In the Supreme Court of the State of Idaho

IN RE: EMERGENCY REDUCTION IN COURT SERVICES AND LIMITATION OF ACCESS TO COURT FACILITIES	)	**ORDER APRIL 22, 2020**

For public safety and to mitigate the spread of the COVID-19 virus, and pursuant to Idaho Court Administrative Rule 48, all State of Idaho court proceedings and facilities shall operate as follows until further order of this Court:

1. The minimum operating personnel for each court facility shall include at least one front desk deputy clerk and one courthouse security officer limiting access to court facilities. If any non-court staff appears in-person for a hearing, at least one additional court security officer in the courtroom is required.

2. No jury trials shall commence, nor shall a juror be required to appear, in a criminal case before August 3, 2020, and in a civil case before October 5, 2020. This order suspending jury trials shall be deemed good cause to deny a motion to dismiss a criminal case based upon the time requirements set forth in section 19-3501, Idaho Code. *See* Idaho Criminal Rule 28. The postponement of criminal jury trials required by this order shall be considered among the other factors listed under Idaho Criminal Rule 46 in determining the amount of bail and for purposes of determining eligibility for pretrial release.

3. All trials on a petition to terminate parental rights and felony sentencing hearings in which the possible penalty includes a life sentence shall be held in person, subject to the safety protocols identified in paragraph 7 of this order.

4. All other court proceedings are presumptively to be held remotely, i.e. with all participants utilizing remote technologies including teleconferencing and video conferencing, and are subject to the following conditions and requirements:

    a. Court rules which prohibit hearing any case or part thereof remotely are suspended during the effective term of this order.

b. Any party intending to offer documentary evidence during a hearing held remotely will provide the court and all parties a list of such exhibits and copies thereof at least seventy-two (72) hours before such hearing unless the assigned judge modifies the time for good cause shown.

c. For all court proceedings, an audio recording must be created in For The Record (FTR) software or in Zoom software. For all court proceedings in district court, the official record must be kept by a court reporter in addition to the audio recording. With the permission of the assigned judge, a court reporter may report proceedings remotely.

d. An assigned judge has the discretion to enter other orders or impose other requirements to promote the safety of participants, to promote efficiency, and to protect the integrity of the remote proceeding.

5. A presiding judge may, in the exercise of discretion and after making findings on the record, determine that a proceeding must be held in person because of the court's needs or to prevent undue prejudice to a party. In such a case, the assigned judge may postpone the hearing of the matter or allow an in-person hearing to the extent necessary to enable the court to consider the matter.

6. Access by the public to court proceedings may be requested, but will be permitted at the discretion of the presiding judge.

7. While in a courthouse, any person attending or participating in a court proceeding or doing court business must:

   a. wear a mask covering their nose and mouth;

   b. maintain an appropriate social distance of at least six (6) feet from all persons not living in their household;

   c. comply with all court orders restricting the number of persons that may gather together.

8. The Administrative District Judge is responsible for ensuring adequate measures are in place so that while in a courthouse all persons participating in a court proceeding or doing court business:

a. have easy access to sanitation stations where hand sanitizer, bleach wipes, or handwashing is available; and

b. can maintain appropriate social distance of at least six (6) feet from any persons not living in their household.

9. The Administrative District Judge has the discretion to impose restrictions and limitations on the manner in which courthouses and courtrooms are used, including restrictions and limitations on in-person proceedings.

10. Existing grand jury panels may be extended at the discretion of the court that summoned the grand jury.

11. The 21-day preliminary hearing requirement for out-of-custody defendants under Idaho Criminal Rule 5.1 is waived during the effective dates of this Order.

12. No judge shall be disqualified without cause from any proceeding pursuant to Idaho Criminal Rule 25(a), Idaho Rule of Civil Procedure 40(a), and Idaho Rule of Family Law Procedure 107 during the effective term of this order. When this order is lifted, these disqualification rules will only operate prospectively and may not be exercised retrospectively in any existing case.

13. Signage shall be posted at all public entry points advising individuals not to enter courtrooms or approach court services offices if they:

    a. have been asked to self-isolate by any doctor, hospital, or health agency;

    b. have been required to self-isolate because of travel outside the State of Idaho;

    c. have been diagnosed with, but have not yet recovered from, COVID-19; or

    d. are experiencing any signs or symptoms of illness including: fever, cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, or new loss of taste or smell;

    e. are not wearing a mask covering their nose and mouth.

14. Individuals who, in violation of these protocols, approach a court services office or enter a courthouse or other venue where court is being held in violation of these protocols shall be denied access by anyone designated for courthouse security by the Administrative

District Judge. Any violation of this order may be dealt with through contempt proceedings set forth in Idaho Rule of Civil Procedure 75. Any violation witnessed by a judge may be addressed through summary contempt proceedings set forth in Rule 75(b).

15. Individuals with legitimate court business who are prohibited from accessing court facilities for the reasons set forth in paragraph 13 are advised to stay home and call the local Court Clerk. Elected Court Clerks are urged to appoint one (or more as necessary) point persons to process requests for continuances, notify any presiding judge and involved attorneys, and facilitate the filing of necessary documents through e-filing or drop box processes.

This Order will take effect at 12:01 am on May 1, 2020 and, at that time, supersede this Court's order of April 21, 2020.

IT IS SO ORDERED.

DATED this 22nd day of April, 2020.

Roger Burdick

Roger Burdick,
Chief Justice, Idaho Supreme Court

ATTEST:

Karel A. Lehrman

Clerk

I, **Karel A. Lehrman, 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 April 22, 2020 **entered** in the above **entitled cause and now on record** in my office.
WITNESS my hand and **the Seal of this Court** 4-22-20

KAREL A. LEHRMAN **Clerk**

By: **Chief Deputy**