

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO COURT )  
ADMINISTRATIVE RULE 100; IDAHO )  
RULES OF CIVIL PROCEDURE 1; AND )  
IDAHO RULES FOR ELECTRONIC FILING )  
AND SERVICE 5 AND 9 )

ORDER

The Court, having reviewed a recommendation to amend the following rules, and the Court being fully informed;

IT IS ORDERED that the Idaho Court Administrative Rules, the Idaho Rules of Civil Procedure, and the Idaho Rules for Electronic Filing and Service, are amended as follows:

## **Idaho Court Administrative Rule 100. Hospitalization of Mentally Ill, Detention Without a Hearing.**

(a) **Notice to Court of Detention and Placement at a Facility.** Whenever a person is taken into custody or detained by a peace officer or medical staff member without a court order pursuant to Idaho Code section 66-326(1) or Idaho Code section 16-2413, the evidence supporting the claim that: (i) the person is gravely disabled due to mental illness or poses an imminent danger, as provided in Idaho Code section 66-326, or (ii) that an emergency exists with respect to the child, as provided in Idaho Code section 16-2414, must be electronically filed with the court by the prosecuting attorney within twenty four (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 the person to be gravely disabled due to mental illness or poses an imminent danger, the court will issue a temporary custody order requiring the person to be held in a facility and requiring an examination of the person by a designated examiner within twenty-four (24) hours of the issuance of the temporary custody order.

#### (2) Transmission.

(A) A temporary custody order may be issued electronically to the prosecuting attorney, the peace officer or medical staff member who initiated the detention, or any individual or agency who is charged with facilitating or conducting the examination.

(B) If the prosecuting attorney seeks a temporary custody order after office hours, during the weekend, or on a holiday pursuant to paragraph (b)(3) of this rule, the court may issue the order based on information communicated by telephone or other reliable electronic means. When the court's findings are based on a sworn



oral statement, the statement must be recorded and is considered part of the record. All sworn oral statements given in support of an application for a temporary custody order must be given on oath or affirmation and must identify the speaker. The judge may then verbally authorize the prosecuting attorney to sign the judge's name, which verbal authorization must be recorded.

(3) *After Hours, Weekends, and Holidays.* If the prosecuting attorney seeks a temporary custody order after office hours, during the weekend, or on a holiday, the prosecuting attorney will contact the on-call judge and present the evidence supporting the claim. If the judge issues a temporary custody order, the prosecuting attorney will serve it on the peace officer or medical staff member who initiated the detention and any individual or agency who is charged with facilitating or conducting the examination. On the next judicial day, the prosecuting attorney will file the evidence supporting the claim and temporary custody order. The clerk will accept the evidence supporting the claim and previously signed temporary custody order and will affix a date stamp that reflects the original issuance of the order. If the previously signed temporary custody order was signed by the prosecuting attorney on behalf of the judge upon verbal authorization pursuant to paragraph (b)(2)(B) of this rule, 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 then endorse his or her name on the previously signed order. Any failure of the judge to make such an endorsement does not in itself invalidate the order.

**(bc) Examination and Report.** If the court issues a temporary custody order requiring the person to be held in a facility and requiring an examination of the person by a designated examiner, the designated examiner's findings must be reported to the prosecuting attorney within twenty-four (24) hours of the examination. Upon receipt of the designated examiner's findings, the prosecuting attorney shall, as soon as reasonably practicable but in no event no later than 24 hours following receipt, file such findings with the court.

**(d) Electronic Signatures.** An electronic signature may be used on any document that is required or permitted under this rule and that is transmitted electronically, including a temporary custody order requiring the person to be held in a facility and requiring an examination of the person by a designated examiner, a written certification or declaration under penalty of perjury, an affidavit, or a notary's seal, in accordance with Idaho Rules for Electronic Filing and Service 9.

## **Idaho Rules of Civil Procedure**

### **Rule 1. Scope of Rules; District Court Rules.**

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**(b) Scope of Rules.** These rules govern the procedure and apply uniformly in the district courts and the magistrate's divisions of the district courts in the State of Idaho in all actions, proceedings and appeals of a civil nature; except that proceedings in the small claims department are governed by these rules only as provided by The Idaho Small Claims Rules; proceedings regarding the hospitalization of the mentally ill pursuant to Idaho Code section 66-326(1), and Idaho Code



section 16-2413, are governed by the Idaho Court Administrative Rules (ICAR); and family law proceedings as identified in Rule 101, Idaho Rules of Family Law Procedure (IRFLP) are governed by the IRFLP. All references in these rules to the court or district court include the magistrate's division, and all references to judges or clerks include magistrates and their clerks and a judge pro tempore appointed pursuant to Idaho Court Administrative Rule 4. These rules should be construed and administered to secure the just, speedy and inexpensive determination of every action and proceeding.

## **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.

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(k) **Hospitalization of Mentally Ill, Detention Without a Hearing.** A document delivered pursuant to Idaho Court Administrative Rule 100 after office hours, during the weekend, or on a holiday, will be filed in accordance with the procedure set out in Idaho Court Administrative Rule 100.

(kl) Other Documents that cannot be Filed Electronically. Any document or thing that cannot be scanned or otherwise converted to a Portable Document Format (.pdf) format 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.

### **Rule 9: Electronic Signatures**

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(b) **Judge's signature.** All electronically 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, a temporary custody order issued after office hours, during the weekend, or on a holiday pursuant to Idaho Court Administrative Rule 100 (b)(3) may alternatively be signed with any reliable type of electronic or digital signature that has built-in protective features, including embedded information, qualification, identity verification, or cryptographic security.

IT IS FURTHER ORDERED that this order and these amendments shall be effective immediately.

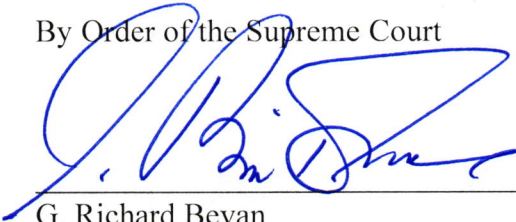
IT IS FURTHER ORDERED that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered

a part of the permanent Idaho Court Administrative Rules, Idaho Rules of Civil Procedure, and Idaho Rules for Electronic Filing and Service.

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*.

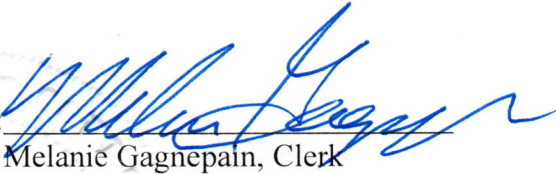
DATED this 30<sup>th</sup> day of April, 2024.

By Order of the Supreme Court



G. Richard Bevan  
Chief Justice, Idaho Supreme Court

ATTEST:



Melanie Gagnepain, Clerk

