

I.A.R. 12.2 Expedited Review for Appeals in Custody Cases Brought Pursuant to Rule 11.1 and 12.1

Idaho Appellate Rule 12.2. Expedited Review for Appeals in Custody Cases Brought Pursuant to Rule 11.1 or Rule 12.1.

This rule governs procedures for an expedited review of an appeal brought as a matter of right pursuant to Rule 11.1 or a permissive appeal granted pursuant to Rule 12.1.

(a) Procedure for filing Notice of Appeal.

(1) Appeal from a judgment granting or denying a petition to terminate parental rights or a petition for adoption. An appeal from any final judgment, as defined in Rule 54(a) of the Idaho Rules of Civil Procedure, granting or denying a petition for termination of parental rights or granting or denying a petition for adoption shall be made only by physically filing a notice of appeal with the clerk of the district court within fourteen (14) days from the date file stamped on the judgment. A notice of cross appeal must be filed within seven (7) days from the notice of appeal.

(2) Permissive appeals involving custody of a minor or a Child Protective Act proceeding. An appeal filed pursuant to an order granting a motion for permission to appeal pursuant to Rule 12.1 shall be made only by physically filing a notice of appeal with the clerk of the district court within fourteen (14) days from the date file stamped on the order of the magistrate court granting the appeal or the date of issuance of the Supreme Court order granting the appeal . A notice of cross appeal must be filed within seven (7) days from the notice of appeal.

(b) Preparation and filing of clerk's record. The official court file, including any minute entries or orders together with the exhibits offered or admitted, shall constitute the clerk's record in such appeal. The record shall be prepared in accord with Rule 27 (a) and (b) as to number, use and fee, and Rule 28 (d) (e) and (f) and (g) as to preparation. The clerk shall prepare the record and have it ready for service on the parties within twenty one (21) days of the date of the filing of the notice of appeal. Clerks shall give priority to preparation of the record in these cases. The payment of the clerk's record fee as required by this rule may be waived by the magistrate court pursuant to section 31-3220, Idaho Code, in accordance with the local rules of the judicial district of the district court.

(c) Preparation and filing of transcript. Upon the filing of the notice of appeal the clerk of the district court shall forward the notice to the Trial Court Administrator, who shall be responsible for assigning preparation of the transcript. Unless otherwise ordered by the magistrate court, the appellant shall pay the estimated fee for preparation of the transcript as determined by the transcriber within the time set by the Trial Court Administrator and transcriptionist. The payment of the transcript fee may be waived by the magistrate court pursuant to section 31-3220, Idaho Code, in accordance with the local rules of the judicial district of the district court. The transcript shall be prepared in accord with Rule 24 (a) and (b) as to number, use and format, and in accord with Rules 25 and 26. The transcript shall be prepared and ready for service on the parties within twenty one (21) days of the date of the filing of the notice of appeal.

(d) Briefing. The time prescribed in Rule 34 for filing of briefs shall be reduced such that the appellant's brief is due within twenty-one (21) days of the date that the clerk's record and transcript are filed with the Supreme Court. The respondent's and cross-appellant's brief, if any, shall be joined in one brief, and shall be filed within twenty-one (21) days after service of the appellant's brief. The reply brief and cross-respondent's brief, if any, shall be combined and shall be filed within fourteen (14) days of service of any respondent's brief. If there is no cross-respondent's brief then the reply brief shall be filed within seven (7) days after service of the respondent's brief.

(e) Extensions. Each case subject to this rule shall be given the highest priority at all stages of the appellate process, and the clerk, transcriptionist or court reporter, and litigants will not be given extensions of time in which to comply with the expedited docketing and briefing schedules except upon a verified showing of the most unusual and compelling circumstances.

(f) Oral argument. Oral argument, if requested, shall be held within one hundred twenty (120) days from the date stamped on the notice of appeal when it is received by the Supreme Court.

(g) Petitions for rehearing and review. Any petition for rehearing or review shall be accompanied by the brief in support of the petition or the petition shall be summarily dismissed.

(Adopted March 19, 2009, effective July 1, 2009, amended March 29, 2010, effective July 1, 2010; amended November 20, 2012, effective January 1, 2013; amended May 5, 2017, effective July 1, 2017.)

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