

I.C.R. 7. Indictment and information

Idaho Criminal Rule 7. Indictment and Information

(a) Use of Indictment or Information. All felony offenses must be prosecuted by indictment or information.

(b) Nature and Contents. The indictment or information:

- (1) must be a plain, concise and definite written statement of the essential facts constituting the offense charged;
- (2) need not contain a formal commencement, a formal conclusion or any other matter not necessary to the statement;
- (3) must not contain any reference to the procedural history of the action; and
- (4) must state, for each count, the official or customary citation of the statute, rule or regulation or other provision of law that the defendant is alleged to have violated, but error in the citation or its omission is not grounds for dismissal of the indictment or information or for reversal of the conviction if the error or omission did not mislead the defendant to the defendant's prejudice.

Allegations made in one count may be incorporated by reference in another count. A single count may allege that the means by which the defendant committed the offense are unknown or that he committed it by one or more specific means. The information must be signed by the prosecuting attorney.

(c) Two-Part Indictments or Informations. In all cases in which an extended term of imprisonment is sought because of a prior conviction or convictions, the indictment or information must state the facts on which the extended term of imprisonment is sought. Those facts must not be read to the jury unless the defendant has been found guilty of the primary charge. If the defendant is found guilty of the primary charge, the issue or issues involving the extended term of imprisonment must then be tried.

(d) Surplusage. The court, on motion by either party, may strike surplusage from the indictment or information.

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(e) Amendment of Information or Indictment. The court may permit amendment of a complaint, an information or indictment at any time before the prosecution rests if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(f) Filing of Information. The prosecuting attorney must file an information within 14 days after an order has been filed by the magistrate in the district court holding the defendant to answer, unless more time is granted by the court for good cause shown.

(Adopted February 22, 2017, effective July 1, 2017.)

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