

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO THE IDAHO)
JUVENILE RULES (C.P.A) AND IDAHO)
RULES FOR ELECTRONIC FILING AND)
SERVICE)
_____)

ORDER

The Court, having reviewed a recommendation from the Child Protection Committee to amend the Idaho Juvenile Rules and the Idaho Rules for Electronic Filing and Service, and the Court being fully informed;

IT IS ORDERED that the Idaho Juvenile Rules (I.J.R.) are amended as follows:

1. That Rule 31 is amended as follows:

Idaho Juvenile Rule 31. Emergency (Pretrial) Removal of A Child and/or Offender (C.P.A.)

There are four procedures ~~pursuant to~~ under which a child ~~or an alleged offender~~ may be removed from the home ~~prior to~~ before the adjudicatory hearing:

- (a) **Declaration of Imminent Danger.** A child ~~or an alleged offender~~ may be removed from the home by a peace officer ~~upon~~ a declaration of imminent danger by a peace officer, without ~~prior~~ a court order, ~~pursuant to~~ under I.C. § 16-1608(1).
- (b) **Order of Removal.** A child may be removed from the home by a summons with an order of removal by the court, ~~pursuant to~~ under I.C. § 16-1611(4) and I.J.R. 34.
- (c) **Order Following Shelter Care Hearing.** A child may be removed from the home ~~upon~~ order of the court following a shelter care hearing ~~pursuant to~~ under I.C. § 16-1615 and I.J.R. 39.
- (d) **Rule 16 Expansion.** A child may be removed from the home and placed in shelter care upon order of the court when the court expands a J.C.A. proceeding to a C.P.A. proceeding pursuant to I.J.R. 16.

2. That Rule 32 is amended as follows:

Idaho Juvenile Rule 32. Notice of Emergency Removal (C.P.A.)

(a) When a child is taken into custody ~~pursuant to~~ under I.C. § 16-1608(1)(a) ~~under following~~ a declaration of imminent danger, the peace officer ~~shall~~ must provide a written notice of emergency removal to the court, and to the parent(s), guardian or custodian, ~~in accordance with as required under~~ I.C. § 16-1609(1).

(b) ~~When an alleged offender is removed from the home pursuant to I.C. 16-1608(1)(b) written notice of emergency removal shall be provided to the alleged offender.~~

(e) ~~The notice of emergency removal to the parent(s), guardian, or custodian shall must contain a notification of include the right to counsel and right to court appointed counsel, pursuant to available under these rules, and shall~~ The notice must be given by personally ~~servieeed~~ at least 24 hours prior to before the shelter-care hearing. ~~Notice is not required for purposes of the shelter-care hearing in the event the A parent(s), guardian, or custodian is not required to receive notice of the shelter-care hearing if they cannot be located or are out of state.~~

(d) ~~The notice of emergency removal of the child or alleged offender from the home shall must substantially conform to the form found in Appendix A of these rules. the following format:~~

~~Click here [1] for form.~~

3. That Appendix A: Idaho Juvenile Rule 32. Notice of Emergency Removal (Form), is amended as follows:

Appendix A: Idaho Juvenile Rule 32. Notice of Emergency Removal of Child

() The undersigned ~~hereby~~ gives notice that on _____, the above-named child was removed by a peace officer and taken to a place of shelter at a (foster/group) home ~~previously~~ designated by this court for ~~his/her~~ the child's immediate care and protection.

() ~~The undersigned hereby gives notice that on _____, the alleged offender was removed from the home for the protection of the child, and the child was allowed to remain in the home.~~

I ~~further~~ certify that ~~in accordance with Idaho Code § 16-1609, I duly~~ notified the parent(s), guardian, or custodian of the above-named child ~~and/or the alleged offender~~ that a shelter-care

hearing will be ~~conducted~~ held by this court within (24/48) hours, excluding Saturdays, Sundays, and holidays: as required under I.C. § 16-1609.

By this notice, the parent(s), guardian, or custodian, ~~or the alleged offender~~ have been informed of their right to retain and be represented by an attorney. If the parent(s), guardian, or custodian, ~~or alleged offender~~ cannot afford an attorney, an attorney can be appointed by the court.

If you cannot afford an attorney and wish ~~want~~ to have the court appoint an attorney for you, please immediately call _____ (telephone phone number) or go to the _____ County Court, _____ (address), to ~~make application~~ apply for a court-appointed attorney. You should do so immediately because time is of the essence.

4. That Rule 33 is amended as follows:

Idaho Juvenile Rule 33. Summons (C.P.A.)

(a) After a petition has been filed service of process ~~shall~~ must be made as provided in Idaho Code §§ 16-1611 and 16-1612.

