

CHAPTER 332

PRELIMINARY HEARING BEFORE MAGISTRATE, PRIVATE; ALIBI DEFENSE NOTICE

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF CHANGES
IN THE IOWA RULES OF
CRIMINAL PROCEDURE }

REPORT OF THE
SUPREME COURT

TO: MR. DONOVAN PEETERS, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA:

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council amendments to Iowa Rules of Criminal Procedure 2(4)(d) and 10(11)(a), attached as Exhibit "A" and Exhibit "B" respectively.

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect May 1, 1989.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. MCGIVERIN, Chief Justice

Des Moines, Iowa
January 31, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of February, 1989, the Report of the Supreme Court pertaining to the Iowa Rules of Criminal Procedure.

/s/ Donovan Peeters
Secretary of the Legislative Council

EXHIBIT "A"

Rule 2. Proceedings before the magistrate.

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4. Preliminary hearing. The defendant shall not be called upon to plead and the magistrate shall proceed as follows:

* * * * *

d. Private hearing. Upon defendant's request and after making specific findings on the record that: (1) there is a substantial probability that the defendant's right to a fair trial will be prejudiced by publicity that closure would prevent and, (2) reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights, ~~The magistrate must also, upon request of the defendant,~~ may exclude from the hearing all persons except the magistrate, the magistrate's clerk, the peace officer who has custody of the defendant, a court reporter, the attorney or attorneys representing the state, a peace officer selected by the attorney representing the state, the defendant, and the defendant's counsel.

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EXHIBIT "B"

Rule 10. Motions and pleadings.

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11. Notices of defendant.

a. Alibi. A defendant who intends to offer evidence of an alibi defense shall, within the time provided for the making of pretrial motions or at such later time as the court shall direct, file written notice of such intention. The notice 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 the defendant intends to rely to establish such alibi. In the event that a defendant shall file such notice the prosecuting attorney shall file written notice of the names and addresses of the witnesses the state proposes to offer in rebuttal to discredit the defendant's alibi. Such notice shall be filed ~~not less than~~ within ten days after filing of defendant's witness list, or within such other time as the court may direct.

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