

STATEMENT OF PURPOSE

RS26120

A court considering pretrial release of a defendant, and determining a bail amount, must balance the presumption of innocence and defendants' right to bail that is not excessive with ensuring public safety, protection of victims and witnesses, and the appearance of the defendant. I.C. §§19-2902 and 19-2904. In contrast to these many considerations, existing Idaho law expressly provides that a bail bond posted by a bail bondsman is a financial guarantee only that the defendant will appear as ordered and bail bondsmen are not required to monitor compliance with conditions of release. I.C. §19-2905(3). Supervised pretrial supervision programs, which do monitor compliance with conditions of release, should be expressly authorized to address the additional public safety considerations. Courts should be allowed to impose and collect a supervision fee in the criminal case which will be paid to the county to fund these programs. Supervised pretrial release programs have been in existence in Idaho for fifteen (15) years, and currently thirty (30) of Idaho's forty-four (44) counties have such a program.

The current "Bail, Release on Recognizance and Condition of Release" statute, I.C. § 19-2904, permits courts to impose conditions upon defendants released from custody while awaiting trial. The proposed legislation seeks to add a new section, 19-2904A, to specifically authorize courts to require, as a condition of a defendant's release, that they be supervised while awaiting trial. Per this statute, each county can decide whether to establish a supervised pretrial release program. If the county has or adopts such a program, then the court may, in the exercise of discretion and in addition to any bond posted to ensure appearance, require supervision or monitoring of a defendant who is awaiting trial to ensure public safety, protection of victims and witnesses, and compliance with other conditions of release.

This proposed legislation also seeks to add another new section, 31-3201J, entitled "Pretrial Supervision Fee" to allow the court, as opposed to a county, to impose a fee for those on a supervised pretrial release program. Pursuant to this new section, the court could require a released defendant to pay a fee of no more than two dollars and fifty cents (\$2.50) per day, plus the actual cost of electronic monitoring and/or drug and alcohol testing if such monitoring and/or testing is also a condition of release. The fees would be distributed to the counties to be used exclusively to cover the costs of the pretrial services provided by the pretrial services agency.

FISCAL NOTE

This amendment would fund supervised pretrial release programs by collecting fees from defendants participating in the programs. Accordingly, there will be no fiscal impact upon the General Fund, any other state fund or local governments because the amendment will not require the expenditure of any government funds.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).