

Section . ORS 22.020 is amended to read:

22.020. (Deposit of money, checks or federal or municipal obligations, in lieu of bail, security release or bond.) In any cause, action, proceeding or matter before any court, board or commission in this state or upon appeal from any action of any such court, board or commission, where bond, security deposit or bail of any character is required or permitted for any purpose, it is lawful for the party required or permitted to furnish such security, bail or bond to deposit, in lieu thereof, in the manner provided in ORS 22.020 to 22.070, money, a certified check or checks on any state or national bank within this country payable to the officer with whom such check is filed, satisfactory municipal bonds negotiable by delivery, or obligations of the United States Government negotiable by delivery, equal in amount to the amount of the bond, security deposit or bail so required or permitted.

Section . ORS 22.030 is amended to read:

22.030. (Officers with whom deposit is made; duplicate receipts.)

(1) Any party desiring to avail himself of the provisions of ORS 22.020 to 22.070 shall, except as provided in subsection (2) of this section, make or cause to be made, with the treasurer of the county or city within which the bond or bail is to be furnished, or, in any case, with the State Treasurer, the deposit authorized by ORS 22.020. The treasurer, upon tender, must accept such money or securities and deliver to the depositor a duplicate receipt reciting the fact of such deposit; provided, that in case a bond, security deposit or bail is required after the office hours of any such treasurer with whom it is desired to make the deposit, the deposit may be made with the chief clerk of such court, board or commission or with the sheriff of the county or the deputy in charge of the county jail or the sheriff's office, who shall accept the same, giving duplicate receipts therefor, and cause such money or securities to be delivered to the proper treasurer within 48 hours thereafter.

(2) In any criminal case or in any proceeding in any court the deposit may be made with the court or clerk thereof, with the same effect and result as though made with such treasurer, and it shall not be necessary for the money or securities to be delivered to the treasurer.

Section . . . ORS 22.040 is amended to read:

22.040. (Filing duplicate receipt.) The filing of one of such duplicate receipts with the court, board or commission with which such bond, security deposit or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond, security deposit or bail and shall be taken and accepted by the court, board or commission or by the chief clerk in lieu of such bond, security deposit or bail.

Section . ORS 22.050 is amended to read:

22.050. (Discharge or forfeiture of bond or bail; garnishment.)

If the bond, security release or bail is discharged, an order to that effect shall be entered upon the records of the court, board or commission with a statement of the amount to be returned to the person making the deposit. Upon presentation to him of a copy of such order, duly certified by the clerk of the court, board or commission making the same, the treasurer shall pay to the person named therein or to his order the amount specified or shall return the securities, as the case may be. If the bond, security deposit or bail is forfeited, an order to that effect shall be entered upon the records of the court, board or commission, and upon presentation to him of a copy of such order, certified by the chief clerk of the court, board or commission making the same, the treasurer shall make such disposition of the money or securities as the order shall provide. In case the money or securities are in the hands of the clerk of the court, board or commission at the time the bond, security deposit or bail is declared discharged or forfeited, the clerk shall make the same disposition of the money or securities as the treasurer would be required to make in similar circumstances. Whenever the order of the court, board or commission requires or contemplates the same, the treasurer or clerk shall indorse to the proper party any certified check deposited with him as security. Money or securities deposited under ORS 22.020 to 22.070 shall not be subject to garnishment.

Section . ORS 30.550 is amended to read:

30.550. (Action for damages; arrest of defendant.) If judgment is given upon the right of and in favor of the person alleged in the complaint to be entitled to the office or franchise, he may afterwards maintain an action to recover the damages which he has sustained by reason of the premises. In such action the defendant may be arrested and held to bail in the same manner and with like effect as in other civil actions where the defendant is subject to arrest.

COMMENTARY

This amendment is made to make a clear reference to the civil bail procedures contained in ORS chapter 29 and avoid any reference or use of the Release of Defendant procedures proposed in the Criminal Procedure Code.

Section . ORS 33.070 is amended to read:

33.070. (Warrant of arrest; fixing bail; custody of person arrested.) In a warrant of arrest issued for a contempt, the court or judicial officer shall direct whether the person charged may be [let to bail] released or be detained in custody [without bail], and if he may be [bailed] released, the amount of [bail] security required. Upon executing the warrant of arrest, the sheriff must keep the person in actual custody, bring him before the court or judicial officer, and detain him until [an order] a release decision is made in the premises, unless the person arrested [gives bail] deposits security.

