

Minutes
Oregon Law Commission
Municipal and Justice Court Appeals Process Workgroup
October 31, 2024

I. Welcome, discussion of timeline, and next steps

Attendees: Commissioner Christa Obold Eshleman, Justice Rebecca Duncan (Commissioner), Jim Nass, James Brewer, Judge Karen Brisbin, Judge Dan Cross, Lindsey Detweiler, Melissa Franz, Linda Hukari, Jordan Huppert, Heather Marek, Judge Emily Oberdorfer, Matt Shields, Paul Smith, Scott Winkels, Kris Kolta, Charlie Kovas, Kimberly McCullough, Anna McCormack, Jessica Minifie, Victor Reuther, Amy Zubko

Timeline: Amy Zubko provided an overview of the Municipal and Justice Courts Appeals meeting schedule for October and November and noted that the last two meetings before the full Commission will be held today, October 31, 2024, and Wednesday, November 13, 2024. The final working draft, as well as the draft report, will be sent out for review before the November 13 meeting. Any further edits to the bill will need to be suggested by November 13 because legislative counsel needs to finalize the draft bill immediately thereafter so it can be sent to the full Law Commission for approval.

Full Commission: Amy Zubko shared a brief update from the Oregon Law Commission's October 11, 2024, meeting including a brief overview of Commissioner Obold Eshleman's comments at the Commission meeting and that Senator Prozanski, also a Commissioner, shared he would be sponsoring legislation in the 2025 Legislative Session to address the 50 mile requirement for Justice Courts to become courts of record. The next full Commission meeting will be on December 5, 2024 at which time the Commission will vote on the LC draft and report. December Legislative Days will be held December 10 – 12, 2024.

II. Working Draft #5 (LC 156)

Commissioner Obold Eshleman drew attention to Working Draft #5 which was distributed prior to the meeting. She requested that if there was any feedback on the language included within Working Draft #5 that it be forwarded to herself or Amy Zubko by the end of the day on Monday, November 4, 2024. The working draft was not discussed during the meeting.

III. How to retain current law found in ORS 221.359 and ORS 221.360

Commissioner Obold Eshleman introduced the issue raised by Heather Marek at the October 9, 2024 meeting regarding the potential disconnect between ORS 221.359 and 221.360—that the language found in Working Draft #4 and included in Working Draft #5 may not reflect current law.

The proposal from Commissioner Obold Eshleman and Ms. Marek was to unwind the language found in WD#5 and incorporate language from ORS 221.359 and 221.360 in Section 43a, 50, and

51. The discussion centered around the group's interest in maintaining current law with questions from Lindsey Detweiler and Melissa Franz. The group determined that if the proposed language modifying Sections 43a, 50, and 51 maintained current law, those changes were acceptable. Legislative counsel may make further modifications.

IV. Limitations on Municipal Appeals

Commissioner Obold Eshleman presented a proposal to include a recommendation in the project report that supported continued work on the project in order to address, among other topics, the limitations on municipal appeals. Kimberly McCullough asked for a timeline on when the report would be ready to review. Justice Duncan provided a timeline and let the group know that there would be a draft report to review prior to the November 13, 2024 meeting.

V. Interplay Between Dispositional Alternative on Appeals from Local Courts to Circuit Court and Enforcement of Judgments after Appeal

Lindsey Detweiler shared a proposal she developed with Judge Brisbin and with input from Jimmy Brewer and Jim Nass on Dispositional Alternatives and Enforcements of Judgments after Appeal. The proposed changes to Working Draft #5 can be found in Section 14 and in Section 19(2). There were three additional questions. (1) Are there other sections of the bill that need to be modified to ensure that a defendant may appeal to the Court of Appeals from a circuit court judgment affirming and remanding the case to the local court? There were comments that if the proposed changes are made to the bill to retain current law about appeals from violations to the Court of Appeals, then this concern would be resolved. See notes section VI below. (2) Should other procedural provisions be added to clarify how the local court will be notified that appeal was taken to the Court of Appeals from the circuit court judgment? Comments indicated there was no need to notify local courts. (3) Does additional wording need to be added to section 14, subsections (1) or (2) to capture the potential dispositions in appeals to the circuit court from the state as described in Section 17? See current Section 19 below. The group would like feedback from the DAs on Q3 and asked Melissa Franz to consider the issue. Ms. Detweiler and Mr. Nass indicated that they may have some tweaks to this language as well.

V. Civil Actions

Jim Nass shared a proposal that has been discussed by Jim Nass, Heather Marek, Sean Foster, Judge Brisbin, Judge Britton, Lindsey Detweiler, and Kimberly McCullough. The proposal created an optional first appearance in the circuit court and addressed how to incorporate rental value as an undertaking. Anna McCormack joined the call today after reviewing the proposal written up by Mr. Nass and shared some potential modifications to the language. The group discussed the proposal and the modifications and determined that additional discussion may be warranted. Heather Marek and Lindsey Detweiler both requested the opportunity to provide additional feedback. A small group will get together to discuss the language.

VI. Violation Concerns from Circuit Court

Commissioner Obold Eshleman provided an overview of the discussion around the use of ORS Chapter 19 v ORS Chapter 138 for violation cases appealed to the Oregon Court of Appeals. Jim Nass had previously submitted a proposal. Due to the time constraints, and concerns about unknown unknowns, the discussion focused on the need to unwind the changes that were made in Working Draft #5. Similar to the discussion on limitations on municipal court, the consensus seemed to be to address the issue in the report and propose it as additional work to be addressed by the Commission. Of note, Mr. Nass opposed the decision to unwind the changes and would like the issue addressed in the 2025 bill.

VII. Service of Copy of Notice of Appeal on County or District Attorney (Section 10)

Commission Obold Eshleman provided an overview of the issue, namely that Bill Golden had previously raised a concern that the requirements for service on district attorneys and county attorneys were not always necessary. Because the language included in Working Draft #4 and Working Draft #5 was based on the language currently in statute, and because of the time left to complete the bill draft, the current statutory language will remain in the draft.