(b) **Form of Child Protective Act Summons, and Order of Removal, and Order to Prevent Removal.** The summons, ~~and Order of Removal, and Order to Prevent Removal~~ in Child Protective Act cases ~~shall~~ must substantially conform to the ~~Supreme Court~~ forms found in Appendix A of these rules.

5. That Appendix A: Idaho Juvenile Rule 33. Summons is repealed and adopted as follows:

Appendix A: Idaho Juvenile Rule 33. Summons

YOU ARE HEREBY NOTIFIED THAT:

A petition has been filed in this case in the district court of _____ County, Idaho, alleging that the child/ren named above comes within the jurisdiction of the Child Protective Act (C.P.A). A copy of the petition is attached.

[If child/ren are already removed or an order of removal has been issued] You, as the parent, legal guardian, or custodian of the child/ren are directed to appear personally before the court for a Shelter Care Hearing at following time and location: _____

[If child/ren has not been removed] You, as the individual(s) who has/have the custody or control of said child/ren, are hereby directed to appear personally and bring said child/ren before the court for an Adjudicatory Hearing at the following time and location: _____

☐ Order of Removal. The court has entered an Order of Removal directing a peace officer or other suitable person to take the child/ren to an authorized place of shelter care until the Shelter Care Hearing. A copy of the Order of Removal is attached.

☐ Order to Prevent Removal. The Court has entered an Order to Prevent Removal directing a peace officer or other suitable person to exclude _____ from the child/ren's residence, restrain any contact or communication with the child/ren, and restrain _____ from coming within 1,500 feet, or other appropriate distance, of the child/ren until further order of the court. A copy of the Order to Prevent Removal is attached.

You, as the parent, legal guardian, or custodian of the child/ren are directed to appear personally before the Court for a Hearing on the Order to Prevent Removal at the following date, time and location: _____

Service of the petition upon you, as the parent(s), guardian(s), or custodian(s) of the child, confers the personal jurisdiction of the court upon you and subjects you to the provisions of the C.P.A.

If you fail to appear without reasonable cause, the Court may proceed in your absence or may proceed against you for contempt of court. If the Court proceeds without your presence, you may forfeit all your rights. You may be financially liable for the support of the child(ren).

You have the right to be represented by counsel. If you are unable to afford an attorney, you have the right to have an attorney appointed by the court at state expense.

☐ If you want to ask to have an attorney appointed for you at public expense, call the court before the hearing at this phone number: _____.

☐ An attorney has been appointed for you at public expense. Call the court before the hearing at this phone number for your attorney's contact information:
_____.

When a child has been placed in the temporary and/or legal custody of the Idaho Department of Health and Welfare (I.D.H.W.) for 12 of the most recent 22 months, I.D.H.W. shall, prior to the last day of the 15th month, file a petition to terminate parental rights, unless the child has been permanently placed with a relative, there are compelling reasons why termination of parental rights is not in the best interest of the child, or the Department has failed to provide reasonable efforts to reunify the child with his/her family.

6. That Rule 34A is adopted as follows:

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 may 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.

7. That Appendix A: Idaho Juvenile Rule 34A. Order to Prevent Removal is adopted as follows:

Appendix A: Idaho Juvenile Rule 34A. Order to Prevent Removal

Based on the State's motion and accompanying sworn affidavit from a law enforcement officer or Idaho Department of Health and Welfare worker, the court finds an allegation has been made that the following child(ren): [List child(ren)'s name(s) and DOB(s)]

has/have been subjected to neglect and/or abuse by the following parent, legal guardian, or legal custodian: [List alleged offending parent, legal guardian or legal custodian, DOB, and address]

Further, the court finds there is reasonable cause to believe the child(ren) will be safe in the child(ren)'s present surroundings in the sole care of the following parent, legal guardian, or legal custodian: [List non-offending parent, legal guardian or legal custodian, DOB, and address]

IT IS ORDERED that a peace officer shall promptly remove [list alleged offending parent, legal guardian or legal custodian and DOB] from the dwelling where the child(ren) resides at: [list child(ren)'s address]_____.

FURTHER, IT IS ORDERED that [list alleged offending parent, legal guardian or legal custodian, DOB, and address] _____

1) Shall stay away from the dwelling where the child(ren) resides

at: _____,

2) Shall not contact or attempt to contact or communicate with the child(ren) in any manner, and;

3) Shall not come within ☐ 1,500 feet of the child(ren) ☐ _____ feet of the child(ren).

This Order shall continue until further order of the court. Any person who fails to abide by this Order shall be guilty of misdemeanor criminal contempt as described in section 18-1801, Idaho Code.