Section . ORS 33.080 is amended to read:

33.080. (Bail; how given.) The defendant shall be discharged from the arrest upon executing and delivering to the sheriff, at any time before the return day of the warrant, [an undertaking, with two sufficient sureties] a security release or a release agreement as provided in sections 1 to 12, Article 6, Release of Defendants, to the effect that the defendant will appear on the return day, and abide the order or judgment of the court or officer thereupon, or pay, as may be directed, the sum specified in the warrant.

Section . ORS 33.090 is amended to read:

33.090. (Return of warrant; investigation of charge.) The sheriff shall return the warrant of arrest, and the [undertaking] security deposit, if any, given him by the defendant, by the return day specified. When the defendant has been brought up or appeared, the court or judicial officer shall proceed to investigate the charge by examining the defendant, and witnesses for or against him, for which an adjournment may be had from time to time, if necessary. .

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COMMENTARY

The amendment to ORS 33.090 conforms the language to the amendment to ORS 33.070.

Section . ORS 34.410 is amended to read:

34.410. (Criminal offense by person having custody.) If the person having such party in his custody is brought before the court or judge as for a criminal offense, he shall be examined, committed, [bailed] released or discharged by the court or judge in like manner as in other criminal cases of like nature.

Section . ORS 34.720 is amended to read:

34.720. (Imprisonment after discharge.) No person who has been fully discharged upon a proceeding by habeas corpus shall again be imprisoned, restrained or kept in custody for the same cause; but it is not to be deemed the same cause if:

(1) He has been discharged from a commitment on a criminal charge, and afterwards is committed for the same offense by the legal order or process of the court wherein he is bound by [recognizance or undertaking to appear] a release agreement or has deposited security, or in which he is indicted or convicted for the same offense; or,

(2) After a judgment of discharge for a defect of evidence or for a material defect in the commitment, in a criminal case, the party again is arrested on sufficient evidence, and committed by legal process for the same offense; or,

(3) In a civil action or suit, the party has been discharged for illegality in the judgment, decree or process, and afterwards is imprisoned for the same cause of action or suit; or,

(4) In a civil action or suit, he has been discharged from commitment on a writ of arrest, and afterwards is committed on execution, in the same action or suit, or on a writ of arrest in another action or suit, after the dismissal of the first one.

COMMENTARY

Conforming amendment to Article 6, Release of Defendants.

Section . ORS 51.070 is amended to read:

51.070. (Crimes "triable" in justice's court.) A crime is triable in a justice's court when by the provisions of [ORS 131.210 to 131.240 and 131.310 to 131.390] sections 1 to 4, Article 1, State Criminal Jurisdiction, and sections 1 to 3, Article 1, Venue, an action may be commenced therefor in the county where such court is held.

Section . ORS 133.520 is amended to read:

133.520. (After arrest, within or without county in which warrant was issued.) (1) If the defendant is arrested in the county in which the warrant issued, he shall be taken before the magistrate who issued the warrant, or, if the magistrate is absent or unable to act, before the nearest or most accessible magistrate in the same county; but if he is arrested in another county and the crime charged in the warrant is a misdemeanor, the officer shall, upon being required by the defendant, take him before a magistrate of that county, who shall [admit the defendant to bail and take bail from him accordingly] make a release decision as provided in sections 1 to 12, Article 6, Release of Defendants. The officer shall at the same time deliver to the magistrate the warrant with his return indorsed and subscribed by him.

(2) [On taking bail] After making the release decision, the magistrate shall certify that fact on the warrant and [undertaking of bail] release agreement or security release to the officer having charge of the defendant. The officer shall then discharge the defendant from arrest and without delay deliver the warrant and [undertaking] release agreement or security release to the clerk of the court in the other county at which the defendant is required to appear.

(3) If [, on the admission of] the defendant is to be released and he does not agree to the release agreement, or a security deposit [to bail, bail] is not forthwith given, the officer shall take the defendant before the magistrate who issued the warrant or some other magistrate in that county, as provided in this section, together with the warrant.

Section . ORS 133.860 is amended to read:

133.860. (Forwarding of papers by magistrate.) When the magistrate has held the defendant to answer, he shall at once forward to the court in which the defendant would be triable the warrant, if any; the information; the statement of the defendant, if he made one; the memoranda mentioned in ORS 133.710 to 133.740; [and all undertakings of bail or] the release agreement or security release of the defendant; and, if applicable, any security taken for the appearance of witnesses [taken by him].

