records or files in such cases shall not disclose them to any person without the court order. Nothing contained in this section shall prevent the clerk or court administrator from certifying copies of a decree of adoption to the petitioners in such proceeding or their attorney. At the time of the entry of any final decree

of adoption, the clerk, court administrator or other person having custody of the records or files in such cases shall cause all records, papers and files relating to the adoption to be sealed in the record of the case and such sealed records, papers and files shall not be unsealed, opened or subject to the inspection of any person except upon order of a court of competent jurisdiction.

(2) The provisions of subsection (1) of this section do not apply to the disclosure of information under ORS 109.425 to 109.507 and 109.990 (3). [1957 c.412 §3 (enacted in lieu of 109.340); 1975 c.588 §14; 1979 c.58 §5; 1983 c.672 §17; 1985 c.540 §10]

7.215 [1969 c.619 §8; 1975 c.588 §15; 1979 c.58 §6; 1985 c.540 §11; repealed by 1993 c.138 §1]

7.220 [Amended by 1965 c.510 §9; 1975 c.588 §16; repealed by 1981 c.215 §8]

7.225 [Amended by 1965 c.510 §10, repealed by 1981 c.215 §8]

7.230 Probate and juvenile court records to be kept separate. Insofar as may be practicable and convenient the records and proceedings pertaining to probate and

juvenile matters shall be kept separate from the other records and proceedings of the circuit courts. [Amended by 1969 c.591 §267]

7.240 Records in probate matters. The proceedings in probate matters shall be entered and recorded by the clerk or court administrator in the following records:

(1) A register, in which shall be entered a memorandum of all official business transacted by the court or judge thereof pertaining to the estate of each decedent, under the name of the decedent, and that pertaining to each guardianship and conservatorship, under the name of the ward or protected person.

(2) A probate index, in which shall be kept an index of all the entries in the register under the names of the persons to whose estate, person or business the entries relate, which names shall be arranged chronologically in alphabetical order. [Amended by 1973 c.823 §84; 1975 c.588 §17; 1985 c.540 §12]