I.C.R. 33.3. Evaluation of Persons Guilty of Domestic Assault or Domestic Battery

Idaho Criminal Rule 33.3. Evaluation of Persons Guilty of Domestic Assault or Domestic Battery.

(a) Evaluators. Evaluators of persons who plead guilty or are found guilty of domestic assault or domestic battery under Idaho Code Section 18-918 shall be approved and shall serve under the following provisions:

(1) Qualifications. An evaluator under Idaho Code Section 18-918(7)(a) shall have the following qualifications:

(A) Licensed physician, licensed psychologist, licensed master social worker, licensed social worker if approved prior to July 1, 2008, licensed professional counselor, licensed marriage and family therapist, licensed registered nurse, licensed nurse practitioner or physician's assistant under the laws of the state of Idaho; an evaluator may be licensed in the state of Idaho or any other state;

(B) Twenty (20) hours of specialized education or training in domestic violence within the previous two years that meets the criteria set out in subsection (2), as evidenced by an attached certificate of completion or other supporting documentation.Up to ten (10) hours may be satisfied through approved participatory online CEU programs.;

(C) One year experience after licensure in assessment or treatment of domestic violence related issues;

(D) Approved by the Domestic Assault and Battery Evaluator Advisory Board and maintained on a roster by the Administrative Director of the Courts as persons eligible to conduct evaluations of persons guilty of assault or domestic battery. In the event there is no evaluator approved within the judicial district, then the requirements of (B), (C), and (D) may be waived by the court; and

(E) The evaluator must, at his or her own expense, submit to a criminal history check as provided for in Rule 47, I.C.A.R. Further, the evaluator must sign an Indirect Access Agreement and any other confidentiality agreements required by the Idaho State Police to allow the evaluator access to criminal justice information as required by subsection (c)(2)(K) of this rule.

(2) Continuing Education of Evaluators. Beginning the next July 1 after an evaluator has been approved by the Domestic Assault and Battery Evaluator Advisory Board, the evaluator must take at least sixteen (16) hours of specialized training in domestic violence, or related topics in courses approved by the Domestic Assault and Battery Evaluator Advisory Board, in each and every two (2) year period following the July 1 date. An evaluator must file proof of compliance with this requirement with the Administrative Director of the Courts by July first of the year the

continuing education is due. Along with proof of compliance, an evaluator must also send proof of current licensing.

(A) The sixteen (16) hours of training required in this section shall be in one or more of the following areas: (a) domestic violence; (b) violence in families; (c) child abuse; (d) anger management; (e) risk factors for future dangerousness; (f) psychiatric causes of violence; or (g) drug and alcohol abuse. No more than four (4) of the sixteen (16) required hours may be in the area of drug and alcohol abuse. Up to eight (8) of the sixteen (16) required hours may be satisfied through approved participatory online CEU programs.

(B) The sixteen (16) hours of required training in this section shall be acquired by completing a program approved or sponsored by one of the following associations:

(a) Idaho Psychiatric Association;

(b) Idaho Psychologists Association;

(c) Idaho Nursing Association;

(d) Idaho Association of Social Workers;

(e) Idaho Counselors Association;

(f) Council on Domestic Violence and Victim Assistance;

(g) Idaho Coalition Against Sexual Assault and Domestic Violence, or the national equivalent of any of these organizations; or

(h) the Idaho Supreme Court

(C) Any program that does not meet the criteria set out in both section (a)(2)(A) and section (a)(2)(B) may be submitted to the board for approval either prior to or after completion.

(3) Appointment Approval. All evaluators under Idaho Code Section 18-918(8)

(a) must be appointed approved by order of the Domestic Assault and Battery Evaluator Advisory Board. Any person desiring to be approved as an evaluator shall file an application for approval with the Administrative Director of the Courts indicating the qualifications of the applicant and the dates and content of relevant training courses attended. An evaluator approved by order of the Domestic Assault and Battery Evaluator Advisory Board may continue in service from one calendar year to the next unless otherwise ordered by the Domestic Assault and Battery Evaluator Advisory Board. The Administrative Director of the Courts shall maintain a statewide list of approved evaluators by the Domestic Assault and Battery Evaluator Advisory Board.

(b) Advisory Board.

