

IN THE SENATE

SENATE BILL NO. 1110

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO BAIL ENFORCEMENT AGENTS; AMENDING SECTION 19-2914, IDAHO CODE,
2 TO PROVIDE THAT BAIL ENFORCEMENT AGENTS MAY ARREST A DEFENDANT IN CER-
3 TAIN INSTANCES; AND AMENDING CHAPTER 29, TITLE 19, IDAHO CODE, BY THE
4 ADDITION OF A NEW SECTION 19-2914A, IDAHO CODE, TO DEFINE A TERM, TO
5 PROVIDE REQUIREMENTS FOR BAIL ENFORCEMENT AGENTS, TO PROVIDE FOR IDEN-
6 TIFICATION REQUIREMENTS, TO PROVIDE FOR NOTIFICATION TO THE SHERIFF, TO
7 PROHIBIT CERTAIN ACTS, TO PROVIDE PENALTIES, TO PROVIDE REQUIREMENTS
8 FOR PROSECUTION, AND TO PROVIDE THAT A BAIL AGENT SHALL KEEP CERTAIN
9 RECORDS.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 19-2914, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 19-2914. ARREST OF DEFENDANT FOR SURRENDER. At any time before the ex-
15 oneration of bail, the surety insurance company or its bail agent or the per-
16 son posting a property bond or cash deposit may empower ~~any person of suit-~~
17 ~~able age and discretion~~ a bail enforcement agent to arrest the defendant at
18 any place within the state by signing an affidavit extending such authority
19 in a form approved by the supreme court.

20 SECTION 2. That Chapter 29, Title 19, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 19-2914A, Idaho Code, and to read as follows:

23 19-2914A. BAIL ENFORCEMENT AGENTS. (1) As used in this section, "bail
24 enforcement agent" or "agent" means a person who:

25 (a) Is empowered to arrest or surrender a defendant at any time before
26 the exoneration of bail; and

27 (b) Meets the requirements of this section.

28 (2) Requirements. An agent must:

29 (a) Be eighteen (18) years of age or older;

30 (b) Be a citizen or legal resident of the United States;

31 (c) Not have been adjudicated as having suffered from any of the follow-
32 ing conditions, based on substantial evidence:

33 (i) Lacking mental capacity as defined in section 18-210, Idaho
34 Code;

35 (ii) Mentally ill as defined in section 66-317, Idaho Code;

36 (iii) Gravely disabled as defined in section 66-317, Idaho Code;

37 or

38 (iv) An incapacitated person as defined in section 15-5-101,
39 Idaho Code; and

40 (d) Not be a fugitive from justice.

1 (3) Required items and information. During an arrest pursuant to sec-
2 tion 19-2914, Idaho Code, a bail enforcement agent must possess:

3 (a) An affidavit in a form approved by the Idaho supreme court extending
4 the authority to arrest the defendant;

5 (b) The name, last known address, and photograph of the defendant;

6 (c) The name and principal address of the surety insurance company, its
7 bail agent, or the person posting a property bond or cash deposit that is
8 empowering the bail enforcement agent to arrest the defendant; and

9 (d) A valid driver's license or other photographic identifying docu-
10 ment or information.

11 (4) Identification. A badge shall be worn by bail enforcement agents
12 that is designed exclusively for bail enforcement agents. The badge must
13 clearly delineate the title of "bail enforcement agent" directly on and be-
14 low the badge.

15 (5) Notification to the sheriff. Prior to making a planned apprehen-
16 sion, an agent must first provide notice to the county sheriff of the county
17 within which the planned apprehension is to occur.

18 (6) Prohibitions. Upon appointment, until either revocation of ap-
19 pointment or the exoneration of bail, an agent may not:

20 (a) Represent himself as a peace officer or an employee of any depart-
21 ment of a federal, state, or local law enforcement agency;

22 (b) Wear any uniform that would represent the agent as a peace officer
23 or an employee of any department of a federal, state, or local govern-
24 ment;

25 (c) Use a fictitious name that would represent the agent as a peace of-
26 ficer or an employee of a department of a federal, state, or local gov-
27 ernment; or

28 (d) Carry a weapon, unless in compliance with all state and federal
29 laws.

30 (7) Penalty. Any person who violates the provisions of subsection (2),
31 (3), (4), or (5) of this section for the first offense shall be liable for a
32 misdemeanor penalty of a fine not to exceed one thousand dollars (\$1,000).
33 For any second or subsequent offense, the person shall be subject to a misde-
34 meanor penalty not to exceed six (6) months in jail and a fine not to exceed
35 one thousand dollars (\$1,000). Any person who fails to obtain authority from
36 a surety insurance company or its bail agent, or the person posting a prop-
37 erty bond or cash deposit in accordance with section 19-2914, Idaho Code, or
38 a similar law of another state, or who attempts to arrest or surrender a de-
39 fendant without meeting the requirements of subsection (2) of this section,
40 or who violates the provisions of subsection (6) of this section, is guilty
41 of a misdemeanor.

42 (8) Requirements for prosecution. Venue for prosecution for a viola-
43 tion under the provisions of this section shall be in the county where the
44 violation occurred, and such prosecution will be handled by the prosecuting
45 attorney of such county. A prosecution for a violation of this section must
46 be commenced within the time limitations set forth in section 19-403, Idaho
47 Code.

48 (9) A bail agent who appoints a bail enforcement agent is required to
49 keep a copy of the bail enforcement agent's appointment and may rely thereon
50 that the bail enforcement agent has met the requirements of this section.