

## CHAPTER 150.

[H. B. 149.]

## CRIMINAL PROCEDURE.

AN ACT relating to procedure in criminal cases, amending Sections 2042 and 2050 of Remington's Compiled Statutes; and amending Chapter XIII, Title XIII, of Remington's Compiled Statutes, by adding a new section to be known as Section 2050-1; and amending Sections 2186, 2181 and 2183 of Remington's Compiled Statutes; and amending Chapter XVIII, Title XIII, of Remington's Compiled Statutes, by adding two new sections to be known as sections 2183-1 and 2183-2 of Remington's Compiled Statutes, and repealing Section 2043 of Remington's Compiled Statutes.

*Be it enacted by the Legislature of the State of Washington:*

Amends  
§ 9249,  
Pierce's  
Code.

SECTION 1. That Section 2042 of Remington's Compiled Statutes of Washington be amended to read as follows:

Indictment.  
Twelve  
jurors must  
concur.

Section 2042. An indictment cannot be found without the concurrence of at least twelve grand jurors, and when so found, it must be endorsed "a true bill," and such endorsement, signed by the foreman of the jury before it is presented to the court. Upon a true bill or indictment being presented to the court, the clerk of the court must, within one day after demand made, furnish the defendant, or his counsel, a copy thereof without charge, or permit the defendant's counsel, or the clerk of such counsel to take a copy.

Indorsement  
signed by  
foreman.

Defendant  
entitled to  
copy.

Amends  
§ 9258,  
Pierce's  
Code.

SEC. 2. That Section 2050 of Remington's Compiled Statutes of Washington be amended to read as follows:

Filing of  
information  
by prosecut-  
ing attorney.

Section 2050. All informations shall be filed in the court having jurisdiction of the offense specified therein by the prosecuting attorney of the proper county as informant; he shall subscribe his name thereto, and at the time the case is set for trial the prosecuting attorney shall file with the clerk a list of the witnesses which he intends to use at the trial

When set for  
trial list of  
witnesses  
filed with  
clerk.

and serve a copy of the same upon the defendant, and within five days thereafter the defendant shall file with the clerk and serve upon the prosecuting attorney a list of the witnesses which the defendant intends to use at the trial. Either party may add such additional names at any time before trial as the court may by order permit, and the said court shall possess and may exercise the same powers and jurisdiction to hear, try, and determine all such prosecutions upon information, to issue writs and process, and do all other acts therein, as it possesses and may exercise in cases of like prosecution upon indictments.

Copy to defendant.

Defendant to file list of witnesses.

Additional names may be added.

SEC. 3. That Chapter XIII, Title XIII, of Remington's Compiled Statutes be amended by adding thereto a new section to be known as Section 2050-1, and to read as follows:

§ 9258-a, Pierce's Code.

Section 2050-1. No pleading other than an indictment, information or complaint shall be required on the part of the state in any criminal proceedings in any court of the state, and when such pleading is in the manner and form as provided by law the defendant shall be required to plead thereto as prescribed by law without any further action or proceedings of any kind on the part of the state.

Pleadings required of state.

Defendant's pleading.

SEC. 4. That Section 2186 of Remington's Compiled Statutes of Washington be amended to read as follows:

Amends § 9346, Pierce's Code.

Section 2186. Exceptions may be taken by the defendant, as in civil cases, on any matter of law by which his substantial rights are prejudiced: *Provided*, That exceptions to a charge to a jury, or to a refusal to give as a part of such charge instructions requested in writing must be taken by any party by stating to the court, in open court after the jury shall have retired to consider of their verdict, and before any verdict has been returned, that such party excepts to the same, specifying by numbers

Exceptions as in civil cases.

Exceptions: How taken.

of paragraphs or otherwise the parts of the charge excepted to, and the requested instructions the refusal to give which is excepted to; whereupon the judge shall note the exceptions in the minutes of the trial, or cause the stenographer (if one be in attendance) so to note the same.

Judge to  
note  
exceptions.

Amends  
§ 9341,  
Pierce's  
Code.

SEC. 5. That Section 2181 of Remington's Compiled Statutes of Washington be amended to read as follows:

Grounds  
for new  
trial.

Section 2181. An application, or motion, for a new trial must be made within two (2) days after a verdict of guilty is returned, and may be granted for the following causes, where it affirmatively appears that a substantial right of the defendant was affected, whereby he, or she, was illegally or unjustly convicted:

Misconduct  
of party or  
jury.

1. When the jury has received any evidence, paper document, or book not allowed by the court;

2. Misconduct of the jury;

New  
evidence.

3. Newly discovered evidence material for the defendant, which he could not have discovered with reasonable diligence, and produced at the trial;

Accident or  
surprise.  
Error of law.

4. Accident or surprise;

5. Error of law occurring at the trial and excepted to by the defendant;

Verdict  
contrary  
to law and  
evidence.

6. When the verdict is contrary to law and evidence; but not more than two new trials shall be granted for these causes alone.

Amends  
§ 9343,  
Pierce's  
Code.

SEC. 6. That Section 2183 of Remington's Compiled Statutes of Washington be amended to read as follows:

Arrest of  
judgment.

Section 2183. Judgment may be arrested on the motion of the defendant, made at the time the verdict is returned and noted by the court or the clerk upon the minutes of the trial, for the following causes:

1. No legal authority in the grand jury to in-

quire into the offense charged, by reason of its not being within the jurisdiction of the court;

2. That the facts as stated in the indictment or information do not constitute a crime or misdemeanor.

SEC. 7. That Chapter XVIII, Title XIII, of Remington's Compiled Statutes be amended by adding thereto a new section to be known as Section 2183-1, and to read as follows:

Section 2183-1. The state may have a right of appeal to the Supreme Court, upon giving the same notice as is required of other parties, when the error complained of is based on the following: (1) The setting aside of an indictment or information; (2) The sustaining of a demurrer to an indictment or information; (3) An order arresting judgment on any grounds; (4) An order granting to any one, convicted by a jury, a new trial on any grounds; (5) Any order which in effect abates or determines the action, or discontinues the same, otherwise than by an acquittal of the defendant by a jury: *Provided*, That in no case shall the state have a right to an appeal where the defendant has been acquitted by a jury.

When state may have right of appeal.

No appeal by state when jury acquits defendant.

SEC. 8. That Chapter XVIII, Title XIII, of Remington's Compiled Statutes be amended by adding thereto a new section to be known as Section 2183-2, and to read as follows:

Section 2183-2. Should any section of this act, or any portion of any section be for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the act as a whole or any of the remaining portions thereof.

Part of act invalid remainder not affected.

SEC. 9. Section 2043 of Remington's Compiled Statutes of Washington is hereby repealed.

Repeals § 9250, Pierce's Code.

Passed the House December 9, 1925.

Passed the Senate January 5, 1926.

Approved by the Governor January 14, 1926.