

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2021

In the Matter of Amendments to)
Rules 3 and 3.1 of the)
Wyoming Rules of Criminal Procedure)

ORDER AMENDING RULES 3 AND 3.1 OF THE WYOMING RULES OF CRIMINAL PROCEDURE

The Permanent Rules Advisory Committee, Criminal Division, has recommended the Court amend Rules 3 and 3.1 of the Wyoming Rules of Criminal Procedure. This Court finds the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to Rules 3 and 3.1 of the Wyoming Rules of Criminal Procedure, attached hereto, be and hereby are adopted by the Court to be effective March 1, 2022; and it is further

ORDERED that this order and the attached amendments shall be published in the advance sheets of the Pacific Reporter; the attached amendments shall be published in the Wyoming Court Rules Volume; and that this order and the attached amendments shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall also be recorded in the journal of this Court.

DATED this 7th day of December, 2021.

BY THE COURT:

/s/

KATE M. FOX
Chief Justice

Wyoming Rules of Criminal Procedure

Rule 3. Indictment, information or citation.

(c) Harmless error. Error in the citation of a statute or its omission, or any other defect or imperfection, shall not be grounds for dismissal of the indictment, information or citation or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice. ~~When harmless error in an electronic citation is identified, an email describing the error shall be sent to the citing officer. The citing officer shall email the correction to the Court and to the records division of the Department of Transportation.~~

(d) Surplusage. ~~The court on motion of the defendant may strike surplusage from the indictment, information or citation.~~ Amendment of citation. Amendments to citations must be made by an attorney for the state. Any amendments to a citation may be made on the face of the original citation, signed and dated by an attorney for the state, if not done in open court on the record. The attorney for the state shall send by mail, email, or otherwise serve any amendment on the defendant and the agency that issued the original citation. Amendments to citations may be made without leave of the court up until five days before trial. Amendments to citations may also be made with leave of court pursuant to the requirements of subsection (e)(1) or (2) of this rule.

(e) Amendment of information ~~or citation~~. Without leave of the court, the attorney for the state may amend an information ~~or citation~~ until five days before a preliminary examination in a case required to be tried in district court or until five days before trial for a case not required to be tried in district court. The court may permit an information ~~or citation~~ to be amended:

(1) With the defendant's consent, at any time before sentencing.

(2) Whether or not the defendant consents:

(A) At any time before trial if substantial rights of the defendant are not prejudiced.

(B) At any time before verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(f) Surplusage. The court on motion of the defendant may strike surplusage from the indictment, information or citation.

(g) Bill of particulars. The court may direct the filing of a bill of particulars. A motion for bill of particulars may be made before arraignment, within 10 days after arraignment, or at such later time as the court may permit. The bill of particulars may be amended at any time subject to such conditions as justice requires.

Rule 3.1. Use of citations; bail.

(a) Where and when filed. Citations shall be filed in the circuit court or municipal court in the county or municipality where the offense allegedly occurred. All citations issued to defendants must be filed within fourteen (14) days of issuance. Any citation filed after 14 days shall be dismissed by the court.
