

**Chapter 12.04 RCW
COMMENCEMENT OF ACTIONS**

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Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

RCW 12.04.010 Civil actions—Commencement. Civil actions in the several justices' courts of this state may be instituted either by the voluntary appearance and agreement of the parties, by the service of a summons, or by the service upon the defendant of a true copy of the complaint and notice, which notice shall be attached to the copy of the complaint and cite the defendant to be and appear before the justice at the time and place therein specified, which shall not be less than six nor more than twenty days from the date of filing the complaint. [Code 1881 § 1712; 1873 p 335 § 19; 1860 p 245 § 26; RRS § 1755.]

RCW 12.04.020 Action to recover debt—Summons—Service. A party desiring to commence an action before a justice of the peace, for the

recovery of a debt by summons, shall file his or her claim with the justice of the peace, verified by his or her own oath, or that of his or her agent or attorney, and thereupon the justice of the peace shall, on payment of his or her fees, if demanded, issue a summons to the opposite party, which summons shall be in the following form, or as nearly as the case will admit, viz:

The State of Washington, }
..... County. } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are hereby commanded to summon if he or she (or they) be found in your county to be and appear before me at on day of at ... o'clock p.m. or a.m., to answer the complaint of for a failure to pay him or her a certain demand, amounting to dollars and cents, upon (here state briefly the nature of the claim) and of this writ make due service and return.

Given under my hand this day of (year)....

....., Justice of the Peace.

And the summons shall specify a certain place, day and hour for the appearance and answer of the defendant, not less than six nor more than twenty days from the date of filing plaintiff's claim with the justice, which summons shall be served at least five days before the time of trial mentioned therein, and shall be served by the officer delivering to the defendant, or leaving at his or her place of abode with some person over twelve years of age, a true copy of such summons, certified by the officer to be such. [2016 c 202 § 10; 2010 c 8 § 3001; Code 1881 § 1713; 1873 p 335 § 20; 1860 p 245 § 29; RRS § 1758.]

RCW 12.04.030 Action by complaint and notice. Any person desiring to commence an action before a justice of the peace, by the service of a complaint and notice, can do so by filing his or her complaint verified by his or her own oath or that of his or her agent or attorney with the justice, and when such complaint is so filed, upon payment of his or her fees if demanded, the justice shall attach thereto a notice, which shall be substantially as follows:

The State of Washington, }
..... County. } ss.

To

You are hereby notified to be and appear at my office in on the day of, (year)...., at the hour of M., to answer to the foregoing complaint or judgment will be taken against you as confessed and the prayer of the plaintiff granted.

Dated, (year)....

....., J. P.

[2016 c 202 § 11; 2010 c 8 § 3002; Code 1881 § 1714; 1873 p 336 § 21; 1860 p 245 § 29; RRS § 1759.]

RCW 12.04.040 Service of complaint and notice. The complaint and notice shall be served at least five days before the time mentioned in the notice for the defendant to appear and answer the complaint, by delivering to the defendant, or leaving at his or her place of abode, with some person over twelve years of age, a true copy of the complaint and notice. [2010 c 8 § 3003; 1925 ex.s. c 181 § 1; Code 1881 § 1715; 1873 p 337 § 22; RRS § 1761.]

RCW 12.04.050 Process—Who may serve. All process issued by district court judges of the state and all executions and writs of attachment or of replevin shall be served by a sheriff or a deputy, but a summons or notice and complaint may be served by any citizen of the state of Washington over the age of eighteen years and not a party to the action. [1987 c 442 § 1102; 1971 ex.s. c 292 § 11; 1903 c 19 § 1; 1895 c 102 § 1; 1893 c 108 § 1; Code 1881 § 1716; 1873 p 337 § 23; RRS § 1762. Formerly RCW 12.04.050 and 12.04.060, part.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 12.04.060 Process—Service by constable or sheriff. All process in actions and proceedings in justice courts, having a salaried constable, when served by an officer, shall be served by such constable or by the sheriff of the county or his or her duly appointed deputy; and all fees for such service shall be paid into the county treasury. [2010 c 8 § 3004; 1909 c 132 § 1; RRS § 1760. FORMER PARTS OF SECTION: 1903 c 19 § 1, part, now codified in RCW 12.04.050.]

