

Comments Sought on Draft of Updated Criminal Rules

Similar to the Idaho Rules of Civil Procedure, the Criminal Rules have been revised in order to update the language of the rules and organize them into titles. The purpose of the new draft is not to make substantive changes but a few substantive changes were recommended. These were reviewed by the Criminal Rules Committee and the Administrative Conference and have been incorporated into this draft. They are identified below. Comments on the proposed draft may be sent to Cathy Derden at cderden@idcourts.net by **January 9, 2017**.

Rule 2.2 on Jurisdiction of Magistrates. This rule will be moved to the Idaho Court Administrative Rules.

Rule 31. Jury Verdict. A new subsection on multiple counts. The language is taken from the Federal Rules of Criminal Procedure and accurately reflects current procedure in Idaho.

Multiple Counts. If the jury cannot agree on all counts as to any defendant, the jury may return a verdict on those counts on which it has agreed and the court may declare a mistrial as to the other counts. The prosecution may retry any defendant on any count on which the jury could not agree.

Rule 28. Interpreters. This rule will be deleted as the subject matter is already covered by Idaho Court Administrative Rule 52.

Rule 33. Sentence and Judgment. A requirement has been added that the judgment state the terms of probation, if any, and that an order withholding judgment include the terms of probation, if any.

Rule 33.3. Evaluation of persons guilty of domestic assault or domestic battery. The section of the rule addressing qualification of domestic violence evaluators will be moved to the Idaho Court Administrative Rules.

Rule 34. New Trial. The rule has been amended to state a new trial may be granted on any ground permitted by statute rather than in the interest of justice.

Rule 41. Search and seizure. The language has been updated to refer to requesting a warrant by telephonic or other reliable electronic means.

Rule 46. Bail or Release on Own Recognizance. Language in subsection (f)(2), addressing a warrant of attachment for contempt regarding the nonpayment of any sum ordered by the court, has been moved to Rule 42 on Contempt.

Rule 49. Service and Filing of Papers. The rule was updated to allow service on attorneys by email, and to allow service of court orders on attorneys by email.

Rule 54. Appeals from the Magistrate Division. A requirement for service of the notice of appeal on the magistrate court was added as is required in the Civil Rules of Procedure. The reference to appellate briefs being in the same “form and arrangement” as provided in the Idaho Appellate Rules is changed to say the same “content and arrangement”.