

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT TO IDAHO MISDEMEANOR)
CRIMINAL RULE 5)

ORDER

The Court, having reviewed a recommendation from the Misdemeanor and Infraction Rules Advisory Committee to amend the Idaho Misdemeanor Criminal Rules, and the Court being fully informed,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Misdemeanor Criminal Rules be amended as follows:

Rule 5. Uniform citation—Issuance—Service—Form—Number—Distribution.

(b) **Exception – Second Offense or Enhanced DUI; Stalking in the Second Degree; Domestic Assault or Battery; Violation of a Domestic Violence Protection Order; Violation of a No Contact Order; Sexual Battery; or Violation of a Protection Order for Malicious Harassment.** Notwithstanding subsection (a), a defendant arrested or cited and subsequently released for “Driving Under the Influence (Second Offense),” Idaho Code § 18-8005(4); ~~or~~ “Driving Under the Influence (Enhanced Penalty),” Idaho Code § 18-8004C; “Stalking in the Second Degree,” Idaho Code § 18-7906; “Domestic Violence,” Idaho Code § 18-918 (assault or battery); “Violation of a Domestic Violence Protection Order,” Idaho Code § 39-6312; “Violation of a No Contact Order,” Idaho Code § 18-920; “Sexual Battery,” Idaho Code § 18-924; or “Violation of a Protection Order for Malicious Harassment,” Idaho Code § 18-7907, shall personally appear before a magistrate, for arraignment, within forty-eight (48) hours following the arrest or citation excluding Saturdays, Sundays and holidays. Provided, the court may postpone the arraignment if the defendant is hospitalized or otherwise in a condition which prevents the defendant being taken before the magistrate. At the arraignment, the court may order any appropriate conditions of release pursuant to Idaho Criminal Rule 46 and Idaho Criminal Rule 46.2. Failure to conduct the arraignment within forty-eight (48) hours shall not constitute grounds for dismissal. A person arrested or cited who remains in custody shall make an initial appearance before a magistrate as provided in Idaho Criminal Rule 5.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER

AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Criminal Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 13 day of January, 2021.

By Order of the Supreme Court



G. Richard Bevan, Chief Justice

ATTEST:



Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
Certify that the above is a true and correct copy of the
Order Misdemeanor entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court January 13, 2021
Melanie Gagnepain, Clerk

By  Deputy