

**Oregon Rules of Civil Procedure
Legislative Amendments 1979-2023**

ORCP 57

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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 57 – Jurors

§	Latest Amendment
A	Or. Laws 1985 c.610 § 20
B	Or. Laws 1985 c.610 § 20
C	Or. Laws 1979 c.284 § 36
D	Or. Laws 1997 c.801 § 69
E	Unamended
F	Or. Laws 1979 c.284 § 37

Or. Laws 1979 c.284 § 36–37

Amends Rule 57(C);

Amends Rule 57(F)

- A. [Unamended]
- B. [Unamended]
- C. **Examination of jurors.** The full number of jurors having been called shall thereupon be examined as to their qualifications. The court may examine the prospective jurors to the extent it deems appropriate, and ~~shall permit the parties or their attorneys to ask reasonable questions thereupon~~ **the court shall permit the parties to examine each juror, first by the plaintiff, and then by the defendant.**
- D. [Unamended]
- E. [Unamended]
- F. **Alternate jurors.** The court may direct that not more than six jurors in addition to the regular jury be called and impanelled [**sic**] to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retired to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged as the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by ~~law~~ **these rules or other rule or statute** if one or two alternate jurors are to be impanelled [**sic**], two peremptory challenges if three or four alternate jurors are to be impanelled [**sic**], and three peremptory challenges if five or six alternate jurors are to be impanelled [**sic**]. The additional peremptory challenges may be used against an alternate juror only, and the other peremptory challenges allowed by ~~law~~ **these rules or other rule or statute** shall not be used against an alternate juror.

H.B. 3131

Or. Laws 1979 c.284 § 36–37

House Introduction

5/11/79

A-Engrossed Bill

5/25/79 – Passed unamended in House

6/6/79 – Passed with amendments in Senate (per Justice Committee recommendation)

6/8/79 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

6/26/79

Or. Laws 1985 c.610 § 20
Amends Rule 57(A), (B) & (D)

- A. Challenging compliance with selection procedures.**
1. **Motion.** Within 7 days after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the jury is sworn to try the case, a party may move to stay the proceedings or for other appropriate relief, on the ground of substantial failure to comply with ~~ORS 10.010 through 10.490~~ **the applicable provisions of ORS chapter 10** in selecting the jury.
 2. **Stay of proceedings.** Upon motion filed under subsection (1) of this section containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with ~~ORS 10.010 through 10.490~~ **the applicable provisions of ORS chapter 10 in selecting the jury**, the moving party is entitled to present in support of the motion: the testimony of the clerk or court administrator, any relevant records and papers not public or otherwise available used **by** the clerk or court administrator, and any other relevant evidence. If the court determines that in selecting the jury there has been a substantial failure to comply with ~~ORS 10.010 through 10.490~~ **the applicable provisions of ORS chapter 10**, the court shall stay the proceedings pending the selection of the jury in conformity with ~~ORS 10.010 through 10.490~~ **the applicable provisions of ORS chapter 10**, or grant other appropriate relief.
 3. **Exclusive means of challenge.** The procedures prescribed by this section are the exclusive means by which a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with ~~ORS 10.010 through 10.490~~ **the applicable provisions of ORS chapter 10.**
- B. Jury; how drawn.** When the action is called for trial the clerk shall draw ~~from the trial jury box of the court, one by one, the ballots containing the names of the jurors until the jury is completed or the ballots are exhausted~~ **names at random from the names of jurors in attendance upon the court until the jury is completed or the names of jurors in attendance are exhausted.** If the ~~ballots~~ **names of jurors in attendance** become exhausted before the jury is complete, the sheriff, under the direction of the court, shall summon from the bystanders, or the body of the county, so many qualified persons as may be necessary to complete the jury. Whenever the sheriff shall summon more than one person at a time from the bystanders or the body of the county, the sheriff shall return a list of the persons so summoned to the clerk. The clerk shall ~~write the names of such persons upon separate ballots, and deposit the same in the trial jury box, and then draw such ballots therefrom, as in the case of the panel of trial jurors for the term~~ **draw names at random from the list until the jury is completed.**
- C.** [Unamended]
- D. Challenges.**
1. **Challenges for cause; grounds.** [Full section text unamended]
 - a. The want of any qualifications prescribed by ORS 10.030 for a person ~~competent~~ **eligible** to act as a juror ~~or improper summons under ORS 10.030(3).~~
 - b. [Unamended]
 - c. [Unamended]
 - d. [Unamended]
 - e. [Unamended]
 - f. [Unamended]
 - g. [Unamended]
 2. [Unamended]
 3. [Unamended]
- E.** [Unamended]
- F.** [Unamended]

H.B. 2545

Or. Laws 1985 c.610 § 20

House Introduction
2/19/85

A-Engrossed Bill

5/21/85 – Passed with amendments in House (per Judiciary Committee recommendation)

6/17/85 – Passed with amendments in Senate (per Judiciary Committee recommendation)

B-Engrossed Bill

6/19/85 – House concurred with Senate amendments and repassed bill.

