

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 5
COMPLAINT AND WARRANT OF ARREST

19-501. DEFINITION OF COMPLAINT. The complaint is the allegation in writing, made to a magistrate, that a person has been guilty of some designated public offense.

[(19-501) Cr. Prac. 1864, sec. 99, p. 226; R.S., R.C., & C.L., sec. 7509; C.S., sec. 8706; I.C.A., sec. 19-501; am. 1969, ch. 79, sec. 1, p. 230.]

19-502. DEFINITION OF MAGISTRATE. A magistrate is an officer having power to issue a warrant for the arrest of a person charged with a public offense.

[(19-502) Cr. Prac. 1864, sec. 100, p. 226; R.S., R.C., & C.L., sec. 7510; C.S., sec. 8707; I.C.A., sec. 19-502.]

19-503. WHO ARE MAGISTRATES. The following persons are magistrates:

- (1) The justices of the supreme court.
- (2) The judges of the court of appeals.
- (3) The district judges.
- (4) Magistrates of the district court.

[(19-503) Cr. Prac. 1864, sec. 101, p. 226; R.S., R.C., & C.L., sec. 7511; C.S., sec. 8708; I.C.A., sec. 19-503; am. 1972, ch. 35, sec. 1, p. 55; am. 2012, ch. 20, sec. 7, p. 68.]

19-504. PERSON LODGING COMPLAINT. When a complaint which has been subscribed to under oath by the party or parties lodging the same is laid before a magistrate alleging facts constituting the commission of a public offense, triable within the county, and the magistrate finds that the complaint alleges a public offense under the Idaho Code or county or city ordinance, the magistrate shall order the clerk of the court to file the complaint and refer the complaint to the appropriate county or city prosecuting attorney for further action.

[(19-504) Cr. Prac. 1864, sec. 102, p. 226; R.S., R.C., & C.L., sec. 7516; C.S., sec. 8709; I.C.A., sec. 19-504; am. 1969, ch. 79, sec. 2, p. 230; am. 1998, ch. 91, sec. 1, p. 330.]

19-505. CONTENTS OF COMPLAINT. The complaint must set forth the facts stated by the complaining witness, tending to establish the commission of the public offense and the guilt of the defendant.

[(19-505) Cr. Prac. 1864, sec. 103, p. 226; R.S., R.C., & C.L., sec. 7517; C.S., sec. 8710; I.C.A., sec. 19-505; am. 1969, ch. 79, sec. 3, p. 230.]

19-506. WHEN WARRANT MAY ISSUE. A magistrate may issue a warrant for the arrest of the defendant only after making a determination that there is prob-

able cause to believe that an offense has been committed and that the defendant committed it.

[(19-506) Cr. Prac. 1864, sec. 104, p. 226; R.S., R.C., & C.L., sec. 7518; C.S., sec. 8711; I.C.A., sec. 19-506; am. 1998, ch. 91, sec. 2, p. 330.]

19-507. FORM OF WARRANT. A warrant of arrest is an order in writing, in the name of the state of Idaho, signed by a magistrate, commanding the arrest of the defendant, and may be substantially in the following form:

County of, state of Idaho.

To any sheriff, constable, marshal, or policeman of said state, or of the county of:

A complaint on oath, having this day been laid before me, by A.B., that the crime of (designating it) has been committed, and accusing C.D. thereof, you are therefore commanded forthwith to arrest the above named C.D. and bring him before me at (naming the place), or in the case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at, this day of,

[(19-507) Cr. Prac. 1864, sec. 105, p. 226; R.S., R.C., & C.L., sec. 7519; C.S., sec. 8712; I.C.A., sec. 19-507; am. 2002, ch. 32, sec. 2, p. 47.]

19-508. ADDITIONAL REQUIREMENTS OF WARRANT. The warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state the time of issuing it, and the county, city, or town where it is issued, and be signed by the magistrate, with his name of office, and state the offense charged.

[(19-508) Cr. Prac. 1864, sec. 106, p. 227; R.S., R.C., & C.L., sec. 7520; C.S., sec. 8713; I.C.A., sec. 19-508.]

19-509. TO WHOM WARRANT DIRECTED. The warrant must be directed to and executed by a peace officer.