RCW 12.04.070 Process—Return—Fees. Every constable or sheriff serving process or complaint and notice shall return in writing, the time, manner, and place of service and indorse thereon the legal fees therefor and shall sign his or her name to such return, and any person other than one of said officers serving summons or complaint and notice shall file with the justice his or her affidavit, stating the time, place, and manner of the service of such summons or notice and complaint and shall indorse thereon the legal fees therefor. [2010 c 8 § 3005; 1959 c 99 § 1; 1903 c 19 § 2; 1895 c 102 § 2; 1893 c 108 § 2; Code 1881 § 1717; 1873 p 337 § 24; 1860 p 246 § 37; 1854 p 229 § 31; RRS § 1763.]

RCW 12.04.080 Process—Service by person appointed by justice—Return—Exceptions. Any justice may, by appointment in writing, authorize any person other than the parties to the proceeding, or action, to serve any subpoena, summons, or notice and complaint issued by such justice; and any such person making such service shall return on such process or paper, in writing, the time and manner of service, and shall sign his or her name to such return, and be entitled to like fees for making such service as a sheriff or constable, and shall

indorse his or her fees for service thereon: PROVIDED, It shall not be lawful for any justice to issue process or papers to any person but a regularly qualified sheriff or constable, in any precinct where such officers reside, unless from sickness or some other cause said sheriff or constable is not able to serve the same: PROVIDED FURTHER, That it shall be lawful for notice and complaint or summons in a civil action in the justice court to be served by any person eighteen years of age or over and not a party to the action in which the summons or notice and complaint shall be issued without previous appointment by the justice. [2010 c 8 § 3006; 1971 ex.s. c 292 § 12; 1903 c 19 § 3; Code 1881 § 1718; 1873 p 337 § 25; RRS § 1764.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 12.04.090 Proof of service. Proof of service in either of the above cases shall be as follows: When made by a constable or sheriff his or her return signed by him or her and indorsed on the paper or process. When made by any person other than such officer, then by the affidavit of the person making the service. [2010 c 8 § 3007; Code 1881 § 1719; 1873 p 337 § 26; RRS § 1765.]

RCW 12.04.100 Service by publication. In case personal service cannot be had by reason of the absence of the defendant from the county in which the action is sought to be commenced, it shall be proper to publish the summons or notice with a brief statement of the object and prayer of the claim or complaint, in some newspaper of general circulation in the county wherein the action is commenced, which notice shall be published not less than once a week for three weeks prior to the time fixed for the hearing of the cause, which shall not be less than four weeks from the first publication of the notice.

The notice may be substantially as follows:

The State of Washington, }
County of } ss.
In justice's court, justice.
To

You are hereby notified that has filed a complaint (or claim as the case may be) against you in said court which will come on to be heard at my office in, in county, state of Washington, on the day of, A.D. (year), at the hour of o'clock ... m., and unless you appear and then and there answer, the same will be taken as confessed and the demand of the plaintiff granted. The object and demand of said claim (or complaint, as the case may be) is (here insert a brief statement).

Complaint filed, A.D. (year)
....., J. P.

[2016 c 202 § 12; 1985 c 469 § 6; Code 1881 § 1720; 1873 p 337 § 27; RRS § 1766.]

Legal publications: Chapter 65.16 RCW.

RCW 12.04.110 Proof of service by publication. Proof of service, in case of publication, shall be the affidavit of the publisher, printer, foreperson, or principal clerk, showing the same. [2010 c 8 § 3008; Code 1881 § 1721; 1873 p 338 § 28; RRS § 1767.]

