

Meeting Notes

Oregon Law Commission

Municipal and Justice Courts 2025 – 2027 Work Group

ORS Chapters 19 and 138 Small Group

June 3, 2026

I. Call to Order

Attendees of this meeting were Amy Zubko, Jared Rumsey, Judge Juliet Britton, Judge Mary James, Kimberly McCullough, Lindsey Detweiler, Steve Arntt, Chris Perdue, Jessica Minifie, Heather Marek, Jim Nass, and Judge Daniel Cross. Steve Arntt, from the Oregon Public Defense Commission, was welcomed to the group as a first-time attendee.

II. Discussion

a. Subsection heading if needed

Judge James opened the meeting by reiterating that if the group were to make any changes to ORS Chapters 19 or 138 in regards to appeals of violations cases, it would need to justify such a change to the legislature. The goal was to decide if violations appeals as they stand are systemically problematic, and if there are good policy reasons to make a change. She hoped that the small group could decide on a general plan by the end of this meeting to bring to the full work group on June 17. It was pointed out that, in the past, work groups on similar issues had addressed many issues that were not necessarily causing immediate problems but still needed to be addressed.

On whether there was an issue, it was opined that lawyers, litigants, and courts did not think so because there has been no close reading of the statutory scheme since Oregon Laws 2003, chapter 576 modified ORS chapter 19 to cover appeals on what were defined as limited, general,

and supplemental judgments, which did not expressly cover judgments in violations cases. This was believed by some in the small group to make violations judgments unappealable. If they are still appealable, then they appear to be wholly appealable by either the defendant or the State.

The group was unable to find, and wanted to know if there had ever been a well-articulated reason, for moving appeals of criminal violations cases to the civil appeals process under ORS chapter 19 since ORS 138.057 did so when it was enacted by Oregon Laws 1993, chapter 379.

It was then pointed out that judgments involving restitution and probation are appealable under ORS chapter 138 but appear not be under chapter 19. It was further pointed out that previous iterations of municipal and justice court work groups for the Oregon Law Commission (the Commission) had already been trending towards streamlining violations appeals with ORS 55.250 and 55.255 mirroring concepts from misdemeanors in ORS 138.035. Furthermore, ORS 138.015 already incorporates much of chapter 19 and most of the parts not incorporated there have parallel provisions throughout chapter 138.

There was an interest in clarifying if the group could determine if those points provided a good reason for altering the current structure. Some of the group observed that under the current structure, violations are in fact being appealed, and though there are interpretive differences on the text of the statute, the legislative history and context suggest there was no intent to make them not appealable. Therefore, it does not seem to be an issue. It was proposed that a small addition the chapter 19 clarifying explicitly that violations judgments are still appealable here would be sufficient.

The Oregon Judicial Department (OJD) agreed that violations are still appealable under chapter 19 in part because they are being appealed without contest to their appealability. Additionally, it

was believed to be non-sensical to consolidate infractions and violations and add appealability for courts not of record (see Oregon Laws 1999, chapter 1051; ORS 153.121; 1993 Oregon Laws, chapter 379; ORS 138.057) only to shortly thereafter make all violations judgments unappealable without explicitly saying so. Furthermore, the current title of ORS 19.205 (“Appealable judgments and orders.”) has no force of law, and the language of the statute, particularly the word “may,” suggests that this statute did not necessarily provide that any judgment not listed was unappealable. OJD lastly pointed out that it was concerned about making such a consequential shift as moving these appeals from chapter 19 to chapter 138 without many parties (such as OJD, the Oregon Department of Justice (DOJ), the Oregon Public Defense Commission, etc.) doing a much larger dive into the statutory scheme to avoid unintended consequences. A concern was raised that this might be beyond the scope/capacity of this group. It was added from the group that chapter 138 also has many provisions that don’t apply to violations and is therefore not a perfect fit either. Lastly, OJD found no caselaw or order from the courts declaring these cases unappealable.

Further discussion indicated that it would be possible to appeal violations under chapter 19 as provided in ORS 138.057 and 153.121. At most, an ambiguity could be cured by a small addition within chapter 19.

Group members still had concerns with chapter 19 not spelling out which kinds of judgments from violations are appealable as is done for other situations, and wondered about incorporating statutes such as ORS 55.250 and others that do so, or perhaps mirroring and modifying them as needed. Noting that DOJ and other groups have not yet noticed a practical problem here, the group acknowledged the imperfection in the statutes on the issue and began to coalesce around the idea of either making a small change to chapter 19, or creating a new, more-tailored approach

just for violations as they are similar to both criminal and civil situations. Environmental and natural resources violations were highlighted as one of the particular gray areas that the group wanted to know more about.

It was then proposed that the group seek to put together a laundry list of all the types of violations that are being litigated in municipal and justice courts. The general sense was that prosecutors tended to prefer violations that are specified in various ORS provisions as opposed to code enforcements. Judge Cross confirmed this as the case for his justice court, adding that noise complaints were one of the more frequent ORS violations, parking tickets for county code violations, and that municipal code violations tended to go to municipal courts.

Four cases that were discussed in previous meetings (*Brown v. Multnomah County District Court*, 280 Or 95 (1977); *City of Pendleton v. Elk*, 137 Or App 513 (1995); *State v. Benoit*, 354 Or 302 (2013); and *City of Lowell v. Wilson*, 197 Or App 291 (2005)) were mentioned to highlight that violations can still have fairly serious consequences. It was suggested that while it may not seem like a problem now, it is better to address the violations issue now before it becomes a problem, because it is still unclear what violations judgments are appealable. Some members thought this had already been addressed and pointed to ORS 138.035 and 138.045, but it was again pointed out that chapter 138 does not perfectly apply to violations, just misdemeanors and felonies. It was pointed out that ORS 161.005 defines criminal action, and violations fall therein, but they are not crimes, which perhaps highlights the problem.

Two final proposals were made at the end of the meeting. One was to look at a previously proposed addition of a statute to chapter 19, which attempted to identify the parts of chapters 19 and 138 that would be applicable, and add to it language of appealability. Another was to use

ORS 55.250 and 55.255 as the model for appealability, or simply cross-reference those statutes directly. The group decided to have everyone look into these two ideas before the next meeting, to include checking in with LC about the feasibility of each.

III. Scheduling

The group did not discuss a date for another meeting. Members were encouraged to engage with Commission staff and other group members with any questions or thoughts between this meeting and the next full group meeting to be held on June 17, 2026.