



I.J.R. 34. Order to Prevent Removal (Alleged Offender Removal) (C.P.A.).

Idaho Juvenile Rule 34A. Order to Prevent Removal (Alleged Offender Removal) (C.P.A.).

(a) **Motion.** A prosecutor or the attorney general may file a motion for an Order to Prevent Removal that excludes the alleged offending parent, legal guardian, or legal custodian from the child's residence.

(1) **Affidavit.** A motion for an Order to Prevent Removal must be in writing and accompanied by a sworn affidavit from a law enforcement officer or the Idaho Department of Health and Welfare (department), except as provided in subdivision (c) of this rule.

(2) **Ex Parte.** The court's determination may be made on facts presented ex parte, either by testimony or affidavit.

(3) **Facts.** The court may enter an Order to Prevent Removal on a showing that:

(A) there is reasonable cause to believe that a child would be safe in the child's present surroundings in the sole care of one parent, legal guardian, or legal custodian; and

(B) neglect or abuse by another parent, legal guardian, or legal custodian is alleged.

(b) **Order.** If the court finds reasonable cause to believe that a child would be safe in the child's present surroundings in the sole care of one parent, legal guardian, or legal custodian and neglect or abuse by another parent, legal guardian, or legal custodian occurred, the court must issue an order that:

(1) excludes the alleged offending parent, legal guardian, or legal custodian from the dwelling where the child resides;

(2) prohibits the alleged offending parent, legal guardian, or legal custodian from any contact or communication with the child; and



(3) restrains the alleged offending parent, legal guardian, or legal custodian from coming within 1,500 feet, or other appropriate distance, of the child until further order of the court.

(c) **After Hours, Weekends, and Holidays.** If a prosecuting attorney or deputy attorney general seeks an Order to Prevent Removal after office hours, during the weekend, or on a holiday, the court may issue the order and summons based on information communicated in person, by affidavit, telephone or other reliable electronic means.

(1) **Testimony/Oral Statements.** When the court's findings are based on an oral statement or testimony, the statement must comply with the following:

(A) *Recorded.* The statement must be recorded, filed with the clerk of the court, and becomes as part of the record. Sworn statements need not be filed prior to the issuance of the order.

(B) *Under Oath.* Oral statements or testimony given in support of an Order to Prevent Removal must be under oath or affirmation and must identify the speaker.

(C) *Signature.* If the court is unable to provide an electronic signature on the Order to Prevent Removal under Idaho Rule for Electronic Filing and Service (I.R.E.F.S.) 9, the court may verbally authorize the prosecuting attorney or deputy attorney general to sign on behalf of the court. The judge's verbal authorization must be recorded.

(d) **Electronic Signatures.** An electronic signature may be used on any document required or permitted under this rule that is transmitted electronically, including an Order to Prevent Removal, a written certification or declaration under penalty of perjury, an affidavit, or a notary's seal, under I.R.E.F.S. 9.

(e) **Form of Order to Prevent Removal to Accompany the Summons.** The Order to Prevent Removal must substantially conform to the form found in Appendix A.

(f) **Service.** A copy of an Order to Prevent Removal along with a copy of the petition and summons must be personally served, unless otherwise ordered by the court, on the alleged offending parent, legal guardian, or legal custodian. All parents, legal guardians, or legal custodians must receive notice of a hearing on whether to continue an order within 48 hours, excluding Saturdays, Sundays, and holidays.



(Adopted June 30, 2025, effective July 1, 2025.)

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