

## **I.C.R. 12. Pleadings and Motions Before Trial - Form of Pleadings - Defenses and Objections.**

### **Idaho Criminal Rule 12. Pleadings and Motions Before Trial; Defenses and Objections**

**(a) Pleadings and Motions.** The only pleadings in criminal proceedings are the complaint, indictment or information, and the pleas of guilty and not guilty. Defenses and objections before trial must be raised by motion to dismiss or to grant appropriate relief as provided in these rules.

**(b) Pretrial Motions.** Any defense objection or request which can be determined without trial of the general issue may be raised before the trial by motion. The following must be raised prior to trial:

- (1) defenses and objections based on defects in the prior proceedings in the prosecution;
- (2) defenses and objections based on defects in the complaint, indictment or information (other than that it fails to show jurisdiction of the court or to charge an offense, which objections may be made at any time during the pendency of the proceedings);
- (3) motions to suppress evidence because it was illegally obtained;
- (4) request for discovery under Rule 16;
- (5) request for a severance of charges or defendants under Rule 14; or
- (6) motion to dismiss based on former jeopardy.

**(c) Motions to Suppress.** A motion to suppress evidence must describe the evidence sought to be suppressed and the legal basis for its suppression sufficiently to give the opposing party reasonable notice of the issues.

**(d) Motion Date.** Motions under Rule 12(b) must be filed within 28 days after the entry of a plea of not guilty or seven days before trial whichever is earlier. In felony cases, motions under Rule 12(b) must be brought on for hearing within 14 days after filing or 48 hours before trial, whichever is earlier. The court may shorten or enlarge the time and, for good cause shown or for excusable neglect, may relieve a party of failure to comply with this rule.

**(e) Ruling on Motion.** A motion made before trial must be determined before trial unless the court orders that it be deferred for determination at the trial of the general issue. Where factual issues are involved in determining a motion, the court must state its essential findings on the record.

**(f) Effect of Failure to Raise Defenses or Objections.** Failure by the defendant to raise defenses or objections or to make requests that must be made prior to trial, or at the time set by the court pursuant to subsection (d), or prior to any extension of time granted by the court, constitutes waiver of the defenses, objections or requests, but the court, for cause shown, may grant relief from the waiver.

**(g) Records.** A verbatim record must be made of all proceedings at the hearings, including all findings of fact and conclusions of law that are made orally.

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

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