

**Chapter 12.16 RCW  
WITNESSES AND DEPOSITIONS**

**Sections**

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*Oaths and affirmations: Chapter 5.28 RCW.*

**RCW 12.16.015 District court may compel attendance of witness.**

Any person may be compelled to attend as a witness before a district court in accordance with chapter 5.56 RCW. [1984 c 258 § 702.]

**Court Improvement Act of 1984—Effective dates—Severability—**

**Short title—1984 c 258:** See notes following RCW 3.30.010.

**RCW 12.16.020 Service of subpoena.**

A subpoena may be served by any person above the age of eighteen years, by reading it to the witness, or by delivering to him or her a copy at his or her usual place of abode. [2010 c 8 § 3027; Code 1881 § 1870; 1873 p 370 § 169; 1854 p 233 § 58; RRS § 1899.]

**RCW 12.16.030 Attachment for nonappearance.**

Whenever it shall appear to the satisfaction of the justice, by proof made before him or her, that any person, duly subpoenaed to appear before him or her in an action, shall have failed, without a just cause, to attend as a witness, in conformity to such subpoena, and the party in whose behalf such subpoena was issued, or his or her agent, shall make oath that the testimony of such witness is material, the justice shall have the power to issue an attachment to compel the attendance of such witness: PROVIDED, That no attachment shall issue against a witness in any civil action, unless his or her fees for mileage and one day's attendance have been tendered or paid in advance, if previously demanded by such witness from the person serving the subpoena. [2010 c 8 § 3028; Code 1881 § 1871; 1873 p 370 § 170; 1854 p 233 § 59; RRS § 1900.]

*Attachment of a witness: RCW 5.56.070.*

*When witness must attend: RCW 5.56.010.*

**RCW 12.16.040 Service of attachment—Fees.**

Every such attachment may be directed to any sheriff or constable of the county in which the justice resides, and shall be executed in the same manner as a warrant; and the fees of the officer for issuing and serving the

same shall be paid by the person against whom the same was issued, unless he or she show reasonable cause, to the satisfaction of the justice, for his or her omission to attend; in which case the party requiring such attachment shall pay all such costs. [2010 c 8 § 3029; Code 1881 § 1872; 1873 p 370 § 171; 1854 p 233 § 60; RRS § 1901.]

*Attachment, to whom directed—Execution: RCW 5.56.080.*

**RCW 12.16.050 Damages for nonappearance.** Every person subpoenaed as aforesaid, and neglecting to appear, shall also be liable to the party in whose behalf he or she may have been subpoenaed, for all damages which such party may have sustained by reason of his or her nonappearance: PROVIDED, That such witness had the fees allowed for mileage and one day's attendance paid, or tendered him or her, in advance, if demanded by him or her at the time of the service. [2010 c 8 § 3030; Code 1881 § 1873; 1873 p 371 § 172; 1854 p 234 § 61; RRS § 1902.]

*Result of failure to attend: RCW 5.56.060, 5.56.061.*

*When witness must attend: RCW 5.56.010.*

**RCW 12.16.060 Party to action as adverse witness.** A party to an action may be examined as a witness, at the instance of the adverse party, and for that purpose may be compelled in the same manner, and subject to the same rules of examination, as any other witness, to testify at the trial, or appear and have his or her deposition taken. [2010 c 8 § 3031; Code 1881 § 1874; 1873 p 371 § 173; 1854 p 234 § 62; RRS § 1903.]

**RCW 12.16.070 Testimony of party may be rebutted.** The examination of a party thus taken, may be rebutted by adverse testimony. [Code 1881 § 1875; 1873 p 371 § 174; 1854 p 234 § 63; RRS § 1904.]

**RCW 12.16.080 Procedure on party's refusal to testify.** If a party refuse to attend and testify at the trial, or give his or her deposition before trial, when required, his or her complaint, answer or reply, may be stricken out, and judgment taken against him or her. [2010 c 8 § 3032; Code 1881 § 1876; 1873 p 371 § 175; 1854 p 234 § 64; RRS § 1905.]

*Penalty for failure to testify: Rules of court: CR 43(f)(3).*

**RCW 12.16.090 Examination of party in his or her own behalf.** A party examined by an adverse party may be examined on his or her own behalf, in respect to any matter pertinent to the issue. But if he or she testify to any new matter, not responsive to the inquiries put to him or her by the adverse party, or necessary to qualify or explain his or her answer thereto, or to discharge, when his or her answer would charge himself or herself, such adverse party may offer himself

or herself as a witness, and he or she shall be so received. [2010 c  
8 § 3033; Code 1881 § 1877; 1873 p 371 § 176; 1854 p 234 § 65; RRS §  
1906.]