In the Supreme Court of the State of Idaho

RE: EMERGENCY ORDER	)	**ORDER**
REGARDING COURT	)	**October 6, 2021**
SERVICES	)	
	)	

On September 22, 2021, this court issued an emergency order to address the substantial health and safety risks faced by the public accessing the courts, court personnel, and participants in court proceedings caused by the community spread of COVID-19. After further consideration, section two of that order is hereby amended as follows:
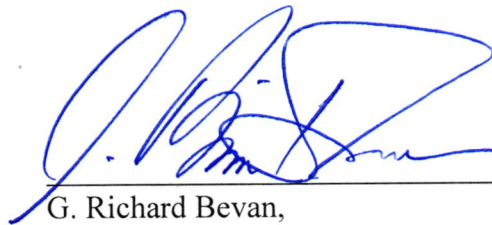
2. **Court Proceedings Other Than Jury Trials and Grand Jury Proceedings**: Other than for on-going jury trials and grand jury proceedings, court rules which prohibit hearing any case or part thereof remotely are suspended during the effective term of this order. All court proceedings shall be held remotely, i.e., with all participants utilizing remote technologies including teleconferencing and video conferencing, subject to the following conditions and requirements:

   a. All trials on a petition to terminate parental rights shall be held in person.

   b. All felony sentencing hearings in which the crime for which the defendant is being sentenced carries a maximum sentence of life and in which the assigned judge has not previously agreed to impose a sentence of less than life, shall be held in person with the defendant and counsel present in the courtroom.

   c. All felony sentencing hearings in which the crime for which the defendant is being sentenced carries a maximum sentence of less than life imprisonment or in which the assigned judge has previously agreed to impose a sentence of less than life, may be held remotely only if:

      i. both parties stipulate and the judge agrees to hold the sentencing remotely, and

      ii. the defendant provides, on the record, a knowing, intelligent, and voluntary waiver of all the rights granted by Idaho Code section 19-2503.

   d. At the discretion of the assigned judge, court appearances in treatment court proceedings may be held in person.

   e. At the discretion of the assigned judge, hearings held pursuant to Idaho Code sections 39-6308(4) or 18-7908(2) regarding petitions for an ex parte temporary protection order may be held in person.

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

g. An audio recording of all court proceedings must be created in For The Record (FTR) software recording or in Zoom software recording. For court proceedings in district court, the official record may 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.

h. To protect the integrity of the remote proceeding, an assigned judge has the discretion to enter other orders or impose other requirements to promote the safety of participants or to promote efficiency.

i. A presiding judge may, in the exercise of discretion and after making findings on the record, determine that a proceeding, including a bench trial or an evidentiary hearing in a juvenile case, must be held in person because of the court's needs or to prevent 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.

j. If a proceeding is held in person, the safety protocols set forth in section one of the September 22, 2021 Order shall be followed.

k. Any portion of a proceeding otherwise open to the public pursuant to law may be live streamed subject to the conditions in section nine of this order.

All other provisions of the September 22, 2021, Order Re: Emergency Order Regarding Court Services remain unchanged and in full force and effect. This order shall take effect immediately.
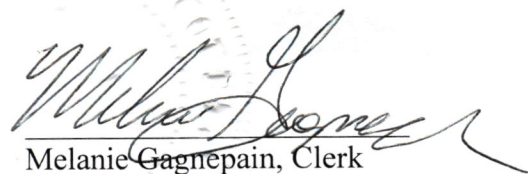

IT IS SO ORDERED.

DATED this 6th day of October 2021.

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G. Richard Bevan,
Chief Justice, Idaho Supreme Court

ATTEST:

Melanie Gagnepain, Clerk