(1) Members. There is hereby created a Domestic Assault and Battery Evaluator Advisory Board consisting of six (6) members with experience and training in domestic violence, as follows:

(A) A district judge or magistrate judge appointed by the Supreme Court for a term of two years, who shall serve as chair,

(B) The Administrative Director of the Courts, or his or her designee,

(C) A social worker appointed by the Supreme Court for a term of two years, upon submission of three (3) names by the Idaho State Counselors Licensing Board or appropriate association,

(D) A counselor appointed by the Supreme Court for a term of two years, upon submission of three (3) names by the Idaho State Counselors Licensing Board or appropriate association,

(E) A psychologist appointed by the Supreme Court for a term of two years, upon submission of three (3) names by the Idaho State Board of Psychologist Examiners or appropriate association, and

(F) A psychiatrist appointed by the Supreme Court for a term of two years, upon submission of three (3) names by the State Board of Medicine or appropriate association.

(2) Powers of Advisory Board. The Domestic Assault and Battery Evaluator Advisory Board shall have the power to make the following recommendations to the Supreme Court:

(A) Recommend qualifications and continuing education of evaluators under Rule 33.3(a).

(B) Review and recommend for appointment approval or rejection applications of persons to be evaluators under this rule.

(C) Recommend the required content and scope of reports of evaluators under this rule.

(c) The scope and content of the evaluator's report shall be as follows:

(1) Identifying iInformation.

(A) Name

(B) Address

(C) Date of Birth

(D) Occupation

(E) Current Incident

(F) Marital Status

(G) Children

(H) Military Service

(2) Risk Assessment.

(A) Current and past violent behavior

(B) Exposure

(C) Threats of homicide/suicide/violence

(D) Ideation of homicide/suicide/violence

(E) Weapons access

(F) Obsessed with or dependent upon victim (Sociopathic Traits)

(G) History of rage and impulsivity

(H) History of sexual abuse (perpetrator or victim)

(I) History of child abuse (perpetrator or victim)

(J) Access to victim

(K) Criminal History Record Information (CHRI) through a National Criminal History Background Check System from local law enforcement or any other authorized individual or agency.

(L) Cultural issues

(M) History of domestic violence protection orders

(N) Prior treatment for aggressive violence

(O) Danger of reoffending

(3) Substance Abuse.

(A) Present usage of drugs

(B) Prior treatment for drug abuse or addiction

(C) Involvement of substance abuse in incident

(D) Assessment

(4) Self-Assessment.

(A) Description of current incident in person's own words

(B) Person's acceptance of responsibility for incident

(C) Remorse evidenced by person

(D) Person's own view of need for treatment

(E) Person's willingness to get treatment

(5) Test Results. (if any - substance abuse testing, psychological testing, I.Q., etc.)

(6) Collateral iInformation.

(A) Police Report

(B) Victim interview

(C) Prior treatment -- review of past records

(7) Personality/Character Assessment.

(8) Behavioral Observations/Mental Status.

(A) Level of cooperativeness

(B) Victim interview

(C) General present mental status

(9) Recommendation.

(A) A summary formulation that identifies the factors causing and/or contributing to the defendant's domestic violence that form the basis for the evaluator's opinion as to the treatment recommendation.

(B) Further assessment opinions and if needed

(C) Treatment recommendations

(D) Providers available to treat

(E) Cost of treatment (estimate)

(F) Cost of alternate treatment

(G) Resources available to defendant

(d) In the event the evaluator submits an evaluation that is not in compliance with subsection (c) of this rule, the court may return the evaluation with instructions to prepare an evaluation in compliance with the rule at no additional cost to the defendant. In the event an evaluator fails to submit an evaluation in compliance with this rule after such an instruction, the court may forward the evaluation to the Board as a sealed confidential document along with a written request that the evaluator be removed from the roster for failure to comply with the rule. If the Board determines the evaluation fails to meet the requirements of the rule, the evaluator may be removed from the roster.

(Adopted effective August 8, 1995; amended August 23, 1996; effective November 1, 1996; amended January 30, 1997, effective February 1, 1997; amended August 3, 1998, effective August 4, 1998; amended March 9, 1999, effective July 1, 1999; amended January 30, 2001, effective July 1, 2001; amended April 22, 2004, effective July 1, 2004; amended May 22, 2006, effective July 1, 2006; amended, effective January 22, 2009; amended and effective January 3, 2011; amended May 9, 2011, effective July 1, 2011.)

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