Governor signed Enrolled Bill

7/13/85

Or. Laws 1995 c.530 § 1
Amends Rule 57(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Challenges.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. **Conduct of peremptory challenges.** After the full number of jurors have been passed for cause, peremptory challenges shall be conducted **by written ballot or outside the presence of the jury** as follows: the plaintiff may challenge one and then the defendant may challenge one, and so alternating until the peremptory challenges shall be exhausted. After each challenge, the panel shall be filled and the additional juror passed for cause before another peremptory challenge shall be exercised, and neither party is required to exercise a peremptory challenge unless the full number of jurors are in the jury box at the time. The refusal to challenge by either party in the order of alternation shall not defeat the adverse party of such adverse party's full number of challenges, and such refusal by a party to exercise a challenge in proper turn shall conclude that party as to the jurors once accepted by that party, and if that party's right of peremptory challenge be not exhausted, that party's further challenges shall be confined, in that party's proper turn, to such additional jurors as may be called. The court may, for good cause shown, permit a challenge to be taken to any juror before the jury is completed and sworn, notwithstanding the juror challenged may have been theretofore accepted, but nothing in this subsection shall be construed to increase the number of peremptory challenges allowed.
 - 4. **Challenge of peremptory challenge exercised on basis of race, ethnicity or sex.**
 - a. **A party may not exercise a peremptory challenge on the basis of race, ethnicity or sex. Courts shall presume that a peremptory challenge does not violate this paragraph, but the presumption may be rebutted in the manner provided by this section.**
 - b. **If a party believes that the adverse party is exercising a peremptory challenge on a basis prohibited under paragraph (a) of this subsection, the party may object to the exercise of the challenge. The objection must be made before the court excuses the juror. The objection must be made outside of the presence of potential jurors. The party making the objection has the burden of establishing a prima facie case that the adverse party challenged the potential juror on the basis of race, ethnicity or sex.**
 - c. **If the court finds that the party making the objection has established a prima facie case that the adverse party challenged a prospective juror on the basis of race, ethnicity or sex, the burden shifts to the adverse party to show that the peremptory challenge was not exercised on the basis of race, ethnicity or sex. If the adverse party fails to meet the burden of justification as to the questioned challenge, the presumption that the challenge does not violate paragraph (a) of this subsection is rebutted.**
 - d. **If the court finds that the adverse party challenged a prospective juror on the basis of race, ethnicity or sex, the court shall disallow the peremptory challenge.**
- E. [Unamended]
- F. [Unamended]

S.B. 869

Or. Laws 1995 c.530 § 1

Senate Introduction

3/10/95

A-Engrossed Bill

5/1/95 – Passed with amendments in Senate (per Judiciary Committee recommendation)

5/18/95 – Passed unamended in House

Governor signed Enrolled Bill

7/7/95

Or. Laws 1995 c.707 § 1
Amends Rule 57(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]

D. Challenges.

1. Challenges for cause; grounds. [Full section text unamended]

- a. [Unamended]
- b. [Unamended]
- c. [Unamended]
- d. [Unamended]
- e. [Unamended]
- f. [Unamended]

g. ~~Actual bias, which is the existence of a state of mind on the part of the juror, in reference to the action, or to either party, which satisfies the court, in the exercise of a sound discretion, that the juror cannot try the issue impartially and without prejudice to the substantial rights of the party challenging.~~ **Actual bias on the part of a juror. Actual bias is the existence of a state of mind on the part of a juror that satisfies the court, in the exercise of sound discretion, that the juror cannot try the issue impartially and without prejudice to the substantial rights of the party challenging the juror. Actual bias may be in reference to: (i) the action; (ii) either party to the action; (iii) the sex of the party, the party's attorney, a victim or a witness; or (iv) a racial or ethnic group that the party, the party's attorney, a victim or a witness is a member of, or is perceived to be a member of. A challenge for actual bias may be taken for the cause mentioned in this paragraph, but on the trial of such challenge, although it should appear that the juror challenged has formed or expressed an opinion upon the merits of the cause from what the juror may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be satisfied, from all the circumstances, that the juror cannot disregard such opinion and try the issue impartially.**

2. [Unamended]

- E. [Unamended]
- F. [Unamended]

S.B. 868

Or. Laws 1995 c.707 § 1

Senate Introduction

3/10/95

A-Engrossed Bill

5/1/95 – Passed with amendments in Senate (per Judiciary Committee recommendation)

5/22/95 – Passed unamended in House

Governor signed Enrolled Bill

7/19/95

Or. Laws 1997 c.801 § 69
Amends Rule 57(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Challenges.**
 - 1. [Unamended]
 - 2. **Peremptory challenges; numbers.** A peremptory challenge is an objection to a juror for which no reason need be given, but upon which the court shall exclude such juror. ~~Either party shall be entitled to three peremptory challenges, and no more.~~ **Either party is entitled to no more than three peremptory challenges if the jury consists of more than six jurors, and no more than two peremptory challenges if the jury consists of six jurors.** Where there are multiple parties plaintiff or defendant in the case or where cases have been consolidated for trial, the parties plaintiff or defendant must join in the challenge and are limited to ~~a total of three peremptory challenges~~ **the number of peremptory challenges specified in this subsection**, except the court, in its discretion and in the interest of justice, may allow any of the parties, single or multiple, additional peremptory challenges and permit them to be exercised separately or jointly.
 - 3. [Unamended]
 - 4. [Unamended]
- E. [Unamended]
- F. [Unamended]

H.B. 3737

Or. Laws 1997 c.801 § 69

House Introduction

5/23/97

A-Engrossed Bill

7/4/97 – Passed with amendments in House (per Ways and Means Committee and Public Safety/Regulation Subcommittee recommendation); Passed unamended in Senate

Governor signed Enrolled Bill

8/6/97