

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO CRIMINAL)
RULES 5 (e), 5.1, and Appendix A forms for Warrant of)
Arrest (Felony) and Warrant of Arrest (Misdemeanor)) ORDER

The Court, having received a recommendation to amend the Idaho Criminal Rules, and being fully informed as to the recommendation:

NOW, THEREFORE, IT IS ORDERED that the Idaho Criminal Rules are amended as follows:

1. That Rule 5 be amended as follows:

Rule 5. Initial Appearance Before Magistrate; Determination of Probable Cause; Advice to Defendant; Plea in Misdemeanors; Initial Appearance on Grand Jury Indictment.

(e) Advice to Defendant on Initial Appearance. At the initial appearance, the magistrate must advise the defendant of the following:

- (1) the defendant is not required to make a statement and that any statement made may be used against the defendant;
- (2) the nature of the charge or charges against the defendant;
- (3) the defendant's right to bail;
- (4) the defendant's right to counsel as provided by law;
- (5) if in a county other than that in which the offense occurred, of the defendant's right to proceed under Rule 20 of these rules;
- (6) if in the county in which the offense occurred, of defendant's right to a preliminary hearing, if provided by law, the nature of a preliminary hearing, and the effect of a waiver of a preliminary hearing, and
- (7) the defendant's right to communicate with counsel and immediate family, and that reasonable means will be provided for the defendant to do so.

In addition, the defendant must sign and submit the Supreme Court form found in Appendix A entitled "Notification of Rights (Felony)". In the event the defendant is charged with both a felony and a misdemeanor, only the Notification of Rights - Felony form must be submitted.

2. That Rule 5.1 be amended as follows:

Rule 5.1. Preliminary Hearing; Probable Cause Finding; Discharge or Commitment of Defendant; Procedure.

(a) Preliminary Hearing. Unless indicted by a grand jury, a defendant charged in a complaint with any felony is entitled to a preliminary hearing. If the defendant waives the preliminary hearing, ~~the waiver must be on the Supreme Court form found in Appendix A, and~~ the magistrate must immediately file a written order in the district court requiring the defendant to answer. If a waiver of preliminary hearing form is used, the waiver form must be the Supreme Court waiver of preliminary hearing form found in Appendix A of these rules. If the defendant does not waive the preliminary hearing, the magistrate must schedule a preliminary hearing within a reasonable time, but in any event not later than 14 days following the defendant's initial appearance if the defendant is in custody and no later than 21 days after the initial appearance if the defendant is not in custody. Time limits in this subsection may be extended with the consent of the defendant and on showing of good cause, taking into account the public interest and prompt disposition of criminal cases. In the absence of consent by the defendant, time limits may be extended only on a showing that extraordinary circumstances exist. Extraordinary circumstances include disqualification of the magistrate by the defendant pursuant to Rule 25.

3. That Appendix A be amended with new forms for the Warrant of Arrest (Felony) and Warrant of Arrest (Misdemeanor) as follows:

APPENDIX A to CRIMINAL RULES

Rule 4A(d)(1) - Warrant of Arrest (Felony) Form; Warrant of Arrest (Misdemeanor) Form

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, other than the addition of new forms in Appendix A. 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 1ST day of August, 2019.

I, Karel A. Lehrman, 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
entered in the above entitled cause and now on
record in my office.

WITNESS my hand and the Seal of this Court 8-1-19

KAREL A. LEHRMAN

Clerk

For Clerk
By: [Signature]

Chief Deputy

By Order of the Supreme Court

[Signature]
Roger S. Burdick, Chief Justice

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

STATE OF IDAHO
Plaintiff,

v.

Defendant.

DOB: _____

Case No. _____

Warrant of Arrest (Felony)

AKA:	DL #: XXXXX	SS#:XXX-XX-	Gender:
Race:	Height:	Weight:	Hair Color:
Address:			

To any law enforcement officer of the State of Idaho:

Information, under oath, having been presented to me through (name) _____

(prosecuting agency, email or phone) _____ on _____,

and there appearing to be probable cause to believe that the following public offense(s) of Idaho
Code section(s):

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>

have/has been committed, and accusing _____ thereof, you are ordered to
arrest and bring the Defendant before the Court at _____, County of
_____, State of Idaho, or, in the case of my absence or inability to act or if the
Defendant is arrested outside of this county, before the nearest available magistrate within the
judicial district where the Defendant is arrested.

BAIL: _____.

The arrest may be on any day, and at any time day or night, including inside a person's
residence. I.C. § 19-607.

Dated: _____

Judge's Signature

Judge's Printed Name

RETURN OF SERVICE

I certify that I received this Warrant on the (date)_____ and served it on the
defendant on the (date)_____ at_____ a.m., p.m.

Dated: _____

(Signature)

(Typed/Printed Name)

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

STATE OF IDAHO
Plaintiff,

v.

Defendant.

DOB: _____

Case No. _____

Warrant of Arrest (Misdemeanor)

AKA:	DL #: XXXXX	SS#:XXX-XX-	Gender:
Race:	Height:	Weight:	Hair Color:
Address:			

To any law enforcement officer of the State of Idaho:

Information, under oath, having been presented to me through (name) _____
(prosecuting agency, email or phone) _____ on _____,
and there appearing to be probable cause to believe that the following public offense(s) of Idaho
Code section(s):

<u>Count</u>	<u>Statute</u>	<u>Charge Description</u>

have/has been committed, and accusing _____ thereof, you are ordered to
arrest and bring the Defendant before the Court at _____
County of _____, State of Idaho, or, in the case of my absence or inability to act or
if the Defendant is arrested outside of this county, before the nearest available magistrate within
the judicial district where the Defendant is arrested.

☐ Bail: _____.

☐ Book and release on own recognizance.

The arrest shall not be made inside a person's residence between 8:00 p.m. and 8:00 a.m., unless otherwise authorized or where consent was given to enter the residence by a person with real or apparent authority. I.C. § 19-607.

☐ Residential execution between 8:00 p.m. and 8:00 a.m. authorized. I.C. § 19-607.

Defendant shall be transported:

☐ from _____ Judicial District(s) only.

☐ from _____ counties only.

☐ from any and all counties in the State of Idaho.

Dated: _____

Judge's Signature

Judge's Printed Name

RETURN OF SERVICE

I certify that I received this Warrant on the (date)_____ and served it on the defendant on the (date)_____ at _____ a.m., p.m.

Dated: _____

(Signature)

(Typed/Printed Name)