



Idaho Treatment Court Rule 17

Idaho Treatment Court Rule 17. Terminations from Treatment Courts

(a) If a Treatment Court Judge, after consultation with the Treatment Court Team, finds that a participant may no longer be amenable to supervision within the Treatment Court, the Treatment Court Judge shall advise the participant that it has been proposed that they may be terminated from the Treatment Court.

(b) A termination hearing shall be held within twenty-one (21) days of the state filing a motion for termination. The time limit in this subsection may be extended on a showing of good cause. Good cause may include the assignment of another judge to preside over a termination hearing.

(c) The Treatment Court Judge may preside over the termination proceedings. If the Treatment Court Judge elects not to preside over the termination hearing, the Treatment Court Judge shall forward the matter for reassignment.

(d) Pending a termination hearing, a participant may be ordered into custody and may be admitted to bail in the discretion of the Treatment Court Judge, and a participant who is also a parolee may be subject to any hold imposed by the parole commission.

(e) Upon an absconded participant's arrest or voluntary return, the Treatment Court Judge may continue the participant in the Treatment Court program or the participant's case may proceed to a termination hearing.

(f) A participant shall be advised by the Treatment Court Judge of the proposal to terminate the participant from that Treatment Court. After the filing of the state's motion for termination, the participant shall be advised of the alleged grounds for termination, the date and time set for the termination hearing, and any terms of bail imposed, pending the termination hearing.

(g) Prior to a termination hearing, the court must advise the participant of the following Notification of Rights for Termination Hearing:

(1) that the participant has the right to require the State to disclose the evidence against the



participant;

(2) that the participant is not required to make a statement and that any statement made may be used against the participant;

(3) that the participant has the right to be self-represented and to present the case without the aid of an attorney;

(4) that the participant has the right to hire counsel of the participant's own selection, or if indigent, have counsel by court appointment;

(5) that the participant may admit or deny any allegation presented against the participant;

(6) that if the participant denies the allegation(s), the case will proceed with an evidentiary hearing;

(7) that if the case proceeds to an evidentiary hearing, the following will apply:

(A) the burden will be upon the State to prove by a preponderance of the evidence that the participant willfully violated one or more terms of the participant's conditions of participation in the Treatment Court; and

(B) the participant has the right to confront and cross examine witnesses, to call the participant's own witnesses, to present evidence, and to the subpoena power at no cost to the participant.

(8) that if the participant admits the allegation(s), the participant is waiving the rights herein and there is no need for the State to prove the allegation(s) in support of the proposed termination from Treatment Court, and the matter will proceed to sentencing or disposition (see I.R.T.C. 18(c));

(9) that if the participant is not satisfied with the decision of the court, the participant may appeal to the next higher court, so long as the notice of appeal is filed within forty-two (42) days of the entry of the final disposition judgment.

(10) that any recommendation of the parties is not binding on the court, but can be considered by the



court in rendering its decision; and

(11) that the participant's exercise of any of the rights herein will not be held against the participant.

(h) The Idaho Rules of Evidence shall apply in a termination hearing to the same extent that the Idaho Rules of Evidence apply in a probation violation hearing.

(i) A participant subject to a proposed termination from a Treatment Court may waive, either orally on the record or in writing, the notification of the grounds upon which termination is proposed and the participant's right to a termination hearing. A waiver of the hearing constitutes an admission to the allegations contained in the state's motion for termination. Upon waiver of the hearing, no additional hearing regarding violation of a term of probation or a violation of any condition of a presentence agreement of participation in Treatment Court is required.

(j) If a participant waives their right to a termination hearing, or a participant enters an admission, or the participant is found to have willfully violated a condition of the Treatment Court, the judge presiding over the termination hearing shall enter the Order of Termination from Treatment Court and Stopping Participant Fees.

(k) If a participant is not found to have willfully violated a condition of the Treatment Court, the judge presiding over the termination hearing shall enter an order documenting such finding and continuing the participant's prior condition(s) of Treatment Court supervision.

(Adopted April 29, 2022, effective July 1, 2022; amended June 12, 2023, effective July 1, 2023.)

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