

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO COURT
ADMINISTRATIVE RULE 101. PERSONS
WITH NEUROCOGNITIVE DISORDERS,
PROTECTIVE CUSTODY WITHOUT A
HEARING

ORDER

The Court, having reviewed a recommendation to amend the following rules, and the Court being fully informed;

IT IS ORDERED that Idaho Court Administrative Rule 101 is AMENDED as follows:

Idaho Court Administrative Rule 101. Persons with Neurocognitive Disorders, Protective Custody Without a Hearing.

(a) **Notice to Court of Protective Custody Without a Hearing.** Whenever a person is taken into custody or detained by a peace officer or medical staff member without a court order pursuant to under Idaho Code section § 56-2104, the evidence supporting the claim that a person with a neurocognitive disorder is an imminent danger to likely to injure themselves or others as provided in Idaho Code section § 56-2104(1), must be electronically filed with the court by the prosecuting attorney within ~~twenty-four~~ (24) hours of the time the person was placed in custody or detained.

(b) Order; Transmission; After Hours, Weekends, and Holidays.

(1) **Order.** If the court finds there is reason to believe the person in protective custody is likely to have a neurocognitive disorder and is likely to injure imminently dangerous to themselves or others, as defined in I.C. § 56-2103(5), as:

(A) ~~posing a substantial risk that serious physical harm will be inflicted by the person upon their own person, as evidenced by threats of suicide or threats to inflict serious physical harm on themselves;~~

(B) ~~posing a substantial risk that serious harm will be inflicted by the person upon another person as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm, or~~

(C) ~~the person lacks insight into the need for treatment and is unable or unwilling to comply with treatment based on the person's medical history, clinical observation, or other clinical evidence, and if the person does not receive and comply with treatment, there is a substantial risk that the person will continue to physically, emotionally, or cognitively~~

deteriorate to the point that the person will, in the reasonably near future, inflict serious physical harm on themselves or another person;

the court will issue a temporary protective placement custody order requiring the person to be held in a hospital and requiring an examination of the person by a health care provider in ~~such the~~ hospital within ~~twenty-four (24) hours of the entry of the order of the court~~ court's order.

(2) *Transmission.*

(A) A temporary protective placement custody order may be issued electronically to:

- (i) the prosecuting attorney;
- (ii) the peace officer who initiated the detention;
- (iii) ~~or the~~ medical staff member who initiated the detention; or
- (iv) the hospital charged with facilitating or conducting the examination.

(B) If ~~the a~~ prosecuting attorney seeks a temporary protective placement custody order after office hours, ~~during the~~ on a weekend, or ~~on a holiday pursuant to~~ under paragraph (b)(3) of this rule, the court may issue the order based on information communicated by telephone or other reliable electronic means.

- (i) When the court's findings are based on a sworn oral statement, the statement must be recorded and ~~is will be considered~~ part of the record.
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- (ii) ~~s~~Sworn oral statements given in support of an application for a temporary protective placement custody order must be ~~given on~~ under oath or affirmation and ~~must~~ identify the speaker.
- (iii) The judge may ~~then~~ verbally authorize the prosecuting attorney to sign the judge's name, ~~which~~. The judge's verbal authorization must be recorded.

(3) *After Hours, Weekends, and Holidays.*

(A) If ~~the a~~ prosecuting attorney seeks a temporary protective placement custody order after office hours, ~~during the~~ on a weekend, or ~~on a holiday~~, the prosecuting attorney ~~will~~ must contact the on-call judge and present the evidence supporting the claim.

(B) If the judge issues a temporary protective placement custody order, the prosecuting attorney ~~will~~ must serve it on:

- (i) the peace officer or medical staff member who initiated the detention; and
- (ii) on the hospital charged with facilitating or conducting the examination.

(C) On the next judicial day, the prosecuting attorney ~~will~~ must file the evidence supporting the claim and temporary protective placement custody order. The clerk ~~will must accept the evidence supporting the claim and previously signed temporary protective placement custody order and will affix a date stamp that reflects with the original issuance of the order's original issue date.~~

(D) If the ~~previously signed~~ temporary protective placement custody order was signed by the prosecuting attorney on behalf of the judge ~~upon verbal authorization pursuant to under~~ paragraph (b)(2)(B) ~~of this rule~~, the sworn oral statement as recorded must also be filed with the court and the order must be returned to the judge who authorized the signing of his or her name on it. The judge must ~~then endorse~~ sign ~~his or her name on the previously signed order.~~ Any ~~failure of the judge to make such an endorsement~~ sign the order does not ~~in itself~~ invalidate the order.

(c) **Examination and Report.** If the court issues a temporary protective placement custody order requiring the person to be held in a hospital and ~~requiring an examination~~ examined by a health care provider in ~~such the~~ hospital, the health care provider shall ~~must~~ make findings and report those their findings to the prosecuting attorney within ~~twenty-four (24) hours of the examination.~~ Upon receipt of the findings ~~and report,~~ the prosecuting attorney shall ~~must~~ file ~~such the findings with the court~~ as soon as reasonably practicable but ~~in no event no later than~~ within 24 hours ~~following receipt.~~

(d) **Electronic Signatures.** An electronic signature may be used on any document ~~that is~~ required or permitted under this rule ~~and that is transmitted electronically.~~ This includes a temporary protective placement custody order requiring ~~the a~~ person to be held in a hospital and ~~requiring an examination of the person~~ examined by a health care provider, a written certification or declaration under penalty of perjury, an affidavit, or a notary's seal, ~~in accordance with~~ under Idaho Rule for Electronic Filing and Service 9.

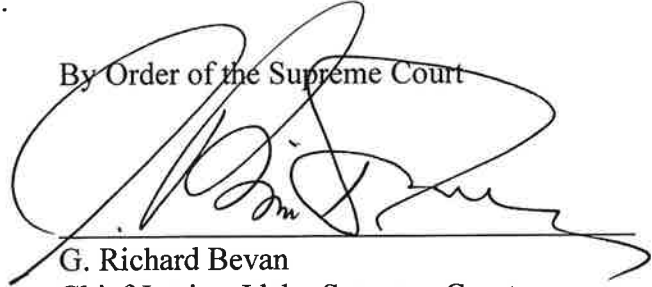
IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2025.

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 Court Administrative 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 3rd day of June, 2025.

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 6-4-25
Melanie Gagnepain, Clerk

By  Deputy