

IN THE SENATE

SENATE BILL NO. 1110, As Amended

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
3 CERTAIN INSTANCES; 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; AND AMENDING SECTION 41-1039, IDAHO CODE, TO REVISE A PROVI-
10 SION REGARDING SUSPENSION OF A LICENSE.
11

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

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

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

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

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

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

28 (b) Meets the requirements of this section.

29 (2) Requirements. An agent must:

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

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

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

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

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

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

38 or

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

1 (d) Not be a fugitive from justice.
2 (3) Required items and information. During an arrest pursuant to sec-
3 tion 19-2914, Idaho Code, a bail enforcement agent must possess:
4 (a) An affidavit in a form approved by the Idaho supreme court extending
5 the authority to arrest the defendant;
6 (b) The name, last known address, and photograph of the defendant;
7 (c) The name and principal address of the surety insurance company, its
8 bail agent, or the person posting a property bond or cash deposit that is
9 empowering the bail enforcement agent to arrest the defendant; and
10 (d) A valid driver's license or other photographic identifying docu-
11 ment or information.
12 (4) Identification. A badge shall be worn by bail enforcement agents
13 that is designed exclusively for bail enforcement agents. The badge must
14 clearly delineate the title of "bail enforcement agent" directly on and be-
15 low the badge.
16 (5) Notification to the sheriff. Prior to making a planned apprehen-
17 sion, an agent must first provide notice to the county sheriff of the county
18 within which the planned apprehension is to occur.
19 (6) Prohibitions. Upon appointment, until either revocation of ap-
20 pointment or the exoneration of bail, an agent may not:
21 (a) Represent himself as a peace officer or an employee of any depart-
22 ment of a federal, state, or local law enforcement agency;
23 (b) Wear any uniform that would represent the agent as a peace officer
24 or an employee of any department of a federal, state, or local govern-
25 ment;
26 (c) Use a fictitious name that would represent the agent as a peace of-
27 ficer or an employee of a department of a federal, state, or local gov-
28 ernment; or
29 (d) Carry a weapon, unless in compliance with all state and federal
30 laws.
31 (7) Penalty. Any person who violates the provisions of subsection (2),
32 (3), (4), or (5) of this section for the first offense shall be liable for a
33 misdemeanor penalty of a fine not to exceed one thousand dollars (\$1,000).
34 For any second or subsequent offense, the person shall be subject to a misde-
35 meanor penalty not to exceed six (6) months in jail and a fine not to exceed
36 one thousand dollars (\$1,000). Any person who fails to obtain authority from
37 a surety insurance company or its bail agent, or the person posting a prop-
38 erty bond or cash deposit in accordance with section 19-2914, Idaho Code, or
39 a similar law of another state, or who attempts to arrest or surrender a de-
40 fendant without meeting the requirements of subsection (2) of this section,
41 or who violates the provisions of subsection (6) of this section, is guilty
42 of a misdemeanor.
43 (8) Requirements for prosecution. Venue for prosecution for a viola-
44 tion under the provisions of this section shall be in the county where the
45 violation occurred, and such prosecution will be handled by the prosecuting
46 attorney of such county. A prosecution for a violation of this section must
47 be commenced within the time limitations set forth in section 19-403, Idaho
48 Code.

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

4 SECTION 3. That Section 41-1039, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 41-1039. LICENSE REQUIRED. (1) No person shall hold himself out to be
7 a bail agent or sell, solicit, negotiate, advise or consult regarding the
8 terms of bail bond contracts in this state unless that person is licensed as
9 a producer in the line of surety insurance. The director is vested with the
10 exclusive authority to license bail agents and the authority to regulate the
11 solicitation, negotiation and transaction of bail with retail consumers of
12 bail bonds, provided however, that a court retains the authority to refuse
13 to accept bail bonds from a surety or a bail agent pursuant to its inherent
14 authority, pursuant to Idaho Code, or as provided by supreme court rules,
15 guidelines or appellate decisions.

16 (2) A bail agent is authorized to execute and countersign undertakings
17 of bail, including bail bonds, in connection with any judicial proceedings
18 in each of the judicial districts of the state. Any sheriff or clerk of the
19 district court shall accept bail bonds only from a bail agent, unless other-
20 wise ordered by the court pursuant to subsection (1) of this section.

21 (3) In addition to the authority to revoke, suspend or refuse to issue
22 a bail agent's license pursuant to section 41-1016, Idaho Code, the director
23 shall suspend a license for a period not to exceed six (6) months, after mail-
24 ing notice to the last known address of the bail agent but prior to a hearing,
25 if such bail agent:

26 (a) Has been convicted or has entered a guilty plea to any felony or to a
27 misdemeanor ~~which evidences bad moral character~~ evidencing theft, dis-
28 honesty, a lack of integrity and financial responsibility, or an unfit-
29 ness and inability to provide acceptable service to the consuming pub-
30 lic intimidation, threats, or violence; or

31 (b) Intentionally and fraudulently makes a false statement to a court
32 in connection with a bail transaction.

33 (4) In addition to the provisions of subsection (3) of this section, the
34 director may also suspend a license for a period not to exceed six (6) months,
35 after mailing notice to the last known address of the bail agent but prior to
36 a hearing, for reasons set forth in the rules of the department.