RCW 12.04.120 Written admission as proof of service. The written admission of the defendant, his or her agent or attorney, indorsed upon any summons, complaint and notice, or other paper, shall be complete proof of service in any case. [2010 c 8 § 3009; Code 1881 § 1722; 1873 p 338 § 29; RRS § 1768.]

RCW 12.04.130 Jurisdiction, when acquired. The court shall be deemed to have obtained possession of the case from the time the complaint or claim is filed, after completion of service, whether by publication or otherwise, and shall have control of all subsequent proceedings. In the case of proceedings to civilly enforce a money judgment entered in a municipal court or municipal department of a district court organized under the laws of this state, the court shall have jurisdiction over the proceedings from the time of filing an abstract or transcript of judgment; upon which filing the municipal judgment shall be recognized as a judgment of the court, provided that the court shall not have authority to vacate or amend the underlying municipal judgment. [2007 c 46 § 4; Code 1881 § 1723; 1873 p 338 § 30; RRS § 1769.]

RCW 12.04.140 Action by person under eighteen years. Except as provided under RCW 7.105.100, no action shall be commenced by any person under the age of eighteen years, except by his guardian, or until a next friend for such a person shall have been appointed. Whenever requested, the justice shall appoint some suitable person, who shall consent thereto in writing, to be named by such plaintiff, to act as his or her next friend in such action, who shall be responsible for the costs therein. [2022 c 268 § 34; 2021 c 215 § 127; 1992 c 111 § 10; 1971 ex.s. c 292 § 75; Code 1881 § 1753; 1873 p 343 § 52; 1854 p 230 § 40; RRS § 1771.]

Effective dates—2022 c 268: See note following RCW 7.105.010.

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Findings—1992 c 111: See note following RCW 4.08.050.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 12.04.150 Action against defendant under eighteen years—Guardian ad litem. After service and return of process against a defendant under the age of eighteen years, the action shall not be further prosecuted, until a guardian for such defendant shall have been appointed, except as provided under RCW 7.105.100. Upon the request of such defendant, the justice shall appoint some person who shall consent thereto in writing, to be guardian of the defendant in

defense of the action; and if the defendant shall not appear on the return day of the process, or if he or she neglect or refuse to nominate such guardian, the justice may, at the request of the plaintiff, appoint any discreet person as such guardian. The consent of the guardian or next friend shall be filed with the justice; and such guardian for the defendant shall not be liable for any costs in the action. [2022 c 268 § 35; 2021 c 215 § 128; 1992 c 111 § 11; 1971 ex.s. c 292 § 76; Code 1881 § 1754; 1873 p 343 § 53; 1854 p 230 § 41; RRS § 1772.]

Effective dates—2022 c 268: See note following RCW 7.105.010.

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Findings—1992 c 111: See note following RCW 4.08.050.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 12.04.160 Time for appearance. The parties shall be entitled to one hour in which to make their appearance after the time mentioned in the summons or notice for appearance, but shall not be required to remain longer than that time, unless both parties appear; and the justice being present, is actually engaged in the trial of another action or proceeding; in such case he or she may postpone the time of appearance until the close of such trial. [2010 c 8 § 3010; 1957 c 89 § 1; Code 1881 § 1755; 1873 p 344 § 54; 1854 p 230 § 42; RRS § 1773.]

RCW 12.04.170 Security for nonresident costs. Whenever the plaintiff in an action, or in a garnishment or other proceeding is a nonresident of the county or begins such action or proceeding as the assignee of some other person, or of a firm or corporation, as to all causes of action sued upon, the justice may require of him or her security for the costs in the action or proceeding in a sum not exceeding fifty dollars, at the time of the commencement of the action, and after an action or proceeding has been commenced by such nonresident or assignee plaintiff, the defendant or garnishee defendant may require such security by motion; and all proceedings shall be stayed until such security has been given. [2010 c 8 § 3011; 1929 c 102 § 1; 1905 c 10 § 1; Code 1881 § 1725; 1854 p 228 § 27; RRS § 1777.]

