

TITLE 19  
CRIMINAL PROCEDURE

CHAPTER 15  
ARRAIGNMENT

19-1501. PLACE OF ARRAIGNMENT. When the indictment is filed, the defendant must be arraigned thereon before the court in which it is found.

[(19-1501) Cr. Prac. 1864, sec. 254, p. 244; R.S., R.C., & C.L., sec. 7710; C.S., sec. 8847; I.C.A., sec. 19-1401.]

19-1502. PRESENCE OF DEFENDANT. If the indictment is for a felony the defendant must be personally present; but if for a misdemeanor, he may appear upon the arraignment by counsel.

[(19-1502) Cr. Prac. 1864, sec. 255, p. 244; R.S., R.C., & C.L., sec. 7711; C.S., sec. 8848; I.C.A., sec. 19-1402.]

19-1503. ORDER FOR PRODUCTION OF DEFENDANT. When his personal appearance is necessary, if he is in custody, the court may direct and the officer in whose custody he is must bring him before it to be arraigned.

[(19-1503) Cr. Prac. 1864, sec. 256, p. 244; R.S., R.C., & C.L., sec. 7712; C.S., sec. 8849; I.C.A., sec. 19-1403.]

19-1504. ISSUANCE OF BENCH WARRANT. If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or of the money deposited, may direct the clerk to issue a bench warrant for his arrest.

[(19-1504) Cr. Prac. 1864, sec. 257, p. 244; R.S., R.C., & C.L., sec. 7713; C.S., sec. 8850; I.C.A., sec. 19-1404.]

19-1505. CLERK TO ISSUE WARRANT. The clerk, on the application of the prosecuting attorney, may, at any time after the order, whether the court is sitting or not, issue a bench warrant to one (1) or more counties.

[(19-1505) Cr. Prac. 1864, sec. 258, p. 245; R.S., R.C., & C.L., sec. 7714; C.S., sec. 8851; I.C.A., sec. 19-1405.]

19-1506. FORM OF BENCH WARRANT. The bench warrant upon the indictment must, if the offense be a felony, be substantially in the following form:

County of .....

The state of Idaho, to any sheriff, constable, marshal or policeman of this state:

An indictment having been found on the .... day of ....., ....., in the district court of the .... judicial district, in and for the county of ....., charging C.D. with the crime of .... (designating it generally); you are therefore commanded forthwith to arrest the above named C.D., and bring him before that court to answer said indictment; or if the court has adjourned for the term, that you deliver him into the custody of the sheriff of the county of .....

Given under my hand with the seal of said court affixed, this .... day of  
 ....., .....

By order of said court.  
 (Seal.)

E.F., Clerk.

[(19-1506) Cr. Prac. 1864, sec. 259, p. 245; R.S., R.C., & C.L., sec. 7715; C.S., sec. 8852; I.C.A., sec. 19-1406; am. 2002, ch. 32, sec. 4, p. 48.]

19-1507. BAIL. The defendant, when arrested under a warrant for an offense not bailable, must be held in custody of the sheriff of the county in which the indictment is found, unless admitted to bail after an examination upon a writ of habeas corpus; but if the offense is bailable, there must be added to the body of the bench warrant a direction to the following effect, "or, if he requires it, that you take him before any magistrate in that county, or in the county in which you arrest him, that he may give bail to answer to the indictment"; and the court, upon directing it to issue, must fix the amount of bail, and an endorsement must be made thereon and signed by the clerk, to the following effect: "The defendant is to be admitted to bail in the sum of .... dollars."

[(19-1507) Cr. Prac. 1864, secs. 260-262, p. 245; R.S., R.C., & C.L., sec. 7716; C.S., sec. 8853; I.C.A., sec. 19-1407.]

19-1508. SERVICE OF WARRANT. The bench warrant may be served in any county, in the same manner as a warrant of arrest.

[(19-1508) Cr. Prac. 1864, sec. 263, p. 245; R.S., R.C., & C.L., sec. 7717; C.S., sec. 8854; I.C.A., sec. 19-1408.]

19-1509. PROCEEDINGS ON GIVING BAIL. If the defendant is brought before a magistrate of another county for the purpose of giving bail, the magistrate must proceed in respect thereto in the same manner as if the defendant had been brought before him upon a warrant of arrest, and the same proceedings must be had thereon.

[(19-1509) Cr. Prac. 1864, sec. 264, p. 245; R.S., R.C., & C.L., sec. 7718; C.S., sec. 8855; I.C.A., sec. 19-1409.]

19-1510. INCREASING BAIL. When the indictment is for a felony and the defendant, before the finding thereof, has given bail for his appearance to answer the charge, the court to which the indictment is presented may order the defendant to be committed to actual custody, unless he gives bail in an increased amount, to be specified in the order.

[(19-1510) Cr. Prac. 1864, sec. 265, p. 245; R.S., R.C., & C.L., sec. 7719; C.S., sec. 8856; I.C.A., sec. 19-1410.]

19-1511. COMMITMENT OF DEFENDANT. If the defendant is present when the order is made he must be forthwith committed. If he is not present a bench warrant must be issued and proceeded upon in the manner provided in this chapter.

[(19-1511) Cr. Prac. 1864, sec. 266, p. 246; R.S., R.C., & C.L., sec. 7720; C.S., sec. 8857; I.C.A., sec. 19-1411.]

19-1512. RIGHT TO COUNSEL. If the defendant appears for arraignment without counsel he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel.

[(19-1512) Cr. Prac. 1864, sec. 267, p. 246; R.S., R.C. & C.L., sec. 7721; C.S., sec. 8858; I.C.A., sec. 19-1412; am. 1967, ch. 181, sec. 20, p. 599.]

19-1514. ARRAIGNMENT, HOW MADE. The arraignment must be made by the court, or by the clerk or prosecuting attorney, under its direction, and consists in reading the indictment to the defendant and delivering to him a copy thereof and of the endorsements thereon, including the list of witnesses, and asking him whether he pleads guilty or not guilty to the indictment.

[(19-1514) Cr. Prac. 1864, sec. 268, p. 246; R.S., R.C., & C.L., sec. 7722; C.S., sec. 8860; I.C.A., sec. 19-1414.]

19-1515. QUESTION AS TO TRUE NAME OF DEFENDANT. When the defendant is arraigned he must be informed that if the name by which he is indicted is not his true name, he must then declare his true name, or be proceeded against by the name in the indictment. If he gives no other name the court may proceed accordingly; but if he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the indictment may be had against him by that name, referring also to the name by which he is indicted.

[(19-1515) Cr. Prac. 1864, secs. 269-271, p. 246; R.S., R.C., & C.L., sec. 7723; C.S., sec. 8861; I.C.A., sec. 19-1415.]

19-1516. TIME ALLOWED FOR ANSWER. If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one (1) day, to answer the indictment. He may, in answer to the arraignment, move to set aside, demur, or plead to, the indictment.

[(19-1516) Cr. Prac. 1864, secs. 272, 273, p. 246; R.S., R.C., & C.L., sec. 7724; C.S., sec. 8862; I.C.A., sec. 19-1416.]