I.R.E. 104. Preliminary Questions.

Idaho Rules of Evidence Rule 104. Preliminary Questions.

(a) Questions of admissibility generally. Preliminary questions concerning the qualifications of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact. Whenever the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or in the court's discretion subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. Hearings on the admissibility of confessions in criminal cases shall be conducted out of the hearing of a jury. Hearings on other preliminary matters in all cases shall be so conducted whenever the interests of justice require or, in criminal cases, whenever an accused is a witness, if the accused so requests.

(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, subject the accused to cross-examination as to other issues in the case.

(e) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

(Adopted January 8, 1985, effective July 1, 1985.)

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