Section . ORS 134.110 is amended to read:

134.110. (Delay in finding an indictment or filing an information.) When a person has been [held to answer for a crime] charged with ^{A crime} a felony, if an indictment is not found against him within 30 days or the district attorney does not file an information in circuit court within 30 days after the person is [held to answer] charged with a felony, the court shall order the prosecution to be dismissed, unless good cause to the contrary is shown.

Section . ORS 134.120 is amended to read:

134.120. (Delay in bringing defendant to trial.) If a defendant [indicted for] charged with a crime, whose trial has not been postponed upon his application or by his consent, is not brought to trial within a reasonable period of time, the court shall order the [indictment] accusatory instrument to be dismissed.

Section . . . ORS 134.130 is amended to read:

134.130. (Where there is reason for the delay.) If the defendant is not [indicted] proceeded against or tried, as provided in ORS 134.110 and 134.120, and sufficient reason therefor is shown, the court may order the action to be continued and in the meantime may [discharge] release the defendant from custody [on his own undertaking of bail] as provided in sections 1 through 12, Article 6, Release of Defendants, for his appearance to answer the charge or action [at the time to which the same is continued].

Section . ORS 134.140 is amended to read:

134.140. (1) If the court directs the charge or action to be dismissed, the defendant, if in custody, shall be discharged. If he has been [admitted to bail] released, his [bail] release agreement is exonerated and [money] security deposited [in lieu of bail] shall be refunded to him.

(2) An order for the dismissal of a charge or action, as provided in ORS 134.010 to 134.160, is a bar to another prosecution for the same crime if the crime is a Class B or C misdemeanor; but it is not a bar if the crime charged is a Class A misdemeanor or a felony.

Section . ORS 134.550 is amended to read:

134.550 Release of prisoner on bail prohibited. No inmate in the custody of a sheriff under ORS 134.540 shall be released on bail pending a criminal proceeding under ORS 134.510 to 134.570 or any appeal therefrom.

Section . ORS 136.110 is amended to read:

136.110. (Commitment of defendant after having given bail.)

When a defendant who has [given bail] been released appears for trial, the court may in its discretion at any time after such appearance order him to be committed to actual custody to abide the judgment or further order of the court; and he shall be committed and held in custody accordingly.

Section . ORS 136.290 is amended to read:

136.290. (Limitation on time defendant held prior to trial; release of defendant if limit exceeded.) (1) Except as provided in ORS 136.295, a defendant shall not remain in custody pending commencement of his trial more than 60 days after the time of his arrest unless the trial is continued with his express consent.

(2) If a trial is not commenced within the period required by subsection (1) of this section, the court shall release the defendant on his own recognizance, or in the custody of a third party, [or upon such bail as the defendant can afford,] or upon whatever additional reasonable terms and conditions the court deems just as provided in sections 1 to 12, Article 6, Release of Defendants.

Section . ORS 136.720 is amended to read:

136.720. (Proceedings after special or adverse general verdict.)

If a general verdict against the defendant or a special verdict is given, he shall be remanded, if in custody; if he has [given bail] been released, he may be committed to await the judgment of the court upon the verdict. When committed, his [bail] release agreement is exonerated or, if he has deposited money in lieu of [bail] a release agreement, it shall be refunded to him.

Section . ORS 136.295 is amended to read:

136.295. (Application of ORS 136.290.) (1) ORS 136.290 does not apply to persons charged with crimes which are not [bailable] releasable offenses under [ORS 140.020] section 3, Article 6, Release of Defendants, or to persons charged with conspiracy to commit murder, or charged with attempted murder in the first degree, or to prisoners serving sentences resulting from prior convictions.

(2) If the defendant is extradited from another jurisdiction, the 60-day period shall not commence until he enters the State of Oregon, provided that law enforcement authorities from the other jurisdiction and this state have conducted the extradition with all practicable speed. The original 60-day period shall not be extended more than an additional 60 days, except where delay has been caused by the defendant in opposing the extradition.

(3) Any reasonable delay resulting from examination or hearing regarding the defendant's mental condition or competency to stand trial, or resulting from other motion or appeal by the defendant, shall not be included in the 60-day period.

(4) If a victim or witness to the crime in question is unable to testify within the original 60-day period because of injuries received at the time the alleged crime was committed, the court may order an extension of not more than 60 additional days. The court, for the same reason, may order a second extension of not more than 60 days, but in no event shall the defendant be held in custody before trial for more than a total of 180 days.

