Meeting Notes

Oregon Law Commission

Municipal and Justice Courts Work Group – 19 v. 138 Violations Subgroup

October 27, 2026

I. Call to Order

In Attendance: Judge Mary James, Judge Juliet Britton, Melissa Franz, Jim Nass, Hugh Duvall, Heather Marek, Kimberly McCullough, Jessica Minifie, Amy Zubko, Nora Robison

The meeting focused on language to clarify appeals in violation cases under ORS chapters 19 and 138, considering Legislative Counsel's work draft, Oregon Judicial Department (OJD) edits, and member feedback.

II. Discussion

Legislative Counsel explained that the work draft reorganized provisions of ORS 138.057 without intending substantive changes, reducing cross-references between chapters while leaving some existing ambiguities unresolved. OJD's edits sought to streamline the language, consistently address judgments and orders, and clarify the review provision.

There was discussion of whether adding "orders" sufficiently clarified appeal rights or left uncertainty about which decisions could be appealed. Some favored expressly identifying appealable decisions, explaining that courts of record and courts not of record should permit appeals from the same types of decisions even though their review procedures differ.

The discussion included concern that the court's transition of court-of-record status could restrict appeal previously available from particular orders, including orders concerning suppression of evidence and denial of relief from default judgments. Using the same statutory list for violation appeals from both types of courts was suggested to address that inconsistency. Concern was also raised that general references to judgments and orders could permit prosecution appeals from acquittals or otherwise leave jurisdiction unclear.

Legislative Counsel outlined three approaches: reorganize existing law, add "orders," or expressly identify appealable judgments and orders using provisions discussed in connection with House Bill 2460 and ORS 55.250 and 55.255. The group discussed copying the statutory language or cross-referencing those provisions, with questions about whether related scope-of-review and judgment provisions would also be needed.

The group reached consensus to request another Legislative Counsel draft combining the initial draft, OJD's proposed clarifications, and language addressing appealable judgments and orders under ORS 55.250 and 55.255. This authorized further drafting, with acceptance of the resulting language reserved for subsequent review.

There was further discussion of OJD's proposed revision to the review language in Section 3 of the draft. Concern centered on replacing "standard of review," a term of art, with language that might introduce uncertainty when read alongside other statutes. The discussion favored retaining the existing standard-of-review language because no change in meaning was intended.

A proposal was made to retain the reference to ORS 19.350 for stays and delete references to ORS 138.285 and 138.295. It was explained that the draft otherwise directed appeals through chapter 19 while referencing both civil and criminal stay provisions. The discussion supported retaining "or any other authority" to allow arguments under other authority.

III. Scheduling

The next full Municipal and Justice Courts Work Group meeting is scheduled for October 28, 2026.