I.C.R. 7. Indictment and information

Idaho Criminal Rule 7. Indictment and Information.

(a) Use of indictment or information. All felony offenses shall be prosecuted by indictment or information.

(b) Nature and contents. The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. The information shall be signed by the prosecuting attorney. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement and it shall not contain any reference to the procedural history of the action. Allegations made in one (1) count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that he committed it by one or more specific means. The indictment or information shall state for each count the official or customary citation of the statute, rule or regulation or other provision of law which the defendant is alleged to have violated. Error in the citation or its omission shall not be 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.

(c) Two-part informations. In all cases wherein an extended term of imprisonment is sought as the result of a prior conviction or convictions, the indictment or information shall set forth the facts on which the extended term of imprisonment is sought. The facts so alleged shall 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 shall then be tried.

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

(e) Amendment of information or indictment. The court may permit a complaint, an information or indictment to be amended 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 fourteen (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 December 27, 1979, effective July 1, 1980; amended June 15, 1987, effective November 1, 1987; amended March 23, 1990, effective July 1, 1990.)

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