(5) Any period following defendant's arrest in which he is not actually in custody shall not be included in the 60-day computation.

Section . ORS 136.830 is amended to read:

136.830. (Order when evidence shows guilt; new indictment.) If, from the evidence given on the trial, there is reasonable ground to believe the defendant guilty and a new indictment can be framed upon which he may be convicted, the court shall order the defendant to be recommitted to custody or [admitted to bail] released and to answer the new indictment, if one is found; and if the evidence shows him to be guilty of another crime than that charged in the indictment, he shall in like manner be committed or held thereon. In neither case is the verdict a bar to another action for the same crime.

Section . ORS 136.840 is amended to read:

136.840. (Order when evidence is insufficient; acquittal.) If the evidence appears insufficient to charge the defendant with any crime, he shall, if in custody, be discharged or, if he has [given bail] been released or deposited money in lieu thereof, his [bail] release agreement is exonerated or his money shall be refunded to him; and in such case, the arrest of judgment operates as an acquittal of the charge upon which the indictment was founded.

Section . ORS 138.145 is amended to read:

138.145. (Temporary retention at place of original custody of defendant under sentence of imprisonment.) If the place of confinement designated by the court is the Oregon State Penitentiary or the Oregon State Correctional Institution, the defendant shall be retained in the place of his original custody for a period of at least 48 hours prior to being taken to the designated institution, unless the defendant elects to be taken to such institution without delay or is [admitted to bail] released pending appeal. The court shall order retention of the defendant at the place of original custody or restoration thereto, if required for preparation of an appeal, at such times and for such periods as may be deemed necessary by the court.

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Section . ORS 138.160 is amended to read:

138.160. (Appeal by state as stay of judgment or order; release.) An appeal taken by the state stays the effect of the judgment or order in favor of the defendant, so that his [bail or money deposited in lieu thereof] release agreement and, if applicable, the security for release, is held for the appearance and surrender of the defendant until the final determination of the appeal and the proceedings consequent thereon, if any; but if the defendant is in custody, he may [, in the discretion of the court, be admitted to bail,] be released by the court subject to sections 1 to 12, Article 6, Release of Defendants, pending the appeal [, on his own undertaking].

Section . ORS 138.250 is amended to read:

138.250. (New trial to be in court below; reversal without new trial.) When a new trial is ordered, it shall be directed to be had in the court below; and if a judgment against a defendant is reversed without ordering a new trial, the appellate court shall direct, if he is in custody, that he be discharged therefrom, or if he has been [admitted to bail] released, that his [bail] release agreement be exonerated, or if [money] a security release has been [deposited instead of bail] entered into, that [it] the security be refunded to the defendant or his sureties.

Section . ORS 141.740 is amended to read:

141.740. (Records confidential.) The application for any order under ORS 141.720 and any supporting documents and testimony in connection therewith shall remain confidential in the custody of the court, and these materials shall not be released or information concerning them in any manner disclosed except upon written order of the court and as required under sections 1 through 8, Article 7, Pre-Trial Discovery. No person having custody of any records maintained under ORS 141.720 to 141.740 shall disclose or release any materials or information contained therein except upon written order of the court and as required under sections 1 through 8, Article 7, Pre-Trial Discovery.

Section . ORS 147.150 is amended to read:

147.150. (Commitment to await arrest on requisition.) If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused [give bail] is released as provided in ORS 147.160, or until he shall be legally discharged.

COMMENTARY

This is a conforming amendment to the amendment in ORS 147.160.

Section . ORS 147.160 is amended to read:

147.160. (Release.) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must [admit] make a release decision concerning the person arrested [to bail by bond or undertaking, with sufficient sureties and in such sum as he deems proper,] under the provisions of sections 1 through 12, Article 6, Release of Defendants, for his appearance [before him] at a time specified in [such bond or undertaking,] the security release or in the release agreement ^(A) and for his surrender, to be arrested upon the warrant of the Governor of this state.]

Section . ORS 147.170 is amended to read:

147.170. (Proceedings in absence of arrest under executive warrant within specified time.) If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, [bond or undertaking] security release or release agreement, the judge or magistrate may discharge him or may recommit him to a further day, or may again [take bail] set a security release or a release agreement for his appearance and surrender, as provided in ORS 147.160; and at the expiration of the second period of commitment, or if he has been [bailed] released and appeared according to the terms of his [bond or undertaking] security release or release agreement, the judge or magistrate either may discharge him or may require him to enter into a new [bond or undertaking] security release or release agreement to appear and surrender himself at another day.

