

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 508

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO BAIL ENFORCEMENT AGENTS; AMENDING CHAPTER 29, TITLE 19, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 19-2914A, IDAHO CODE, TO DEFINE A
3 TERM, TO PROVIDE REQUIREMENTS FOR BAIL ENFORCEMENT AGENTS, TO PROVIDE
4 THAT AN AGENT MUST POSSESS CERTAIN ITEMS AND INFORMATION, TO ESTABLISH
5 REQUIREMENTS FOR AGENT CREDENTIALS, TO PROVIDE THAT AGENTS SHALL WEAR
6 CERTAIN OUTER GARMENTS EXCEPT UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE
7 PROHIBITIONS, TO PROVIDE FOR A CIVIL PENALTY, TO PROVIDE FOR A CRIMINAL
8 PENALTY, TO ESTABLISH REQUIREMENTS FOR PROSECUTION OF A BAIL ENFORCE-
9 MENT AGENT AND TO REQUIRE THAT A BAIL AGENT WHO APPOINTS A BAIL ENFORCE-
10 MENT AGENT SHALL KEEP A COPY OF THE BAIL ENFORCEMENT AGENT'S LICENSE
11 TO CARRY CONCEALED WEAPONS; AMENDING SECTION 19-2913, IDAHO CODE, TO
12 CLARIFY THAT A SURETY COMPANY OR ITS BAIL AGENT MAY APPOINT ANOTHER BAIL
13 AGENT; AND AMENDING SECTION 19-2914, IDAHO CODE, TO REVISE TERMINOLOGY.
14

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

16 SECTION 1. That Chapter 29, Title 19, Idaho Code, be, and the same is
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
18 ignated as Section 19-2914A, Idaho Code, and to read as follows:

19 19-2914A. BAIL ENFORCEMENT AGENTS. (1) Definition. For purposes of
20 this section, "bail enforcement agent," hereinafter "agent," means a person
21 who:

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

24 (b) Meets the requirements of this section.

25 (2) Requirements. An agent must:

26 (a) Be twenty-one (21) years of age or older;

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

28 (c) Possess a valid Idaho enhanced license to carry concealed weapons
29 as defined in section 18-3302K, Idaho Code, or possess a valid enhanced
30 license to carry concealed weapons issued by another state, which li-
31 cense is recognized by the Idaho attorney general.

32 (3) Required items and information. Upon appointment until either re-
33 vocation of appointment or the exoneration of bail, a bail enforcement agent
34 must possess:

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

37 (b) The name and last known address of the defendant;

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

41 (d) A valid enhanced license to carry concealed weapons; and

1 (e) Credentials as provided for in subsection (4) of this section or
2 equivalent credentials from another jurisdiction.

3 (4) Credentials. Credentials shall consist of:

4 (a) A gold-toned metal plate engraved with the words "Idaho bail en-
5 forcement agent" that is two and seven-tenths (2.7) inches in length and
6 two and one quarter (2.25) inches in width; and

7 (b) A valid Idaho enhanced license to carry concealed weapons.

8 The plate and license shall be contained within a bi-fold wallet on the per-
9 son of an agent in the course of making an arrest. The agent shall also carry
10 an identification card and display the card to any law enforcement officer or
11 officers when requested to do so by the officer or officers. Such identifi-
12 cation card shall not contain a badge, emblem or any other visible symbol of
13 law enforcement.

14 (5) Identification on outer garments. During the course of a forced
15 entry of a building or a planned apprehension, an agent must wear a jacket,
16 shirt or vest as an outer garment with the words "bail enforcement agent"
17 plainly printed and readily visible on the front and back of the garment.
18 An agent is not required to wear such an outer garment in circumstances when
19 wearing the garment could jeopardize an agent's ability to arrest a defen-
20 dant or would endanger the safety of the public.

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

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

25 (b) Wear a badge of any kind; provided however, that a credential re-
26 quired by this section shall not be considered a badge;

27 (c) Wear any uniform that would represent the agent as a peace officer
28 or an employee of any department of a federal, state or local govern-
29 ment;

30 (d) Use a fictitious name that would represent the agent as a peace of-
31 ficer or an employee of a department of a federal, state or local govern-
32 ment; or

33 (e) Carry a weapon, unless in compliance with all state and federal
34 laws.

35 (7) Civil penalty. Any person who violates subsection (2), (3), (4) or
36 (5) of this section shall be liable for a civil fine not to exceed two thou-
37 sand dollars (\$2,000). The burden of proof for such civil liability shall be
38 met by showing a preponderance of the evidence.

39 (8) Criminal penalty. Any person who violates subsection (6) of this
40 section is guilty of a misdemeanor and, upon conviction, is subject to the
41 punishment set forth in section 18-113, Idaho Code.

42 (9) Requirements for prosecution. Venue for prosecution for a viola-
43 tion under the provisions of this section shall be in the county where the vi-
44 olation occurs, and such prosecution will be handled by the prosecuting at-
45 torney 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 (10) A bail agent who appoints a bail enforcement agent is required to
49 keep a copy of the bail enforcement agent's enhanced license to carry con-
50 cealed weapons, as required by subsection (2) of this section, and may rely

1 thereon that the bail enforcement agent has met the requirements of this sec-
2 tion.

3 SECTION 2. That Section 19-2913, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 19-2913. SURRENDER OF DEFENDANT. (1) At any time before forfeiture of
6 bail, a surety insurance company or its bail agent, a licensed bail agent ap-
7 pointed by a surety company or its bail agent, or a person posting a property
8 bond or cash deposit may surrender the defendant to the sheriff of the county
9 where the action is pending. Upon the surrender of the defendant, the sher-
10 iff shall accept and incarcerate the defendant in lieu of the bail originally
11 set by the court.

12 (2) At the time of surrender of the defendant to the sheriff, the surety
13 insurance company or its bail agent or person posting a property bond or cash
14 deposit shall provide the sheriff with a certificate of surrender.

15 (3) The surety insurance company or its bail agent or person posting
16 a property bond or cash deposit shall, within five (5) business days of the
17 surrender of the defendant, file with the court in which the action or appeal
18 is pending the certificate of surrender and shall deliver a copy of the same
19 to the attorney for the state. The court shall thereupon order the bail exon-
20 erated.

21 (4) At any time before forfeiture of bail, a defendant may surrender
22 himself to the sheriff of the county where the action is pending. Upon sur-
23 render by the defendant, the sheriff shall accept and incarcerate the defen-
24 dant in lieu of the bail originally set by the court.

25 SECTION 3. That Section 19-2914, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 19-2914. ARREST OF DEFENDANT FOR SURRENDER. At any time before the ex-
28 oneration of bail, the surety insurance company or its bail agent or the per-
29 son posting a property bond or cash deposit may empower ~~any person of suit-~~
30 ~~able age and discretion~~ a bail enforcement agent to arrest the defendant at
31 any place within the state by signing an affidavit extending such authority
32 in a form approved by the supreme court.