



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

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

(a) **Notice to Court of Protective Custody Without a Hearing.** When a person is taken into custody or detained by a peace officer or medical staff member without a court order under Idaho Code § 56-2104, the evidence supporting the claim that a person with a neurocognitive disorder is an imminent danger 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 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 imminently dangerous to themselves or others, 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 the hospital within 24 hours of the entry of the 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) the medical staff member who initiated the detention; or



(iv) the hospital charged with facilitating or conducting the examination.

(B) If a prosecuting attorney seeks a temporary protective placement custody order after office hours, on a weekend, or a holiday 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 will be part of the record.

(ii) Sworn oral statements given in support of an application for a temporary protective placement custody order must be under oath or affirmation and identify the speaker.

(iii) The judge may verbally authorize the prosecuting attorney to sign the judge's name. The judge's verbal authorization must be recorded.

(3) After Hours, Weekends, and Holidays.

(A) If a prosecuting attorney seeks a temporary protective placement custody order after office hours, on a weekend, or a holiday, the prosecuting attorney 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 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 must file the evidence supporting the claim and temporary protective placement custody order. The clerk must date stamp with the order's original issue date.

(D) If the temporary protective placement custody order was signed by the prosecuting attorney on



behalf of the judge on verbal authorization under paragraph (b)(2)(B), 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 sign the previously signed order. Failure of the judge to sign the order does not 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 examined by a health care provider in the hospital, the health care provider must report their findings to the prosecuting attorney within 24 hours of the examination. Upon receipt of the findings, the prosecuting attorney must file the findings as soon as reasonably practicable but within 24 hours.

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

(Adopted September 30, 2024, effective October 1, 2024; amended June 3, 2025, effective July 1, 2025.)

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