

Chapter 4.12 RCW
VENUE—JURISDICTION

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Rules of court: *Venue—CR 82.*

Actions against nonresident motorist: RCW 46.64.040.

RCW 4.12.010 Actions to be commenced where subject is situated.

Actions for the following causes shall be commenced in the county in which the subject of the action, or some part thereof, is situated:

(1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property.

(2) All questions involving the rights to the possession or title to any specific article of personal property, in which last mentioned class of cases, damages may also be awarded for the detention and for injury to such personal property. [Code 1881 s 47; 1877 p 11 s 48; 1869 p 12 s 48; 1860 p 7 s 15; 1854 p 133 s 13; RRS s 204.]

RCW 4.12.020 Actions to be tried in county where cause arose.

Actions for the following causes shall be tried in the county where the cause, or some part thereof, arose:

(1) For the recovery of a penalty or forfeiture imposed by statute;

(2) Against a public officer, or person specially appointed to execute his or her duties, for an act done by him or her in virtue of his or her office, or against a person who, by his or her command or in his or her aid, shall do anything touching the duties of such officer;

(3) For the recovery of damages for injuries to the person or for injury to personal property, the plaintiff shall have the option of suing either in the county in which the cause of action or some part thereof arose, or in the county in which the defendant resides, or if there be more than one defendant, where some one of the defendants resides, at the time of the commencement of the action. [2001 c 45 s 2; 1941 c 81 s 1; Code 1881 s 48; 1877 p 11 s 49; 1869 p 12 s 49; 1860 p 7 s 16; 1854 p 133 s 14; Rem. Supp. 1941 s 205.]

RCW 4.12.025 Action to be brought where defendant resides—Optional venue of actions upon unlawful issuance of check or draft—Residence of corporations—Optional venue of actions against corporations. (1) An action may be brought in any county in which the defendant resides, or, if there be more than one defendant, where some one of the defendants resides at the time of the commencement of the action. For the purpose of this section, the residence of a corporation defendant shall be deemed to be in any county where the corporation: (a) Transacts business; (b) has an office for the transaction of business; (c) transacted business at the time the cause of action arose; or (d) where any person resides upon whom process may be served upon the corporation.

(2) An action upon the unlawful issuance of a check or draft may be brought in any county in which the defendant resides or may be brought in any division of the judicial district in which the check was issued or presented as payment.

(3) The venue of any action brought against a corporation, at the option of the plaintiff, shall be: (a) In the county where the tort was committed; (b) in the county where the work was performed for said corporation; (c) in the county where the agreement entered into with the corporation was made; or (d) in the county where the corporation has its residence. [1998 c 56 s 1; 1985 c 68 s 2; 1983 c 31 s 1; 1965 c 53 s 168; 1927 c 173 s 1; RRS s 205-1. Prior: 1909 c 42 s 1; Code 1881 s 49; 1877 p 11 s 50; 1869 p 13 s 50; 1860 p 101 s 488; 1854 p 220 s 494.]

RCW 4.12.030 Grounds authorizing change of venue. The court may, on motion, in the following cases, change the place of trial when it appears by affidavit, or other satisfactory proof:

(1) That the county designated in the complaint is not the proper county; or,

(2) That there is reason to believe that an impartial trial cannot be had therein; or,

(3) That the convenience of witnesses or the ends of justice would be forwarded by the change; or,

(4) That from any cause the judge is disqualified; which disqualification exists in either of the following cases: In an action or proceeding to which he or she is a party, or in which he or she is interested; when he or she is related to either party by consanguinity or affinity, within the third degree; when he or she has been of counsel for either party in the action or proceeding. [2011 c 336 s 79; Code 1881 s 51; 1877 p 12 s 52; 1875 p 6 s 8; 1869 p 13 s 52; 1854 p 134 s 16; RRS s 209.]

RCW 4.12.040 Disqualification of judge, transfer to another department, visiting judge—Change of venue generally, criminal cases.

(1) No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding if that judge has been disqualified pursuant to RCW 4.12.050. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court. In all judicial districts where there is only one judge, a certified copy of the notice of disqualification filed in the cause shall be transmitted by the clerk of the superior court to the clerk of the superior court designated by the chief justice of the supreme court. Upon receipt the clerk of said superior court shall transmit the forwarded notice to the presiding judge who shall direct a visiting judge to hear and try such action as soon as convenient and practical.

(2) The presiding judge in judicial districts where there is more than one judge, or the presiding judge of judicial districts where there is only one judge, may send a case for trial to another court if the convenience of witnesses or the ends of justice will not be interfered with by such a course and the action is of such a character that a change of venue may be ordered: PROVIDED, That in criminal prosecutions the case shall not be sent for trial to any court outside the county unless the accused shall waive his or her right to a trial by a jury of the county in which the offense is alleged to have been committed.

(3) This section does not apply to water right adjudications filed under chapter 90.03 or 90.44 RCW. Disqualification of judges in water right adjudications is governed by RCW 90.03.620. [2017 c 42 s 1; 2009 c 332 s 19; 1989 c 15 s 1; 1961 c 303 s 1; 1927 c 145 s 1; 1911 c 121 s 1; RRS s 209-1.]

Application—2009 c 332: See note following RCW 90.03.110.

Criminal proceedings, venue and jurisdiction: Chapter 10.25 RCW.

RCW 4.12.050 Notice of disqualification. (1) Any party to or any attorney appearing in any action or proceeding in a superior court may disqualify a judge from hearing the matter, subject to these limitations:

(a) Notice of disqualification must be filed and called to the attention of the judge before the judge has made any discretionary ruling in the case.