RCW 12.04.180 Cost bond in lieu of security. In lieu of separate security for each action or proceeding in any court, the plaintiff may cause to be executed and filed in the court a bond in the penal sum of fifty dollars running to the state of Washington, with surety approved by the court, and conditioned for the payment of all judgments for costs which may thereafter be rendered against him or her in that court. Any defendant or garnishee who shall thereafter recover a judgment for costs in said court against the principal on such bond shall likewise be entitled to judgment against the sureties. Such bond shall not be sufficient unless the penalty thereof is

unimpaired by any outstanding obligation at the time of the commencement of the action. [2010 c 8 § 3012; 1929 c 102 § 2; RRS § 1777 1/2.]

RCW 12.04.190 Penalty for failure to execute process or false return. If any officer, without showing good cause therefor, fail to execute any process to him or her delivered, and make due return thereof, or make a false return, such officer, for every such offense, shall pay to the party injured ten dollars, and all damage such party may have sustained by reason thereof, to be recovered in a civil action. [2010 c 8 § 3013; Code 1881 § 1752; 1873 p 343 § 51; 1854 p 230 § 39; RRS § 1776.]

RCW 12.04.200 Forms or equivalents prescribed. The forms or equivalent forms as set forth in RCW 12.04.201 through 12.04.208 may be used by justices of the peace, in civil actions and proceedings under this chapter. [1957 c 89 § 3. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.201 Form of subpoena.

FORM OF SUBPOENA

State of Washington, }
County of, } ss.

To

In the name of the state of Washington, you are hereby required to appear before the undersigned, one of the justices of the peace in and for said county, on the day of, (year), at o'clock in the noon, at his or her office in, to give evidence in a certain cause, then and there to be tried, between A B, plaintiff, and C D, defendant, on the part of (the plaintiff, or defendant as the case may be).

Given under my hand this day of, (year)....

J. P., Justice of the Peace.

[2016 c 202 § 13; 2010 c 8 § 3014; 1957 c 89 § 4. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.203 Form of execution—Form of execution against principal and surety, after expiration of stay of execution.

FORM OF EXECUTION

State of Washington, }
County of, } ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D, for the sum of dollars, and dollars cost of suit, was recovered on the day of, (year), before the undersigned, one of the justices of the peace in and for said county, at the suit of A B. These are, therefore, in the name of the state of Washington, to command you to levy on the goods and chattels of the said C D (excepting such as the law exempts), and make sale thereof according to law, to the amount of said sum and costs upon this writ, and the same return to me within thirty days, to be rendered to the said A B, for his or her debt, interests and costs.

Given under my hand this day of, (year)

J. P., Justice of the Peace.

FORM OF EXECUTION AGAINST PRINCIPAL AND SURETY, AFTER EXPIRATION OF STAY OF EXECUTION

State of Washington, }
County of, } ss.

To the sheriff or any constable of said county:

Whereas, judgment against C D for the sum of dollars, and for dollars, costs of suit, was recovered on the day of, (year), before the undersigned, one of the justices of the peace in and for said county, at the suit of A B; and whereas, on the day of, (year), E F became surety to pay said judgment and costs, in month from the date of the judgment aforesaid, agreeably to law, in the payment of which said C D and E F have failed; these are, therefore, in the name, etc., [as in the common form].

[2016 c 202 § 14; 2010 c 8 § 3015; 1957 c 89 § 5. Prior: Code 1881 § 1895, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.204 Form of order in replevin.

FORM OF ORDER IN REPLEVIN

State of Washington, }
County of, } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are hereby commanded to take the personal property mentioned and described in the within affidavit, and deliver the same to the plaintiff, upon receiving a proper undertaking, unless before such delivery, the defendant enter into a sufficient undertaking for the delivery thereof to the plaintiff, if delivery be adjudged.

