

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO)
JUVENILE RULE 26)

ORDER

The Court has reviewed a recommendation from the Juvenile Justice Advisory Committee (JJAC) to amend the Idaho Juvenile Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Juvenile Rules are hereby, amended as follows:

Idaho Juvenile Rule 26. Discretionary Waiver of Jurisdiction under the Juvenile Corrections Act

- (a) Upon the filing of a written Motion to Waive Jurisdiction on a misdemeanor or felony charged under the Juvenile Corrections Act by the prosecuting attorney, the juvenile, or the court, the court shall:
1. Give written notice of the Waiver Hearing at least 10 days before the date of the hearing to the juvenile, the juvenile's parent(s), guardian, or custodian, prosecuting attorney, probation officer (if any) and Department of Juvenile Corrections district liaison. The notice shall inform the juvenile of his or her right to counsel. Service shall be made in the manner provided by I.J.R. 5.
 2. Order a full and complete investigation of the circumstances of the alleged offenses and the factors as listed in I.C. Section 20-508 (8)(a) through (f) to be conducted by county probation, or such other agency or investigation officer designated by the court, who shall submit a written report to the court, prosecuting attorney and juvenile or counsel for the juvenile at least 5 days prior to the hearing.
 3. The court shall make findings as to whether or not the juvenile should, in the discretion of the court, be waived under the Juvenile Corrections Act.
- (b) At the hearing, the court may rely on the investigative report, the juvenile's criminal record in the state of Idaho, certified court records from other states and county probation records. The prosecuting attorney, juvenile, or attorney for the juvenile may present evidence in support of, or opposed to, the contents of the reports and records before the court and the waiver request. Each party shall have the right to present such evidence as may be relevant to the issue of waiver, and the court may consider such hearsay as may be contained in the investigative report, criminal records, or other relevant evidence submitted to the court.

- (c) The juvenile may stipulate to waiver but said stipulation shall be reduced to writing or placed upon the record in open court.
- (d) Upon waiver, the prosecuting attorney shall file a criminal complaint within 24 hours, excluding Saturdays, Sundays, or holidays, and the court shall ~~remand the juvenile to the custody of the county sheriff and~~ order that an initial appearance on the criminal complaint shall be held pursuant to I.C.R. 5. ~~The juvenile shall be held without bond on a felony, or held pursuant to M.C.R. 13 on a misdemeanor, pending the initial appearance.~~
- (e) Before sentencing, a juvenile under the age of 18 may not be held in a jail or lockup for adults unless a court finds, after a hearing and in writing, that it is in the interest of justice. In determining whether it is in the interest of justice to permit a juvenile to be held in any jail or lockup for adults, or have sight or sound contact with adult inmates, a court shall consider:
1. the age of the juvenile;
 2. the physical and mental maturity of the juvenile;
 3. the present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
 4. the nature and circumstances of the alleged offense;
 5. the juvenile's history of prior delinquent acts;
 6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
 7. any other relevant factor.

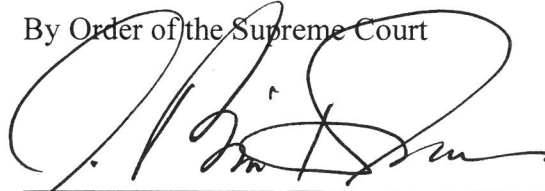
IT IS FURTHER ORDERED that this order and these amendments shall be effective July 1, 2022.

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*.

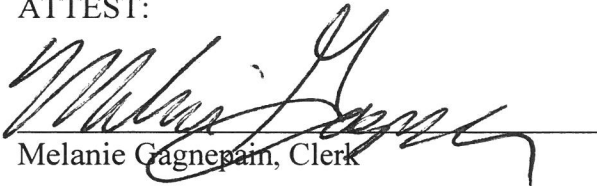
DATED this 28th day of April, 2022.

By Order of the Supreme Court



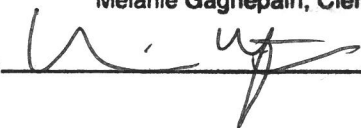
G. Richard Bevan
Chief Justice, Idaho Supreme Court

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 4-28-22
Melanie Gagnepain, Clerk

By  Deputy