Chapter 10.40 RCW
ARRAIGNMENT

Sections

Rules of court: *Arraignment—CrR 4.1.*

RCW 10.40.050 Entry and use of true name. If he or she alleges that another name is his or her true name it must be entered in the minutes of the court, and the subsequent proceedings on the indictment or information may be had against him or her by that name, referring also to the name by which he or she is indicted or informed against. [2010 c 8 s 1038; 1891 c 28 s 49; Code 1881 s 1065; 1873 p 232 s 227; 1854 p 116 s 91; RRS s 2097.]

Action on discovery of true name: RCW 10.46.060.

RCW 10.40.060 Pleading to arraignment. In answer to the arraignment, the defendant may move to set aside the indictment or information, or he or she may demur or plead to it, and is entitled to one day after arraignment in which to answer thereto if he or she demands it. [2010 c 8 s 1039; 1891 c 28 s 50; Code 1881 s 1045; RRS s 2098.]

RCW 10.40.070 Motion to set aside indictment. The motion to set aside the indictment can be made by the defendant on one or more of the following grounds, and must be sustained:

(1) When any person, other than the grand jurors, was present before the grand jury when the question was taken upon the finding of the indictment, or when any person, other than the grand jurors, was present before the grand jury during the investigation of the charge, except as required or permitted by law;

(2) If the grand jury were not selected, drawn, summoned, impaneled, or sworn as prescribed by law. [1983 c 3 s 12; 1957 c 10 s 1; Code 1881 s 1046; RRS s 2099. FORMER PART OF SECTION: Code 1881 s 1047; RRS s 2100, now codified as RCW 10.40.075.]

RCW 10.40.075 Motion to set aside indictment—Grounds not allowed, when. The ground of the motion to set aside the indictment mentioned in the fourth subdivision of RCW 10.40.070 is not allowed to a defendant who has been held to answer before indictment. [Code 1881 s 1047; RRS s 2100. Formerly RCW 10.40.070, part.]

RCW 10.40.090 Sustaining motion—Effect of. An order to set aside the indictment or information as provided in this chapter shall be no bar to a future prosecution for the same offense. [1891 c 28 s 54; Code 1881 s 1050; RRS s 2104.]

RCW 10.40.100 Overruling motion—Pleading over. If the motion to set aside the indictment [or information] be denied, the defendant must immediately answer the indictment or information, either by demurring or pleading thereto. [1891 c 28 s 52; Code 1881 s 1048; RRS s 2102.]

RCW 10.40.110 Demurrer to indictment or information. The defendant may demur to the indictment or information when it appears upon its face either—

(1) That it does not substantially conform to the requirements of this code;

(2) [That] more than one crime is charged;

(3) That the facts charged do not constitute a crime;

(4) That the indictment or information contains any matter which, if true, would constitute a defense or other legal bar to the action. [1891 c 28 s 55; Code 1881 s 1051; RRS s 2105.]

RCW 10.40.120 Sustaining demurrer—When final. If the demurrer is sustained because the indictment or information contains matter which is a legal defense or bar to the action, the judgment shall be final, and the defendant must be discharged. [1891 c 28 s 56; Code 1881 s 1052; RRS s 2106. FORMER PART OF SECTION: 1891 c 28 s 61; Code 1881 s 1060; RRS s 2114, now codified as RCW 10.40.125.]

RCW 10.40.125 Sustaining demurrer, etc.—When not final. The judgment for the defendant on a demurrer to the indictment or information, except where it is otherwise provided, or for an objection taken at the trial to its form or substance, or for variance between the indictment or information and the proof, shall not bar another prosecution for the same offense. [1891 c 28 s 61; Code 1881 s 1060; RRS s 2114. Formerly RCW 10.40.120, part.]

RCW 10.40.140 Overruling demurrer—Pleading over. If the demurrer is overruled the defendant has a right to put in a plea. If he or she fails to do so, judgment may be rendered against him or her on the demurrer, and, if necessary, a jury may be impaneled to inquire and ascertain the degree of the offense. [2010 c 8 s 1040; Code 1881 s 1053; RRS s 2107.]

RCW 10.40.170 Plea of guilty. The plea of guilty can only be put in by the defendant himself or herself in open court. [2010 c 8 s 1041; Code 1881 s 1056; RRS s 2110. FORMER PART OF SECTION: Code 1881 s 1057; RRS s 2111, now codified as RCW 10.40.175.]

RCW 10.40.180 Plea of not guilty. The plea of not guilty is a denial of every material allegation in the indictment or information; and all matters of fact may be given in evidence under it, except a former conviction or acquittal. [1891 c 28 s 59; Code 1881 s 1058; RRS s 2112.]

RCW 10.40.190 Refusal to answer. If the defendant fail or refuse to answer the indictment or information by demurrer or plea, a plea of not guilty must be entered by the court. [1891 c 28 s 62; Code 1881 s 1061; 1873 p 232 s 224; 1854 p 116 s 88; RRS s 2115.]

RCW 10.40.200 Deportation of aliens upon conviction—Advisement—Legislative intent. (1) The legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is further the intent of the legislature that at the time of the plea no defendant be required to disclose his or her legal status to the court.

(2) Prior to acceptance of a plea of guilty to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall determine that the defendant has been advised of the following potential consequences of conviction for a defendant who is not a citizen of the United States: Deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. A defendant signing a guilty plea statement containing the advisement required by this subsection shall be presumed to have received the required advisement. If, after September 1, 1983, the defendant has not been advised as required by this section and the defendant shows that conviction of the offense to which the defendant pleaded guilty may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty and enter a plea of not guilty. Absent a written acknowledgment by the defendant of the advisement required by this subsection, the defendant shall be presumed not to have received the required advisement.

(3) With respect to pleas accepted prior to September 1, 1983, it is not the intent of the legislature that a defendant's failure to

receive the advisement required by subsection (2) of this section should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid. [1983 c 199 s 1.]

Notice to courts—Rules—Forms: "The administrative office of the courts shall notify all courts of the requirements contained in RCW 10.40.200. The judicial council shall recommend to the supreme court appropriate court rules to ensure compliance with the requirements of RCW 10.40.200. Until court rules are promulgated, the administrative office of the courts shall develop and distribute forms necessary for the courts to comply with RCW 10.40.200." [2005 c 282 s 21; 1983 c 199 s 2.]

Effective date—1983 c 199 s 1: "Section 1 of this act shall take effect on September 1, 1983." [1983 c 199 s 3.]