

Proposed Amendments to the Idaho Rules of Family Law Procedure

September 2025

The Idaho Supreme Court's Children and Families in the Courts Committee (CFCC) is seeking input on proposed revisions to the Idaho Rules of Family Law Procedure. Please send your comments to **Deena Layne**, dlayne@idcourts.net by **Wednesday, September 17, 2025**. Thank you.

Proposed Amendments to IRFLP 110: *The proposed amendments to IRFLP 110 seek to clarify and update the rule according to the Court's recently adopted style guide.*

Idaho Rules of Family Law Procedure Rule 110. Substitution of Attorney.

(a) **In General.** An attorney may be substituted by filing written notice with the court. The notice must be signed by both the new attorney and the withdrawing attorney. A party may not substitute in as an attorney, unless the party is a licensed attorney in Idaho.

(b) **Effect of Substitution.** The substitution of attorneys or the appearance of a new attorney must not delay the proceedings except for good cause ~~shown~~.

Proposed Amendments to IRFLP 509: *The proposed amendments to IRFLP 509 seek to clarify and update the rule according to the Court's recently adopted style guide.*

Idaho Rules of Family Law Procedure Rule 509. ~~Prohibitive or Mandatory Judgments~~ Joint Preliminary Order and Orders by Court Motion.

~~In family law actions, the court may make prohibitive or mandatory orders, with or without notice or bond as may be just, including bond for payment of costs, damages and reasonable attorney fees, as may be just.~~

(a) **Joint Preliminary Order.** The court may issue a joint preliminary order in the form approved by the Idaho Supreme Court.

(b) **Orders by Court Motion.** When justice requires, the court may issue, with or without notice, additional orders on its own motion.

Proposed Amendments to IRFLP 706: *The proposed amendments to IRFLP 706 clarify that objections by a party regarding a court's examination of a witness must be made at the time of the*

examination. Additional amendments were also made to update the rule according to the Court's recently adopted style guide.

Idaho Rules of Family Law Procedure Rule 706. Taking Testimony.

(a) **In Open Court.** At trial or an evidentiary hearing, witness testimony must be taken in open court unless a statute, these rules, the Idaho Rules of Evidence, other rules or orders adopted by the Idaho Supreme Court provide otherwise. ~~For good cause shown in compelling circumstances and with appropriate safeguards, t~~The court may permit testimony in open court by contemporaneous transmission from a different location through the use of video conferencing.

(b) **Affirmation Instead of Oath.** When these rules require an oath, a solemn affirmation ~~suffices~~ is sufficient.

(c) **Interpreter.** If any party, or person the party intends to call as a witness, needs an interpreter as provided in I.C.A.R. 52, the party must notify the court at least 14 days before commencement of the court proceeding, or as soon as practicable in the event of an expedited hearing. ~~If the party fails to do so without a showing of good cause, and as a result the trial or hearing is postponed, the court may require the party to pay costs resulting from failing to give adequate notice.~~

(d) **Direct and Cross-e**~~Examination.~~ The examination questioning of a witness by the party producing calling the witness is called the direct examination; the examination questioning of the same witness by the adverse other party is called the cross-examination. The direct examination must be completed before the cross-examination begins, unless the court allows otherwise allows.

(e) **Limitation on Examination.** Only one attorney on each side must conduct the examination of a witness until such examination is completed, ~~except when~~ unless the court grants permission for other attorneys to conduct the examination.

(f) **Calling by Court.** When the court is the trier of fact, the court may call witnesses on its own ~~motion or at the suggestion of a party or at a party's request. All parties are entitled to cross-examine witnesses called.~~ Each party is entitled to cross-examine the witness.

(g) ~~Interrogation by Court~~ **Examination by Court.** The court may examine a witness regardless of who calls the witness. interrogate witnesses, whether called by itself or by a party.

(h) **Objection.** ~~Objections to the interrogation of a witness by the court may be made at the time of interrogation or at the next available opportunity. A party may object to the court examining a witness at the time of the examination.~~

(i) **Reexamination and Recalling of Witnesses.** ~~After a witness has been A witness once examined, they cannot be reexamined as to the same matter without leave permission of the court, but t~~The witness may be reexamined as to any new matter on which the witness has been examined by the adverse party. A witness, after being examined by the party producing who called the witness and adverse party, cannot be recalled by the same party without leave permission of the

court. This rule does not preclude the adverse party from calling such witness as that party's own witness for direct examination.

(j) **View of Premises, Property, or Things.** During a trial, the court may order that the court may view any property, place, item, or circumstance relevant to the action. A viewing by the court must be conducted personally by the court after notice to all parties. Attorneys have the right to be present at any viewing by the court.

(k) **Inspection of Writings.** Whenever a writing is shown to a witness it may be inspected by any other party.