



## **I.C.R. 21. Transfer for Trial**

### **Idaho Criminal Rule 21. Transfer for Trial**

A motion for transfer may be made at or before arraignment or at any other time the court or these rules prescribe.

**(a) For Prejudice.** On motion of either party, the court must transfer the proceeding to another county if the court is satisfied that a fair and impartial trial cannot be had in the county where the case is pending.

**(b) For Convenience.** On motion of the defendant, the court may transfer the proceeding to another county, for the convenience of parties and witnesses, and in the interest of justice.

#### **(c) Proceedings on Transfer.**

(1) *Transfer Within a Judicial District.* If the proceeding is transferred to a court of proper venue within the same judicial district, the judge granting the transfer must:

(A) order the case transferred to a specific court of proper venue within the judicial district; and

(B) continue the assignment over the case, unless the administrative district judge reassigns the case to another judge of the judicial district.

(2) *Transfer to a Different Judicial District.* If the proceeding is transferred to a court of proper venue in a different judicial district, a new presiding judge is assigned as follows:

(A) If the original judge desires to continue the assignment over the case, the judge may so indicate in the order, suggesting a court of proper venue, and refer to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and for assignment of a specific judge to preside; or



(B) if the original judge does not desire to continue the assignment over the case, the judge must enter an order transferring the case without specifying the new place of venue, and then refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the criminal proceeding.

### **(d) Disqualification of Judge.**

(1) *Transfer Within a Judicial District.* If a judge is disqualified from further handling of a proceeding which has been transferred to a court of proper venue within the same judicial district, the administrative district judge must reassign the case to another judge of the judicial district.

(2) *Transfer to a Different Judicial District.* If a judge is disqualified from further handling of a proceeding that has been transferred to a different judicial district, the administrative district judge of the receiving judicial district must refer the case to the administrative director of the courts for assignment by the Supreme Court to a court of proper venue and assignment of a specific judge.

([Adopted February 22, 2017, effective July 1, 2017](#) [1].)

**Source URL:** <https://isc.idaho.gov/icr21>

### **Links**

[1] <https://isc.idaho.gov/./rules/ICR/ICR-19-24.1-Adoption-of-Newly-Formatted-ICR-022217.pdf>