IT IS FURTHER ORDERED that the Idaho Rules for Electronic Filing and Service are amended as follows:

1. That Rule 5 be amended as follows:

Idaho Rules for Electronic Filing and Service

Rule 5: Exceptions to Electronic Filing of Documents

The documents identified in this rule are exceptions to the requirement for electronic filing.

(n) Order to Prevent Removal (C.P.A.). A document delivered pursuant to Idaho Juvenile Rule 34A after office hours, during the weekend, or on a holiday, will be filed in accordance with the procedure set out in Idaho Juvenile Rule 34A.

(no) Other Documents that cannot be Filed Electronically. Any document or thing that cannot be scanned or otherwise converted to a Portable Document Format (.pdf) must be filed conventionally. Upon a showing of good cause, the court may accept for conventional filing a document that would otherwise be required to be filed through the electronic filing system.

2. That Rule 9 be amended as follows:

Rule 9: Electronic Signatures

(a) Forms of electronic signature. A document may be electronically signed by:

- (1) inserting a digital image of the signing ~~party~~ person's handwritten signature into the document; ~~or~~
- (2) scanning the ~~individual's~~ signing person's handwritten signature after the document has been signed; or
- (3) using a signature block that includes ~~the typed name of the individual preceded by an "s/"~~ in the space where the signature would otherwise appear before the signing person's typed name. An example of a signature block with "s/" is:

/s/ John Q. Smith

JOHN Q. SMITH

~~If the a person other than a party or their attorney signings is not either an attorney representing a party in the case or a party in the case and the document is signed using the person's their name preceded by "/s/," a duplicate of the document must be conventionally signed by the same person, signing and The duplicate must be maintained kept by the attorney or party that submitting-ed the document until-through the expiration end of the time to appeal or the determination of the an appeal, whichever is longer if filed.~~

(b) Judge's signature. ~~All eElectronically~~ filed documents signed by the court must be scanned or ~~otherwise~~ electronically produced so the judge's original signature, or a digital image of the judge's signature, is shown; ~~provided, however,, But~~ a temporary custody order, ~~or~~ order of removal, order to prevent removal, and summons issued after office hours, during the weekend, or on a holiday ~~pursuant to under~~ Idaho Court Administrative Rule 100 (b)(3), Idaho Court Administrative Rule 101(b)(3), ~~or Idaho Juvenile Rule 34(c), or Idaho Juvenile Rule 34A(c),~~ respectively, may ~~alternatively~~ be signed with any ~~reliable type of~~ electronic or digital signature.

~~that has built in~~ This signature must have protective features, including embedded information, qualification, identity verification, or cryptographic security.

(c) **Conventionally signed documents.** To file a conventionally signed document ~~that was conventionally signed~~, the filer must ~~either~~:

- (1) scan and OCR (Optical Character Recognition) the document; or
- (2) create a Word document that substitutes the /s/ signature block in place of the handwritten signature(s) and convert that document to a PDF. If the signature replaced is that of opposing counsel or a third-party ~~then the filer who submitted the document must maintain~~ keep the conventionally signed document or a scanned copy ~~of the conventionally signed document until through the expiration end of the time for appeal or and determination of the an appeal, if filed.~~
- (3) A notary public's signature and stamp may be submitted ~~pursuant to~~ under the process outlined in subsection (c)(2) above. The version submitted electronically by the filer may replace the ~~actual~~ notary seal stamp with either the electronic image of their seal or "[Notary Seal]." The filer ~~who submitted the document must maintain~~ keep the conventionally signed document or a scanned copy ~~of the conventionally signed document until through the expiration of the time for appeal or and determination of the an appeal, if filed.~~

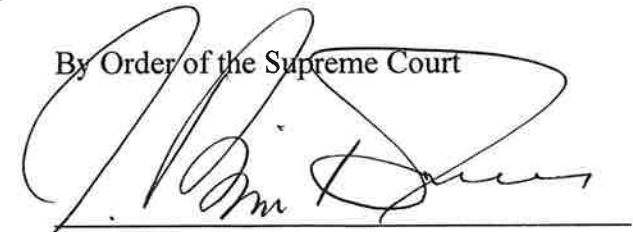
IT IS FURTHER ORDERED, that this order and these amendments shall be effective July 1, 2025.

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 Juvenile 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*.

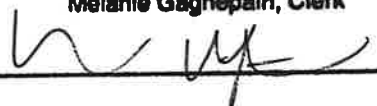
DATED this 30th day of June, 2025.

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 6-30-25
Melanie Gagnepain, Clerk

By  Deputy