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## **I.C.R. 12.2. Motions requesting additional defense services.**

### **Idaho Criminal Rule 12.2. Motions requesting additional defense services.**

(a) A defendant may submit a motion seeking public funds to pay for investigative, expert, or other services that he believes to be necessary for his defense. The motion must be made in advance of the defense incurring the costs and requires prior approval of the court.

(b) The motion shall include:

- (1) The scope and details of the services requested.
- (2) The reasons the requested services are relevant and necessary to the defense based upon the specific facts of the case.
- (3) The name and location of the proposed providers of the services.
- (4) The qualifications of the proposed providers of the services.
- (5) An estimate of the total cost of the services being requested, including the hourly rate or other charges of the providers of the services, and any additional expenses, such as travel costs, that will be incurred.
- (6) If the proposed providers of the services are located outside of the judicial district or the state of Idaho, an explanation of why the proposed providers should be utilized and what efforts have been made to locate providers of the requested services in the judicial district or in the state of Idaho.

(c) The court shall not grant a request for public funds to obtain such additional services in the absence of a finding of indigency, which shall be made on the basis of the standards set forth in Idaho Code § 19-854. The fact that a defendant has retained private counsel, or has been found not to be indigent for the purposes of appointing counsel at public expense, shall not necessarily preclude a finding that a defendant is indigent with regard to the obtaining of the additional services requested. In making the finding of indigency, the court may require the defendant to provide any relevant information concerning his finances, income, property, and expenses, or any other information relevant to standards for a finding of indigency set forth in Idaho Code § 19-854.

(d) The motion seeking public funds shall be submitted to the court ex parte, except as provided in subsection (g) of this rule. The court shall decide the motion on the basis of the record in the case and the information submitted by the defendant.

(e) The court, in its discretion, may request that the Administrative District Judge appoint another judge to consider and conduct any hearing on the motion and to decide upon the motion.

(f) In the event the motion is granted in whole or in part, the court may order such additional conditions as it finds appropriate to control costs and expenses. An order granting such motion shall specifically state the amount authorized and that any expenditure above that amount will not be approved for payment unless additional authorization is sought from the court, under the procedures set forth in this rule, prior to the added charge being occurred. Payment for services provided under the provisions of this rule shall be made only upon the submission of a detailed billing setting forth each of the services provided and the cost of such services.

(g) If the motion for additional defense services is filed by private counsel for the defendant, and the additional defense services are to be provided through funds budgeted to the public defender, the public defender shall be served with a copy of any motion under this rule for additional resources and shall be served notice by the moving party of any hearing on the matter. If the motion for additional defense services is granted the court shall provide a copy of the order granting the motion to the public defender.

(Adopted June 26, 2014, effective August 1, 2014)

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