Section . ORS 147.180 is amended to read:

147.180. (Forfeiture; recovery thereon.) If the prisoner is [admitted to bail] released and fails to appear [and surrender himself] according to the condition of his [bond] security release or release agreement, the court by proper order, shall declare the [bond] security release or release agreement forfeited, and recovery may be had thereon in the name of the state as in the case of other [bonds or undertakings] security releases and release agreements given by the accused in criminal proceedings within this state.

Section ORS 156.010 is amended to read:

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

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Section ORS 156.030 is amended to read:

156.030 (Complaint is deemed an indictment to determine sufficiency) The complaint shall be [deemed an indictment within the meaning of ORS 132.510 to 132.570, 132.590, 132.610 to 132.690, 132.710 and 132.720, which sections prescribe what is sufficient to be stated in such pleading and the form of stating it] ~~xx~~ as provided in section 3, Arrests, X P.D. #2, July, 1972.

COMMENTARY

The preliminary draft on Arrests defines the form and content of the complaint. ~~Since the requirement of~~ The current law requires that justices of the peace be familiar with the law of indictments. Since the justice of the peace is not ^{necessarily} legally trained, this requirement appears unrealistic in light of the simplified form and content provided in the Arrests draft.

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Section ORS 156.210 is amended to read:

156.210 (Judgment on plea of guilty or conviction.) When the defendant pleads guilty, no contest, or is convicted, either by the justice or the jury, the ~~ix~~ justice shall give judgment thereon for such punishment as may be prescribed by law for the crime.

36

Section ORS 156.220 is amended to read:

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

JUSTICE'S COURT FOR THE
DISTRICT OF _____
State of Oregon, County of _____
State of Oregon v. A. B., (day of the month
and year)

The above-named A. B. having been brought before me, C. D., a justice of the peace for the district in the county and state aforesaid, in a criminal action for the crime of (briefly designate the crime), having thereupon pleaded ("not guilty,"

"no contest," or as the

case may be), and having been tried by (me or a jury, as the case may be) and upon such trial convicted, I have adjudged that he (be imprisoned in the jail of this county for _____ days and that he pay the costs of the action, taxed at \$_____ or that he pay a fine of \$_____ and such costs and be imprisoned in such jail until such fine and costs are paid, not exceeding _____ days, as the case may be).

C. D., Justice of the Peace

If the defendant has pleaded guilty

or no contest, instead

of using the words commencing "having thereupon pleaded" and ending "upon such trial convicted," the entry shall state as follows: "and having been thereof duly convicted upon a plea of

guilty," or "having been

thereof duly convicted upon

a plea of no contest."

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Section Release of Defendants in Justice Court.

The release from custody of defendants in a justice court criminal action shall be as provided in ~~§~~ sections 1 through 12, Article 6, Release of Defendants.

COMMENTARY

The specific provisions of ORS chapter 156 dealing with "bail" will be repealed. The release of a criminal defendant in a justice court should be ~~the same~~ the same as the release from any other court. Therefore, the current provisions are repealed and the above section added to the ~~law~~ law to make clear the intention of the Commission to place release of defendants in justice court under the same procedure provided in all other courts.

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Section ORS 156.610 is amended to read:

156.610 (Criminal procedure in district courts generally.)

District courts are governed in their criminal and quasi-criminal actions and proceedings by the provisions of law regulating such actions and proceedings ~~for~~ before justices' courts, as provided in ORS 156.010 to [156.080] 156.060, 156.120, 156.140, 156.210, 156.220, 156.240 to 156.300, [156.410] 156.440 to 156.460, 156.510, [and] 156.520 and sections 1 through 12, Article 6, Release of Defendants in so far as

the same are or can be made applicable in the several cases arising before them, except when other provisions of law provide for different procedure in district courts in such cases and proceedings, in which event, such other provisions shall control; provided, however, that all money required by law to be paid to or deposited with a justice of the peace in such proceedings shall in a district court be paid to or deposited with the clerk of the court.

31

Section ORS 156.620 is amended to read:

156.620 Challenge of jurors. In criminal actions in district courts, each party may take challenges for cause and three peremptory challenges, and no more. [When there are two or more plaintiffs or defendants, each must join in the challenge or it cannot be taken.] The manner in which challenges may be taken shall be the same as provided for in the circuit court.

