

**Chapter 4.08 RCW
PARTIES TO ACTIONS**

Sections

- 4.08.030 Either spouse or either domestic partner may sue for community—Necessary parties.
- 4.08.040 When either spouse or either domestic partner may join, defend.
- 4.08.050 Guardian ad litem for infant.
- 4.08.060 Guardian ad litem for incapacitated person.
- 4.08.080 Action on assigned choses in action.
- 4.08.100 Action to recover purchase money on land—Final judgment.
- 4.08.110 Action by public corporations.
- 4.08.120 Action against public corporations.
- 4.08.140 New party entitled to service of summons.
- 4.08.150 Substitution and interpleader.
- 4.08.160 Action to determine conflicting claims to property.
- 4.08.170 Action to determine conflicting claims to property—Disclaimer and deposit in court.
- 4.08.180 Action to determine conflicting claims to property—Trial of issue.

Persons licensed to provide health care or related services, employees, hospitals, clinics, etc.—Professional review committee, society, examining or disciplinary board members, etc.—Immunity from civil suit arising from duties: RCW 4.24.240.

RCW 4.08.030 Either spouse or either domestic partner may sue for community—Necessary parties. Either spouse or either domestic partner may sue on behalf of the community: PROVIDED, That

(1) When the action is for personal injuries, the spouse or the domestic partner having sustained personal injuries is a necessary party;

(2) When the action is for compensation for services rendered, the spouse or the domestic partner having rendered the services is a necessary party. [2008 c 6 s 407; 1972 ex.s. c 108 s 1; Code 1881 s 6; 1877 p 4 s 6; 1875 p 4 s 2; 1869 p 4 s 6; 1854 p 131 s 5; RRS s 181.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 4.08.040 When either spouse or either domestic partner may join, defend. Either spouse or either domestic partner may join in all causes of action arising from injuries to the person or character of either or both of them, or from injuries to the property of either or both of them, or arising out of any contract in favor of either or both of them.

If the spouses or the domestic partners are sued together, either or both spouses or either or both domestic partners may defend, and if one spouse or one domestic partner neglects to defend, the other spouse or other domestic partner may defend for the nonacting spouse or nonacting domestic partner also. Each spouse or each domestic

partner may defend in all cases in which he or she is interested, whether that spouse or that domestic partner is sued with the other spouse or other domestic partner or not. [2008 c 6 s 408; 1972 ex.s. c 108 s 2; Code 1881 s 7; 1877 p 4 s 7; 1875 p 4 s 3; 1854 p 219 s 492; RRS s 182.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 4.08.050 Guardian ad litem for infant. Except as provided under RCW 28A.225.035 and 7.105.100, when an infant is a party he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act. Said guardian shall be appointed as follows:

(1) When the infant is plaintiff, upon the application of the infant, if he or she be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

(2) When the infant is defendant, upon the application of the infant, if he or she be of the age of fourteen years, and applies within thirty days after the service of the summons; if he or she be under the age of fourteen, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant. [2022 c 268 s 32; 2021 c 215 s 89; 1996 c 134 s 7; 1992 c 111 s 9; 1891 c 30 s 1; Code 1881 s 12; 1854 p 132 ss 6, 7; RRS s 187.]

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: "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is

excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 s 1.]

RCW 4.08.060 Guardian ad litem for incapacitated person. When an incapacitated person is a party to an action in the superior courts he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed as follows:

(1) When the incapacitated person is plaintiff, upon the application of a relative or friend of the incapacitated person.

(2) When the incapacitated person is defendant, upon the application of a relative or friend of such incapacitated person, such application shall be made within thirty days after the service of summons if served in the state of Washington, and if served out of the state or service is made by publication, then such application shall be made within sixty days after the first publication of summons or within sixty days after the service out of the state. If no such application be made within the time above limited, application may be made by any party to the action. [1996 c 249 s 5; 1899 c 91 s 1; RRS s 188.]

Intent—1996 c 249: See note following RCW 2.56.030.

RCW 4.08.080 Action on assigned choses in action. Any assignee or assignees of any judgment, bond, specialty, book account, or other chose in action, for the payment of money, by assignment in writing, signed by the person authorized to make the same, may, by virtue of such assignment, sue and maintain an action or actions in his or her name, against the obligor or obligors, debtor or debtors, named in such judgment, bond, specialty, book account, or other chose in action, notwithstanding the assignor may have an interest in the thing assigned: PROVIDED, That any debtor may plead in defense as many defenses, counterclaims and offsets, whether they be such as have heretofore been denominated legal or equitable, or both, if held by him against the original owner, against the debt assigned, save that

no counterclaim or offset shall be pleaded against negotiable paper assigned before due, and where the holder thereof has purchased the same in good faith and for value, and is the owner of all interest therein. [1927 c 87 s 1; 1891 c 30 s 2; Code 1881 s 15; 1879 p 122 s 1; 1854 p 131 s 3; RRS s 191.]

