

OREGON RULES OF CIVIL PROCEDURE

INTRODUCTORY COMMENT

By virtue of ORS 1.745, all provisions of law relating to pleading, practice and procedure in all civil proceedings in courts of this state are deemed to be rules of court. As such, they remain in effect until they are superseded, modified or repealed by rules promulgated by the Council on Court Procedures, which have been submitted to the Legislature and not amended, repealed or supplemented by statute, ~~as provided in ORS 1.735.~~

It has been the purpose of the Council on Court Procedures to undertake a systematic review of the general rules of pleading and practice, primarily contained in ORS Chapters 11 through 45, and to gradually replace the existing ORS sections with ~~a~~ comprehensive, integrated and logically arranged ~~set of~~ rules, ~~governing civil pleading, practice and procedure.~~

During this biennium, the Council has concentrated upon the areas of process and personal jurisdiction, pleading, discovery, joinder and trial practice.

The Oregon Rules of Civil Procedure, numbered 1 through 64, which follow, would either entirely or substantially replace rules which now appear in ORS Chapters 11, 13, ~~14~~, 15, 16, 17, and in portions of ORS Chapters 18,

41 and 45. It is anticipated that these rules would be published as a separate "Oregon Rules of Civil Procedure" section of the Oregon Revised Statutes and that in future years other substantial portions of ORS Chapters 11 through 45 would be replaced by additional Oregon Rules of Civil Procedure.

~~The conversion of ORS sections to Oregon Rules of Civil Procedure in ORS Chapters 11 through 45 will never be total, and ORS sections replaced will not be limited to these chapters.~~ Because the authority of the Council is limited to procedural rules in civil proceedings, not including rules of

the ORS sections are given following each rule.

evidence or appellate procedure, some portions of existing statutes in ORS Chapters 11 through 45 will remain as statutes. ~~Because some civil rules of pleading, practice and procedure appear throughout the Oregon statutes and changes in Chapters 11 through 45 frequently require modification in procedural rules elsewhere in ORS, the Council is either replacing some ORS sections outside Chapters 11 through 45 by Oregon Rules of Civil Procedure or promulgating ^{changes which will} ~~continue~~ to appear as ORS sections. Finally, because changes in procedure or terminology describing procedure may require amendment of references in substitute statutes, the Council is recommending that the Legislature amend some statutes.~~

The rules which follow are unique Oregon Rules of Civil Procedure. The Council sought to promulgate the best rules which could be developed for practice in Oregon courts. Existing ORS sections are heavily relied upon, ~~for these rules~~, with an attempt to clarify the language of these sections where necessary and to arrange the provisions in a logical and useful sequence for guidance of litigants, attorneys, and judges. Where the existing procedures ^{as Rules} ~~as described in the ORS sections~~ were outdated, ^{inadequate} ~~irrelevant or deficient~~, the Council has not hesitated to ^{incorporate} ~~borrow~~ procedures ^{al Rules from} ~~existing in~~ other states and ^{the} ~~under~~ the Federal Rules of Civil Procedure, ^{OR} ~~and in some cases~~ to develop entirely new rules.

The comment which follows most rules was prepared by Council staff. It represents staff interpretation of the rules and the intent of the council and is not officially adopted by the council.

For ~~reference~~ reference, subdivisions of rules are ^{called} ~~denoted~~ sections and indicated by capital letters, e.g. A; subdivisions of sections are called subsections and indicated by arabic numerals in parenthesis, e.g. (1); subdivisions of subsections are called paragraphs and indicated by lower case letters in arabic numerals.

Parenthesis, e. g. (a); and subdivisions of paragraphs are called subparagraphs and indicated by lower case Roman numerals in parenthesis, e. g. (iv).

Oregon Rules of Civil Procedure.

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It has been the purpose of the Council on Court Procedures to undertake a systematic review of the general rules of pleading and practice, primarily contained in ORS chapters 11 through 48, and to gradually replace the existing ORS sections with a comprehensive, integrated and logically arranged set of rules

governing civil Pleading Practice and Procedure.

During this Bi Annium the council has concentrated upon the areas of ~~Process~~

~~and~~ Process and ~~jurisdiction over~~ Personal Jurisdiction, Pleading, Discovery, Joinder and Trial Practice. ~~the council is~~

~~replacing~~ the ~~old~~ Oregon rules of Civil Procedure which follow, ruled

one through 44, which follow, would replace ~~substantive~~ ~~provisions~~ either

entirely or substantially replace

Rules which now appear in ORS

Chapters 11, 13, 14, 15, 16 ~~and~~ 17. and in

portions of ~~the~~ ORS chapters 18, 41 and

45. It is anticipated that these

Rules would be published as a

E separate "Oregon Rules of Civil

Procedure" section of the Oregon

Revised Statute and that in future

years other substantial portions of

ORS Ch 11 through 45 would be

replaced by additional Oregon Rules

of Civil Procedure. Because

the authority of the Council is

limited to precedent rules in

The Commission on
As sections to
Oregon rules are civil
will name in ORS 11-45
and will not be
limited to those
titles.

civil proceedings, ~~not~~ not including rules of
evidence or appellate procedure, some
provisions of existing statutes in ons cl 11
through 45 will ~~remain~~ remain as
statutes. Because ^{some} ~~the~~ Civil Rules of
Pleading Practice and Procedure ~~are~~ appear.
Throughout the origin statutes and changes
in ons 11 through 45 frequently require
mod. ~~also~~ ~~in the statutes~~ in
procedural rules elsewhere in ons, the
Council is ~~also~~ ~~with~~ ~~the~~ ~~purpose~~ ~~of~~ ~~some~~.
~~not~~ to replacing ^{some} ons ~~new~~ sections
outside cl 11-45 by ^{origin rules of civil procedure:} ~~rules~~ or
promulgating changes in some rules that
~~will~~ will continue to appear as
ons sections. Finally ^{because} ~~changes~~ in
procedure or ^{of} ~~reference~~ describing procedure
may require ~~amendment~~ ^{of} ~~reference~~ in
substantive statutes, the Council is recommending recommending
~~some~~ ~~statutes~~ that the legislature
amend some statutes. ~~outside~~ ~~the~~.
the rules which follow are
unique origin rules of civil procedure.
The Council sought to promulgate
the best rules which could be

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procedural rules in civil proceedings, not including rules of evidence or appellate procedure, some portions of existing statutes in ORS Chapters 11 through 45 will remain as statutes.

The rules which follow are unique Oregon Rules of Civil Procedure. The Council sought to promulgate the best rules which could be developed for practice in Oregon courts. Existing ORS sections are heavily relied upon, with an attempt to clarify the language of those sections where necessary and to arrange the provisions in a logical and useful sequence for guidance of litigants, attorneys, and judges. Where the existing procedural rules were inadequate, the Council has not hesitated to incorporate procedural rules from other states and the Federal Rules of Civil Procedure or to develop entirely new rules.

The comment which follows most rules was prepared by Council staff. It represents staff interpretation of the rules and the intent of the Council, and is not officially adopted by the Council.

For reference, subdivisions of rules are called sections and indicated by capital letters, e.g., A.; subdivisions of sections are called subsections and indicated by Arabic numerals in parenthesis, e.g., (1); subdivisions of subsections are called paragraphs and indicated by lower case letters in parenthesis, e.g., (a); and subdivisions of paragraphs are called subparagraphs and indicated by lower case Roman numerals in parenthesis, e.g., (iv).

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