COMMENTARY

ORS 136.250 was amended by the Commission to provide that jointly tried defendants must join in a peremptory challenge. If, there are more than two, then a ~~no~~ a majority of those jointed must agree on the challenge. Also, the number of ~~one~~ peremptory challenges will double when two or more defendants are joined.

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Section ORS 157.050 is amended to read:

157.050 (Appeal as stay of proceedings; release on appeal.)

An allowance of an appeal does not stay the proceedings on the judgment unless the defendant [gives an undertaking of bail on appeal, as provided in ORS 140.100] ~~enters~~ makes a release agreement or a security release deposit as provided in sections 1 to 12, Article 6, Release of Defendants.

Section ORS 161.465 is amended to read:

161.465 Duration of conspiracy. For the purpose of application of ~~ORS 131.110~~

section 1, Time Limitations

(T.D. #1, Dec. 1970):

(1) Conspiracy is a continuing course of conduct which terminates when the crime or crimes which are its object are completed or the agreement that they be committed is abandoned by the defendant and by those with whom he conspired.

(2) Abandonment is presumed if neither the defendant nor anyone with whom he conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to him only if and when he advises those with whom he conspired of his abandonment or he informs the law enforcement authorities of the existence of the conspiracy and of his participation therein.

[1971 c.743 §62]

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Section

ORS 162.135 is amended to read:

162.135 Definitions for ORS 162.135 to 162.205. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

(1) "Contraband" means any article or thing which a person confined in a correctional facility, juvenile training school or state hospital is prohibited by statute, rule, regulation or order from obtaining or possessing, and whose use would endanger the safety or security of such institution or any person therein.

(2) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. "Correctional facility" does not include a juvenile training school, and applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental disease or defect under ORS 161.295 to 161.380.

(3) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, juvenile training school or a state hospital.

(4) "Escape" means the unlawful departure, including failure to return to custody after temporary leave granted for a specific purpose or limited period, of a person from custody or a correctional facility

but does not include failure to
comply with provisions of the
conditional release in section 7,
Article 6, Release of Defendants.

(5) "Juvenile training school" means the MacLaren School for Boys, Hillcrest School of Oregon and any other school established by law for similar purposes, and includes the other camps and programs maintained under ORS chapter 420.

(6) "State hospital" means the Oregon State Hospital, F. H. Dammasch State Hospital, Columbia Park Hospital and Training Center, Eastern Oregon Hospital and Training Center, Fairview Hospital and Training Center and any other hospital established by law for similar purposes.

(7) "Unauthorized departure" means the unauthorized departure of a person confined by court order in a juvenile training school or a state hospital that, because of the nature of the court order, is not a correctional facility as defined in subsection (2) of this section.

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Section ORS 341.300 is amended to read:

341.300 Traffic control. (1) The board may adopt such regulations as it considers necessary to provide for the policing, control

and regulations of traffic and parking of vehicles on property under the jurisdiction of the board. Such regulations may provide for the registration of vehicles, the designation and posting of parking areas, and the assessment and collection of reasonable fees and charges for parking and shall be filed in accordance with the provisions of ORS 183.010 to 183.040.

(2) The regulations adopted pursuant to subsection (1) of this section may be enforced administratively under procedures adopted by the board. Administrative and disciplinary sanctions may be imposed upon students, faculty, and staff for violation of the regulations. The board may establish hearing procedures for the determination of controversies in connection with imposition of fines or penalties.

(3) Upon agreement between the board and a city or county in which all or part of the community college campus is located, proceedings to enforce regulations adopted pursuant to subsection (1) of this section shall be brought in the name of the city or county enforcing the regulation in the district, justice or municipal court in the county in which the violation occurred. The fines, penalties and costs recovered shall be paid to the clerk of the court involved in accordance with the agreement between the board and the city or county with which the agreement is made.

(4) The regulations adopted pursuant to subsection (1) of this section may also be enforced by the impoundment of vehicles, and a reasonable fee may be enacted for the cost of impoundment and storage, if any, prior to the release of the vehicles to their owners.

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(Amendment to ORS 341.300, continued)

(5) Every peace officer acting within the jurisdictional authority of a governmental unit of the place where the violation occurs shall enforce the regulations adopted by the board under subsection (1) of this section if an agreement has been entered into pursuant to subsection (3) of this section. The board, for the purpose of enforcing its regulations governing traffic control, may appoint peace officers who shall have the same authority as other peace officers as defined in [ORS 133.170]

section 9, Article 4, Arrests.