RCW 4.08.100 Action to recover purchase money on land—Final judgment. In any action brought for the recovery of the purchase money against any person holding a contract for the purchase of lands, the party bound to perform the contract, if not the plaintiff, may be made a party, and the court in a final judgment may order the interest of purchaser to be sold or transferred to the plaintiff upon such terms as may be just, and may also order a specific performance of the contract in favor of the complainant, or the purchaser, in case a sale be ordered. [Code 1881 s 19; 1877 p 6 s 19; 1854 p 219 s 490; RRS s 195.]

RCW 4.08.110 Action by public corporations. An action at law may be maintained by any county, incorporated town, school district or other public corporation of like character, in its corporate name, and upon a cause of action accruing to it, in its corporate character and not otherwise, in any of the following cases:

- (1) Upon a contract made with such public corporation;
- (2) Upon a liability prescribed by law in favor of such public corporation;
- (3) To recover a penalty or forfeiture given to such public corporation;
- (4) To recover damages for an injury to the corporate rights or property of such public corporation. [1953 c 118 s 1. Prior: Code 1881 s 661; 1869 p 154 s 601; RRS s 950.]

RCW 4.08.120 Action against public corporations. An action may be maintained against a county or other of the public corporations mentioned or described in RCW 4.08.110, either upon a contract made by such county, or other public corporation in its corporate character and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such county or other public corporation. [1953 c 118 s 2. Prior: Code 1881 s 662; 1869 p 154 s 602; RRS s 951.]

RCW 4.08.140 New party entitled to service of summons. When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same summons to be served in the same manner as required for defendants in the commencement of an action. [1957 c 7 s 1. Prior: Code 1881 ss 21, 742; 1877 pp 6 and 151 ss 21, 747; 1873 pp 7 and 176 ss 21, 682; 1869 pp 6 and 172 ss 21, 684; 1863 p 194 s 524; 1860 p 99 s 477; 1854 p 219 s 485; RRS s 197.]

Rules of court: Cf. CR 3; CR 5.

RCW 4.08.150 Substitution and interpleader. A defendant against whom an action is pending upon a contract, or for specific real or personal property, at any time before answer, upon affidavit that a person not a party to the action, and without collusion with him or her, makes against him or her a demand for the same debt or property, upon due notice to such person and the adverse party, may apply to the court for an order to substitute such person in his or her place, and discharge him or her from liability to either party on his or her depositing in court the amount of the debt, or delivering the property or its value to such person as the court may direct; and the court may make the order. [2011 c 336 s 75; Code 1881 s 22; 1877 p 6 s 22; 1869 p 7 s 22; 1854 p 132 s 12; RRS s 198.]

Rules of court: *Interpleader—CR 22; Substitution—CR 25.*

RCW 4.08.160 Action to determine conflicting claims to property. Anyone having in his or her possession, or under his or her control, any property or money, or being indebted, where more than one person claims to be the owner of, entitled to, interested in, or to have a lien on, such property, money, or indebtedness, or any part thereof, may commence an action in the superior court against all or any of such persons, and have their rights, claims, interest, or liens adjudged, determined, and adjusted in such action. [2011 c 336 s 76; 1890 p 93 s 1; RRS s 199.]

RCW 4.08.170 Action to determine conflicting claims to property—Disclaimer and deposit in court. In any action commenced under RCW 4.08.160, the plaintiff may disclaim any interest in the money, property, or indebtedness, and deposit with the clerk of the court the full amount of such money or indebtedness, or other property, and he or she shall not be liable for any costs accruing in said action. And the clerks of the various courts shall receive and file such complaint, and all other officers shall execute the necessary processes to carry out the purposes of this section, and RCW 4.08.160 and 4.08.180, free from all charge to said plaintiff, and the court, in its discretion, shall determine the liability for costs of the action. [2011 c 336 s 77; 1890 p 93 s 2; RRS s 200.]

RCW 4.08.180 Action to determine conflicting claims to property—Trial of issue. Either of the defendants may set up or show any claim or lien he or she may have to such property, money, or indebtedness, or any part thereof, and the superior right, title, or lien, whether legal or equitable, shall prevail.

The court or judge thereof may make all necessary orders, during the pendency of said action, for the preservation and protection of the rights, interests, or liens of the several parties. [2011 c 336 s 78; 1890 p 94 s 3; RRS s 201.]