

# In the Supreme Court of the State of Idaho

IN RE: ADOPTION OF IDAHO )  
JUVENILE RULE (I.J.R.) 43 ) ORDER

The Court having reviewed a recommendation from the Child Protection Committee to adopt a new rule in the Idaho Juvenile Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Juvenile Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That a NEW Rule 43 be, and the same is hereby, ADOPTED as follows:

## **Idaho Juvenile Rule 43. Judicial Review of Placement (C.P.A.)**

(1) This rule does not apply to extended home visits, which are addressed in IJR 42, to return to home under protective supervision, which is addressed in I.C. § 16-1622, or to the removal of a child who is in the custody of a parent under the protective supervision of the department, which is addressed in I.C. § 16-1623.

(2) If the court vests legal custody of a child in the department, the department will include information about the child's placement in the Report of Investigation and every report or plan filed thereafter with the court. The report or plan will identify the child's placement, whether there has been a change in placement since the last hearing, and if so, the reasons for the change in placement, and the reasons for the selection of the new placement. If safety reasons prevent identifying the placement, the plan or report will describe the nature of the placement and the safety reasons preventing identification of the placement.

(3) Where legal custody of a child is vested in the department, any party or counsel for a child may, at or after the disposition phase of the Adjudicatory Hearing, file and serve a written motion to contest matters relating to the placement of the child by the department. The motion will state whether a hearing is requested and will be accompanied by a supporting affidavit that sets forth the reasons why the court should not approve the placement. The department will file and serve a written response to the motion within seven (7) days of the filing of the motion. The response will state whether a hearing is requested and be supported by an affidavit that sets forth the reasons why the court should approve the placement. Any other party, or counsel for the child, may also file and serve a written response to the motion, within seven (7) days of the filing of the motion. The response may be supported by an affidavit that may set forth the reasons why the

placement should or should not be approved. Copies of motions contesting placement, responses, and supporting affidavits will be served on all parties, the department and counsel for the child.

(4) Within fourteen (14) days of the filing of the motion, the court will either rule on the motion based on the affidavits, or schedule a hearing on the motion. The hearing must be held no later than thirty days (30) days from the date the motion was filed. If the court approves the placement, the court will enter an order denying the motion. If the court does not approve the placement, the court will enter an order directing the department to identify and implement an alternative placement in accordance with applicable law.

(5) The court will approve the department's placement unless the court finds by a preponderance of the evidence that the placement is not in the best interest of the child.

(6) If the court vests legal custody of a child in the department and the department proposes to place the child out-of-state, the department will file a written motion for approval of out-of-state placement. The motion will be accompanied by a supporting affidavit that sets forth the reasons for the placement. The motion will also be accompanied by documentation showing that the placement complies with the Interstate Compact on the Placement of Children, Title 16, Chapter 21, Idaho Code. Any party, or counsel for the child, may object to the motion by filing a written response, which shall be filed within fourteen (14) days of the filing of the motion. The response will be accompanied by a supporting affidavit setting forth the reasons why the court should not approve the placement. Within thirty (30) days of the date the motion was filed, the court will either rule on the motion based on the affidavits, or hold a hearing on the motion.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective the first day of July, 2016.

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 Juvenile Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 29<sup>th</sup> day of June, 2016.

By Order of the Supreme Court

Jim Jones, Chief Justice

ATTEST: SK

Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court 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 6.30.16

Stephen Kenyon Clerk  
By: Dina D. Thomas Deputy