(6) Issuance of traffic citations to enforce the regulations adopted by the board under subsection (1) of this section shall conform to the requirements of ORS 484.150 to 484.220. However, in proceedings brought to enforce parking regulations, it shall be sufficient to charge the defendant by an unsworn

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Section

ORS 352.360 is amended to read:

352.360 Traffic control on properties under state board; enforcement; fee use. (1) The State Board of Higher Education may enact such regulations as it shall deem convenient or necessary to provide for the policing, control and regulation of traffic and parking of vehicles on the property of any institution under the jurisdiction of the board. Such regulations may provide for the registration of vehicles, the designation of parking areas, and the assessment and collection of reasonable fees and charges for parking, and shall be filed in accordance with the provisions of ORS 183.310 to 183.500.

(2) Except as otherwise provided in subsection (3) of this section, the regulations enacted pursuant to subsection (1) of this section shall be enforced administratively under procedures adopted by the board for each institution under its jurisdiction. Administrative and disciplinary sanctions may be imposed upon students, faculty and staff for violation of the regulations, including but not limited to, a reasonable monetary penalty which may be deducted from student deposits, and faculty or staff salaries or other funds in the possession of the institution. The board shall provide opportunity for hearing for the determination of controversies in connection with imposition of fines or penalties. The board may prescribe procedures for such hearings despite the provisions of ORS 183.415, 183.450, 183.460 and 183.470. The powers granted to the board by this section are supplemental to the existing powers of the board with respect to the government of activities of students, faculty and staff and the control and management of property under its jurisdiction.

(3) Proceedings to enforce regulations pursuant to subsection (1) of this section pertaining to the University of Oregon Medical and Dental Schools shall be brought in the name of the board in the district or justice court in the county in which the violation occurred. The fines, penalties and costs recovered shall be paid to the clerk of the court involved, who, after first deducting the court costs in such proceedings at the rate prescribed by law, shall pay the remainder of the fine or penalty to the State Board of Higher Education.

(4) The regulations enacted pursuant to subsection (1) of this section may also be

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(amendment to ORS 352.360, continued)

enforced by the impoundment of vehicles, and a reasonable fee may be enacted for the cost of impoundment and storage, if any, prior to the release of the vehicles to their owners.

(5) All fees and charges for parking privileges and violations are hereby continuously appropriated to the State Board of Higher Education to be used to defray the costs of maintenance and operation of parking facilities and for the purpose of acquiring and constructing additional parking facilities for motor vehicles at the various institutions, department or activities under the control of the board, and may also be credited to the Higher Education Bond Sinking Fund provided for in ORS 351.460.

(6) Every peace officer may enforce the regulations made by the board under subsection (1) of this section. The board, for the purpose of enforcing its rules and regulations governing traffic control, may appoint peace officers who shall have the same authority as other peace officers as defined in [ORS 133.170]

section 9, Article 4, Arrests.

(7) The State Board of Higher Education and any municipal corporation or any department, agency or political subdivision of this state may enter into agreements or contracts with each other for the purpose of providing a uniform system of enforcement of the rules and regulations of the board enacted pursuant to subsection (1) of this section.

(8) In proceedings brought to enforce regulations enacted pursuant to subsection (1) of this section, it shall be sufficient to charge the defendant by an unsworn written notice in accordance with the provisions of ORS 221.340.

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Section ORS 426.080 is amended to read:

426.080 (Execution and return of warrant of detention.)

The officer serving the warrant of detention and the citation provided for by ORS 426.090 shall, immediately after service thereof, make a return upon the original warrant showing the time, place and manner of such ~~service~~ service and file ~~x~~ it with the clerk of the court. In executing the warrant of detention, the officer has all the powers provided by [ORS 133.290] section 9, Article 4, Arrests and (ORS) 161.235 to 161.3245 and may require the assistance of any peace officer or other person.

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Section ORS 426.530 is amended to read:

426.530 Compelling appearance of patient. Upon the filing of a complaint under ORS 426.520, the judge of any circuit court in this state shall cause the patient to be brought before him at such time and place as the judge may direct, by the issuance of a citation to the patient stating the nature of the information filed concerning him. If necessary for good cause shown, the judge may issue a warrant of detention to the sheriff of the county, directing the officer to take such patient into custody and produce him at the time and place stated in the warrant. In executing the warrant of detention, the sheriff has all the powers provided by

ORS [133.290] (section 9, Article 4, Arrests) and 161.235 to 161.245 and may require the assistance of any peace officer or other person.

