

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENT TO IDAHO )  
CRIMINAL RULE 46 )  
\_\_\_\_\_ )

ORDER

The Court, having received a recommendation from the Misdemeanor Sentencing Committee regarding the use of pretrial risk assessments, and being fully informed as to the recommendation:

NOW, THEREFORE, IT IS ORDERED that Idaho Criminal Rule 46 be amended as follows:

## **Idaho Criminal Rule 46. Bail or Release on Own Recognizance**

\* \* \*

**(c) Factors to be Considered.** The determination of whether a defendant should be released on the defendant's own recognizance or admitted to bail, and the determination of the amount and conditions of bail, if any, may be made after considering any of the following factors:

- (1) defendant's employment status and history, and financial condition;
- (2) the nature and extent of defendant's family relationships;
- (3) defendant's past and present residences;
- (4) defendant's character and reputation;
- (5) the persons who agree to assist the defendant in attending court at the proper time;
- (6) the nature of the current charge and any mitigating or aggravating factors that may bear on the likelihood of conviction and the possible penalty;
- (7) defendant's prior criminal record, if any, and, if defendant has previously been released pending a trial or hearing, whether defendant appeared as required;
- (8) any facts indicating the possibility of violations of law if defendant is released without restrictions;
- (9) any other facts tending to indicate that defendant has strong ties to the community and is not likely to flee the jurisdiction; ~~and~~
- (10) what reasonable restrictions, conditions and prohibitions should be placed on defendant's activities, movements, associations and residences; and

(11) the results of a pretrial risk assessment conducted using a tool approved by the Idaho Supreme Court.

On its own motion or on a verified petition the court may from time to time re-evaluate the above factors and add to or modify the conditions of bail or revoke the defendant's admission to bail.

\* \* \*

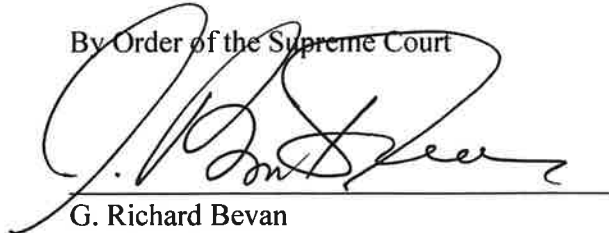
IT IS FURTHER ORDERED that this order and these amendments shall be effective January 1, 2025.

IT IS FURTHER ORDERED that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Criminal Rules.

IT IS FURTHER ORDERED, that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) effected by this Order shall be published in one issue of *The Advocate*.

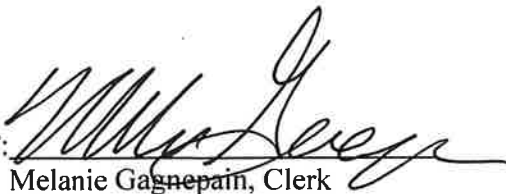
DATED this 3<sup>rd</sup> day of November, 2024.

By Order of the Supreme Court



G. Richard Bevan  
Chief Justice, Idaho Supreme Court

ATTEST:



Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
Certify that the above is a true and correct copy of the  
Order entered in the above entitled  
cause and now on record in my office. WITNESS my  
hand and the Seal of this Court 11-6-24  
Melanie Gagnepain, Clerk

By  Deputy