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IRFLP 212 Intervention

Idaho Rules of Family Law Procedure Rule 212. Intervention.

(a) **Intervention of Right.** On timely motion, the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by an Idaho statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing the action may as a practical matter impair or impede the movant's ability to protect its interest, unless the existing parties adequately represent that interest.

(b) **Permissive Intervention.**

(1) **In General.** On timely motion, the court may permit anyone to intervene who:

(A) is given a conditional right to intervene by an Idaho statute; or

(B) has a claim or defense that shares with the main action a common question of law or fact.

(2) **By a Government Officer or Agency.** On timely motion, the court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.



(3) **Delay or Prejudice.** In exercising its discretion the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

(c) **Procedure.** A motion to intervene must be filed and be served on the parties as provided in Rule 205. The motion must state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.

(d) **Intervention by Department of Health and Welfare.** A motion to intervene brought by the Idaho Department of Health and Welfare for the purpose of obtaining, enforcing or modifying a child support order may be granted without hearing, subject to a later hearing upon a motion by an objecting party. Service of the motion and any order allowing intervention may be made by mail to the last known address of each of the parties.

(e) **Intervention by De Facto Custodian.**

(1) A request for de facto custodian status pursuant to existing Idaho order of child custody or a pending Idaho proceeding to establish custody with regard to the child that is the subject of the request. A child custody proceeding does not include actions filed pursuant to title 16 of the Idaho Code. The motion for permissive intervention must be served pursuant to Rule 203 in any pending child custody proceeding. The motion for permissive intervention must be served pursuant to Rule 204 if the custody proceeding is closed. A notice of hearing must be served along with the motion in accordance with Rule 501(a)(3).

(2) If the motion for permissive intervention is granted, a petition for de facto custodian status and custody may be filed. The petition must be served and adjudicated in substantially the same manner as an original action. The petition and notice of hearing must be served upon the parties pursuant to Rule 204 unless otherwise ordered by the court. The notice of hearing must direct the opposing party to file a written response within 21 days.

(Adopted March 29, 2021, effective July 1, 2021.)

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