[(19-509) Cr. Prac. 1864, sec. 107, p. 227; R.S., R.C., & C.L., sec. 7521; C.S., sec. 8714; I.C.A., sec. 19-509.]

19-510. PEACE OFFICERS ENUMERATED. A peace officer is a sheriff of a county, or a constable, marshal, or policeman of a city or town.

[(19-510) Cr. Prac. 1864, sec. 108, p. 227; R.S., R.C., & C.L., sec. 7522; C.S., sec. 8715; I.C.A., sec. 19-510.]

19-510A. PEACE OFFICERS' POWERS TO EMPLOYEES OF THE STATE BOARD OF CORRECTION. All employees of the state board of correction who receive peace officer certification from the Idaho peace officer standards and training council shall have all the authority given by statute to peace officers of the state of Idaho. All other employees designated by the board of correction pursuant to section [20-209C](#), Idaho Code, shall be empowered with the rights and duties of peace officers when engaged in transportation of prisoners or apprehension of prisoners or wards who have escaped, or apprehen-

sion and arrest of persons who are suspected of having violated the terms and conditions of their probation or parole, or when present with and at the request of a local, state or federal law enforcement officer.

[19-510A, as added by 1973, ch. 170, sec. 1, p. 359; am. 1980, ch. 100, sec. 1, p. 220; am. 2005, ch. 131, sec. 1, p. 417; am. 2011, ch. 28, sec. 1, p. 70.]

19-511. RAILROAD AND STEAMBOAT POLICE. The governor of the state of Idaho is authorized and empowered, upon the application of any railroad or steamboat company to appoint and commission during his pleasure any person designated by such company to serve at the expense of such company as policeman, with the powers of a police officer, and who, after being duly sworn, may act as such policeman upon the premises, cars or boats of such company. The company designating such person shall be responsible civilly for any abuse of his authority. Every such policeman shall, when on duty, wear in plain view a shield bearing the words, "railroad police" or "steamboat police," as the case may be, and the name of the company for which he is commissioned.

[(19-511) 1909, p. 110, sec. 1; compiled and reen. C.L., sec. 7522a; C.S., sec. 8716; I.C.A., sec. 19-511.]

19-512. DIRECTION TO OFFICERS THROUGHOUT STATE. If a warrant is issued by a magistrate, it may be directed generally to any sheriff, constable, marshal or policeman in the state, and may be executed by any of those officers to whom it may be delivered.

[(19-512) Cr. Prac. 1864, sec. 109, p. 227; R.S., R.C., & C.L., sec. 7523; C.S., sec. 8717; I.C.A., sec. 19-512; am. 1951, ch. 244, sec. 1, p. 516; am. 2012, ch. 20, sec. 8, p. 68.]

19-514. DEFENDANT TO BE TAKEN BEFORE MAGISTRATE. If the offense charged is a felony, the officer making the arrest must cause the defendant to be taken before the magistrate who issued the warrant, or in the case of his absence or inability to act, before the nearest or most accessible magistrate in the same county, and must at the same time deliver to the magistrate the warrant, with his return thereon endorsed and subscribed by him, but all hearings on preliminary examinations must, as far as possible, be had before the magistrate most convenient to the majority of the witnesses for the prosecution, unless for good cause it is ordered to be held elsewhere, and in all such cases the preliminary examinations must be had as hereinafter provided, unless such person shall waive his right to such examination.

If the offense charged is a misdemeanor, and the defendant is arrested in another county, the officer must, upon the request of the defendant, take him before a magistrate in that county, who may admit him to bail in an amount which, in his judgment, will be reasonable and sufficient for the appearance of the defendant, and said magistrate must direct the defendant to appear before the court or magistrate by whom the warrant was issued on or before a day certain which shall in no case be more than fourteen (14) days after such admittance to bail. If bail shall be forthwith given, the magistrate shall take the same and endorse thereon a memorandum of the aforesaid order for the appearance of the defendant. On taking of said bail, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer in charge of the defendant. The officer must

then discharge the defendant from arrest, and must without delay, deliver the warrant and undertaking to the court at which the defendant is required to appear.

If bail is not forthwith given by the defendant, the officer must cause the defendant to be taken before the magistrate who issued the warrant, or in case of his absence or inability to act before the nearest and most accessible magistrate in the same county, and at the same time deliver to the magistrate the warrant with his return endorsed thereon.