Section ORS 426.570 is amended to read:

426.570 (Release pending hearing.) Any patient taken into custody by the issuance of a warrant of detention pursuant to ORS 426.530 or 426.540, shall be entitled to release pending the proceedings under ORS 426.510 to 426.650 upon his own recognizance at the discretion of the judge issuing the warrant as provided in sections 1 through 12, Article 6, Release of Defendants. [, or] Any patient shall also be entitled to [post bond] deposit security to secure his appearance at the time and place specified in the warrant in the same manner as a person [admitted to bail] released under the provisions of [ORS 140.010 to 140.200] sections 1 to 12, Article 6, Release of Defendants.

484.010 Definitions. As used in ORS 1.510 to 1.530, [131.365] and 484.010 to 484.320, unless the context otherwise requires:

(1) "Bail" means money or its equivalent deposited by a defendant to secure his appearance for a traffic offense.

(2) "City court" means a municipal court, whether or not it is exercising authority under the charter or ordinances of a city or as a justice court under the laws of this state.

(3) "City policeman" includes a city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(4) "City traffic offense" means any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation, except ordinances governing parking of vehicles.

(5) "Major traffic offense" means a violation of any of the following provisions of law or a city ordinance conforming thereto:

(a) Reckless driving, as defined in subsection (1) of ORS 483.992.

(b) Driving while under the influence of intoxicating liquor, dangerous drugs or narcotic drugs, as defined in subsection (2) of ORS 483.992.

(c) Failure to perform the duties of a driver involved in an accident or collision, as defined in subsections (1) and (2) of ORS 483.602 and ORS 483.604, which would be punishable under subsection (1) of ORS 483.990.

(d) Operating a motor vehicle while the operator's or chauffeur's license is suspended or revoked, as defined in ORS 482.650.

(e) Fleeing or attempting to elude a traffic or police officer, as defined in subsection (1) of ORS 483.049.

(6) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of 10 or more successive days.

(7) "Police officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff and a city policeman.

(8) "State court" means a circuit, district or justice court or magistrate.

(9) "State traffic offense" means a violation of any provision of law for which a misdemeanor penalty is provided in ORS chapter 481, 482, 483, 485, 486 or 767.

(10) "Traffic offense" includes an offense mentioned in subsections (4), (5) and (9) of this section.

51
Section ORS 484.020 is amended to read:

484.020 Traffic offense proceedings to conform to ORS 484.010 to 484.320. All proceedings concerning traffic offenses shall conform to the provisions of ORS 1.510 to 1.530, 131.365 and 484.010 to 484.320.

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Section ORS 484.040 is amended to read:

481.010 Venue for state traffic offense.
 (1) An action for a state traffic offense may be commenced in any of the following counties:
 (a) The county in which the offense was committed.
 (b) Any other county whose county seat is a shorter distance by road from the place where the offense was committed than the county seat of the county in which the crime was committed, if the action is commenced in the circuit or district court.
 (2) If the action is commenced in a county other than that in which the offense was committed, at the request of the defendant the place of trial may be changed

to the county in which the offense was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall, if the action is commenced in a circuit or district court, be gov-

erned by the provisions of

[ORS 131.410 to 131.470]

sections 5 through 12 of Venue,

T.D. #1, Nov. 1971.

✓ If the action is commenced in a justice court a request for change of the place of trial shall be governed by the provisions of ORS 156.100.

[1959 c.664 §6; 1961 c.442 §2]

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Section ORS 506.526 is amended to read:

506.526 Peace officer powers of director, inspectors and deputies; reporting arrests. (1) The director or any inspector, deputy fish warden or special deputy fish warden may arrest, without writ, rule, order or process, any person

[detected by such officer
in the act of] the officer has
reasonable cause to believe is

in the act of committing a violation of the commercial fishing laws. Such officers are peace officers of the state for this purpose and may execute all criminal process issued for the arrest or detention of any person complained against for violation of the commercial fishing laws. It is unlawful knowingly or wilfully to resist or oppose such officers in the discharge of their duties.

(2) Any officer described in subsection (1) of this section who makes an arrest must report it, together with the disposition of the case, to the director within 30 days after the date of the arrest. Failure so to report subjects the officer to removal from office by the authority that appointed him.

(3) The officers described in subsection (1) of this section have all the powers and authority of a peace officer in serving warrants, subpoenas and other legal process in the enforcement of the commercial fishing laws.