Given under my hand this day of, (year)

J. P., Justice of the Peace.

[2016 c 202 § 15; 1957 c 89 § 6. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.205 Form of a writ of attachment.

FORM OF A WRIT OF ATTACHMENT

State of Washington, }
County of, } ss.

To the sheriff or any constable of said county:

In the name of the state of Washington, you are commanded to attach, and safely keep, the goods and chattels, moneys, effects and credits of C D, (excepting such as the law exempts), or so much thereof as shall satisfy the sum of dollars, with interest and cost of suit, in whosoever hands or possession the same may be found in your county, and to provide that the goods and chattels so attached may be subject to further proceeding thereon, as the law requires; and of this writ make legal service and due return.

Given under my hand this day of, (year)....

J. P., Justice of the Peace.

[2016 c 202 § 16; 1957 c 89 § 7. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.206 Form of undertaking in replevin.

FORM OF UNDERTAKING IN REPLEVIN

Whereas, A B, plaintiff, has commenced an action before J P, one of the justices of the peace in and for county, against C D, defendant, for the recovery of certain personal property, mentioned and described in the affidavit of the plaintiff, to wit: [here set forth the property claimed]. Now, therefore we, A B, plaintiff, E F and G H, acknowledge ourselves bound unto C D in the sum of dollars for the prosecution of the action for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him or her of such sum as may for any cause be recovered against the plaintiff.

Dated the day of, (year) A B, E F, G H. [2016 c 202 § 17; 2010 c 8 § 3016; 1957 c 89 § 8. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]

RCW 12.04.207 Form of undertaking in attachment—Form of undertaking to discharge attachment.

FORM OF UNDERTAKING IN ATTACHMENT

Whereas, an application has been made by A B, plaintiff, to J P, one of the justices of the peace in and for county, for a writ of attachment against the personal property of C D, defendant;

Now, therefore, we, A B, plaintiff, and E F, acknowledge ourselves bound to C D in the sum of dollars, that if the defendant recover judgment in this action, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he or she may sustain by reason of the said attachment and not exceeding the sum of dollars.

Dated the day of, (year) A B, E F.

FORM OF UNDERTAKING
TO DISCHARGE ATTACHMENT

Whereas, a writ of attachment has been issued by J P, one of the justices of the peace in and for county, against the personal property of C D, defendant, in an action in which A B is plaintiff; Now, therefore, we C D, defendant, E F, and G H, acknowledge ourselves bound unto J K, constable, in the sum of dollars, [double the value of the property], engaging to deliver the property attached, to wit: [here set forth a list of articles attached], or pay the value thereof to the sheriff or constable, to whom the execution upon a judgment obtained by plaintiff in the aforesaid action may be issued.

Dated this day of, (year) C D, E F, G H. [2016 c 202 § 18; 2010 c 8 § 3017; 1957 c 89 § 9. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 § 19, part; RRS § 1890, part.]

RCW 12.04.208 Form of undertaking to indemnify constable on claim of property by a third person.

FORM OF UNDERTAKING
TO INDEMNIFY CONSTABLE ON CLAIM OF
PROPERTY BY A THIRD PERSON

Whereas, L M, claims to be owner of, and have the right to possession of certain personal property, to wit: [here describe it] which has been taken by J K, constable in county, upon an execution by J P, justice of the peace in and for the county of, upon a judgment obtained by A B, plaintiff, against C D, defendant; Now, therefore, we A B, plaintiff, E F, and G H, acknowledge ourselves bound unto the said J K, constable, in the sum of dollars, to indemnify the said J K against such claim. A B, E F, G H.

[1957 c 89 § 10. Prior: Code 1881 § 1885, part; 1873 p 373 c 16, part; 1863 p 370 c 16, part; 1854 p 253 c 19, part; RRS § 1890, part.]