



I.C.R. 12.2. Motions requesting additional defense services.

Idaho Criminal Rule 12.2. Motions Requesting Additional Defense Services

(a) In General; Time. A defendant may submit a motion requesting public funds to pay for investigative, expert, or other services that he believes are necessary for his defense. The motion seeking public funds must be submitted to the court ex parte, except as provided in subsection (f) of this rule. The motion must be made before the defense incurs the costs and requires prior approval of the court. The court must decide the motion on the basis of the record in the case and the information submitted by the defendant.

(b) Content of Motion. The motion must include:

- (1) the scope and details of the services requested;
- (2) the reasons the requested services are relevant and necessary to the defense based on the specific facts of the case;
- (3) the name and location of the proposed providers of the services;
- (4) the qualifications of the proposed providers of the services;
- (5) an estimate of the total cost of the services being requested, including the hourly rate or other charges of the providers of the services, and any additional expenses, such as travel costs, that will be incurred; and
- (6) if the proposed providers of the services are located outside of the judicial district or the state of Idaho, an explanation of why the proposed providers should be utilized and what efforts have been made to locate providers of the requested services in the judicial district or in the state of Idaho.

(c) Finding of Indigency. The court must not grant a request for public funds to obtain additional services in the absence of a finding of indigency, which must be made on the basis of the standards in Idaho Code § 19-854. The fact that a defendant has private counsel, or has been found not to be indigent for the purpose of appointing counsel at public expense, does not necessarily preclude a



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finding that a defendant is indigent with regard to obtaining the additional services requested. In making the finding of indigency, the court may require the defendant to provide any relevant information concerning his finances, income, property, and expenses, or any other information relevant to standards for a finding of indigency in Idaho Code § 19-854.

(d) Consideration by Another Judge. The court may request that the Administrative District Judge appoint another judge to consider and conduct any hearing on the motion and to decide on the motion.

(e) Controlling Costs; Billing. If the motion is granted in whole or in part, the court may order any additional conditions that it finds appropriate to control costs and expenses. An order granting a motion must specifically state the amount authorized and that any cost above that amount will not be approved for payment unless additional authorization is obtained from the court, under the procedures in this rule, before the additional cost is incurred. Payment for services provided under this rule must be made only on the submission of a detailed billing stating each of the services provided and the cost of the services.

(f) Notice to Public Defender. If the motion for additional defense services is filed by private counsel for the defendant, and the additional defense services are to be provided through funds budgeted to the public defender, the public defender must be served with a copy of any motion for additional resources and the moving party must serve notice on the public defender of any hearing on the matter. If the motion for additional defense services is granted the court must provide to the public defender a copy of the order granting the motion.

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

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