(b) In counties with only one resident judge, the notice of disqualification must be filed not later than the day on which the case is called to be set for trial.

(c) A judge who has been disqualified under this section may decide such issues as the parties agree in writing or on the record in open court.

(d) No party or attorney is permitted to disqualify more than one judge in any matter under this section and RCW 4.12.040.

(2) Even though they may involve discretion, the following actions by a judge do not cause the loss of the right to file a notice of disqualification against that judge: Arranging the calendar, setting a date for a hearing or trial, ruling on an agreed continuance, issuing an arrest warrant, presiding over criminal

preliminary proceedings under CrR 3.2.1, arraigning the accused, fixing bail, and presiding over juvenile detention and release hearings under JuCR 7.3 and 7.4.

(3) This section does not apply to water right adjudications filed under chapter 90.03 or 90.44 RCW. Disqualification of judges in water right adjudications is governed by RCW 90.03.620. [2017 c 42 s 2; 2009 c 332 s 20; 1941 c 148 s 1; 1927 c 145 s 2; 1911 c 121 s 2; Rem. Supp. 1941 s 209-2.]

Rules of court: *Demurrers abolished—CR 7(c).*

Application—2009 c 332: See note following RCW 90.03.110.

RCW 4.12.060 To what county venue may be changed—Limitation on number of changes. If the motion for a change of the place of trial be allowed, the change shall be made to the county where the action ought to have been commenced, if it be for the cause mentioned in RCW 4.12.030(1), and in other cases to the most convenient county where the cause alleged does not exist. Neither party shall be entitled to more than one change of the place of trial, except for causes not in existence when the first change was allowed. [Code 1881 s 52; 1877 p 12 s 53; 1869 p 14 s 53; RRS s 210.]

RCW 4.12.070 Change to newly created county. Any party in a civil action pending in the superior court in a county out of whose limits a new county, in whole or in part, has been created, may file with the clerk of such superior court an affidavit setting forth that he or she is a resident of such newly created county, and that the venue of such action is transitory, or that the venue of such action is local, and that it ought properly to be tried in such newly created county; and thereupon the clerk shall make out a transcript of the proceedings already had in such action in such superior court, and certify it under the seal of the court, and transmit such transcript, together with the papers on file in his or her office connected with such action, to the clerk of the superior court of such newly created county, wherein it shall be proceeded with as in other cases. [2011 c 336 s 80; 1891 c 33 s 2; Code 1881 s 53; 1877 p 12 s 54; 1869 p 14 s 54; 1854 p 377 s 2; RRS s 211.]

RCW 4.12.080 Change by stipulation. Notwithstanding the provisions of RCW 4.12.030 all the parties to the action by stipulation in writing or by consent in open court entered in the records may agree that the place of trial be changed to any county of the state, and thereupon the court must order the change agreed upon. [Code 1881 s 55; 1877 p 13 s 56; RRS s 216.]

RCW 4.12.090 Transmission of record on change of venue—Costs, attorney's fee. (1) When an order is made transferring an action or proceeding for trial, the clerk of the court must transmit the pleadings and papers therein to the court to which it is transferred and charge a fee as provided in RCW 36.18.016. The costs and fees thereof and of filing the papers anew must be paid by the party at

whose instance the order was made, except in the cases mentioned in RCW 4.12.030(1), in which case the plaintiff shall pay costs of transfer and, in addition thereto, if the court finds that the plaintiff could have determined the county of proper venue with reasonable diligence, it shall order the plaintiff to pay the reasonable attorney's fee of the defendant for the changing of venue to the proper county. The court to which an action or proceeding is transferred has and exercises over the same the like jurisdiction as if it had been originally commenced therein.

(2) In acting on any motion for dismissal without prejudice in a case where a motion for change of venue under subsection (1) of this section has been made, the court shall, if it determines the motion for change of venue proper, determine the amount of attorney's fee properly to be awarded to defendant and, if the action be dismissed, the attorney's fee shall be a setoff against any claim subsequently brought on the same cause of action. [2005 c 457 s 11; 1969 ex.s. c 144 s 1; Code 1881 s 54; 1877 p 12 s 55; 1875 p 7 s 10; 1869 p 14 ss 55, 56; RRS s 215.]

Intent—2005 c 457: See note following RCW 43.08.250.

RCW 4.12.100 Transcript of record entries. The clerk of the court must also transmit with the original papers where an order is made changing the place of trial, a certified transcript of all record entries up to and including the order for such change. [Code 1881 s 58; 1877 p 13 s 59; RRS s 219.]

RCW 4.12.110 Effect of neglect of moving party. If such papers be not transmitted to the clerk of the proper court within the time prescribed in the order allowing the change, and the delay be caused by the act or omission of the party procuring the change, the adverse party, on motion to the court or judge thereof, may have the order vacated, and thereafter no other change of the place of trial shall be allowed to such party. [Code 1881 s 56; 1877 p 13 s 57; 1869 p 15 s 57; 1854 p 135 s 21; RRS s 217.]

RCW 4.12.120 Change deemed complete, when. Upon the filing of the papers with the clerk of the court to which the cause is transferred, the change of venue shall be deemed complete, and thereafter the action shall proceed as though it had been commenced in that court. [Code 1881 s 57; 1877 p 13 s 58; 1869 p 15 s 58; 1854 p 135 s 22; RRS s 218.]