[(19-514) Cr. Prac. 1864, secs. 111, 112, p. 227; R.S., sec. 7525; am. 1899, p. 433, sec. 1; reen. R.C., sec. 7525; compiled and reen. C.L., sec. 7525; C.S., sec. 8719; I.C.A., sec. 19-514; am. 1951, ch. 244, sec. 2, p. 516; am. 2003, ch. 115, sec. 1, p. 359.]

19-515. NO UNNECESSARY DELAY -- ATTORNEY MAY VISIT DEFENDANT. The defendant must in all cases be taken before the magistrate without unnecessary delay, and any attorney at law entitled to practice in courts of record of the state of Idaho may, at the request of the prisoner after such arrest, visit the person so arrested.

[(19-515) Cr. Prac. 1864, sec. 116, p. 228; R.S., R.C., & C.L., sec. 7529; C.S., sec. 8720; I.C.A., sec. 19-515.]

19-516. COMPLAINT TO BE TRANSMITTED TO MAGISTRATE. If the defendant is brought before a magistrate other than the one who issued the warrant, the complaint upon which the warrant was issued must be sent to that magistrate, or, if such complaint can not be procured, the complaining witness must be summoned to lodge a new complaint before such magistrate.

[(19-516) Cr. Prac. 1864, sec. 118, p. 228; R.S., R.C., & C.L., sec. 7531; C.S., sec. 8722; I.C.A., sec. 19-516; am. 1969, ch. 79, sec. 4, p. 230.]

19-517. OFFENSES TRIABLE IN ANOTHER COUNTY -- PROCEEDINGS. When a complaint is laid before a magistrate of the commission of a public offense, triable in another county of the state, but showing that defendant is in the county where the complaint is laid, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the magistrate most accessible to the witnesses for the prosecution, but in the county in which the offense is triable, and the complaint must be delivered by the magistrate to the officer to whom the warrant is delivered.

[(19-517) Cr. Prac. 1864, sec. 117, p. 228; R.S., R.C., & C.L., sec. 7530; C.S., sec. 8721; I.C.A., sec. 19-517; am. 1969, ch. 79, sec. 5, p. 230.]

19-518. DUTIES OF OFFICER. The officer who executes the warrant must take the defendant before the magistrate most accessible to the witnesses for the prosecution, but in the county in which the offense is triable, and must deliver to him the complaint and the warrant, with his return indorsed thereon, and the magistrate must then proceed in the same manner as upon a warrant issued by himself.

[(19-518) Cr. Prac. 1864, sec. 119, p. 228; R.S., R.C., & C.L., sec. 7532; C.S., sec. 8723; I.C.A., sec. 19-518; am. 1969, ch. 79, sec. 6, p. 230.]

19-519. NOTICE OF DEFENSE OF ALIBI. (1) At any time after arraignment before a magistrate upon a complaint and upon written demand of the prosecuting attorney, the defendant shall serve, within ten (10) days or at such different time as the court may direct, upon the prosecuting attorney, a written notice of his intention to offer a defense of alibi. Such notice by the defendant shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

(2) Within ten (10) days after receipt of the defendant's notice of alibi but in no event less than ten (10) days before trial, unless the court otherwise directs, the prosecuting attorney shall serve upon the defendant or his attorney a written notice stating the names and addresses of the witnesses upon whom the prosecution intends to rely to establish the defendant's presence at the scene of the alleged offense and any other witnesses to be relied on to rebut testimony of any of the defendant's alibi witnesses.

(3) If prior to or during trial a party learns of an additional witness whose identity, if known, should have been included in the information furnished under subsection (1) or subsection (2) of this section, the party shall promptly notify the other party or his attorney of the existence and identity of such additional witness.

(4) Upon the failure of either party to comply with the requirements of this section, the court may exclude the testimony of any undisclosed witness offered by such party as to the defendant's absence from or presence at, the scene of the alleged offense. This section shall not limit the right of the defendant to testify in his own behalf.

(5) For good cause shown the court may grant an exception to any of the requirements of subsections (1) through (4) of this section.

[19-519, added 1978, ch. 301, sec. 1, p. 758.]