

IN THE SENATE

SENATE BILL NO. 1120

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2915, IDAHO CODE, TO PROVIDE FOR A SURETY INSURANCE COMPANY; AND AMENDING SECTION 19-2922, IDAHO CODE, TO PROVIDE FOR A SURETY INSURANCE COMPANY, TO PROVIDE THAT BAIL SHALL BE EXONERATED IN CERTAIN INSTANCES, AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 19-2915, Idaho Code, be, and the same is hereby amended to read as follows:

19-2915. FORFEITURE OF BAIL. (1) If without sufficient excuse the defendant fails to appear before the court as ordered, the court shall immediately:

- (a) Enter the defendant's failure to appear in the minutes;
  - (b) Order forfeiture of the bail; and
  - (c) Issue a bench warrant for the arrest of the defendant.
- (2) The court, in its discretion, may:
- (a) Set the amount of bail in the bench warrant;
  - (b) Set the amount of bail in the bench warrant but require that the defendant appear before the court where the charge or charges are pending before being released on bail; or
  - (c) Set no bail on the bench warrant and require that the defendant not be released until appearing before the court where the charges are pending, at which time the court shall set bail or release the defendant on the defendant's own recognizance, and shall set any conditions of release.

(3) The clerk shall provide the person posting bail written notice of the order of forfeiture by mailing notice within five (5) business days of the order of forfeiture to the surety insurance company and to the last known address of the person posting bail or that person's designated agent.

(4) If the court quashes the bench warrant within one hundred eighty (180) days after the order of forfeiture, the forfeiture of bail shall be set aside and the court shall notify the person posting bail of the setting aside of the forfeiture within five (5) business days of the date of the order quashing the bench warrant and reinstating the bail.

SECTION 2. That Section 19-2922, Idaho Code, be, and the same is hereby amended to read as follows:

19-2922. EXONERATION OF BAIL. The court shall order the bail exonerated in the following circumstances:

- (1) The defendant has appeared for all court proceedings as ordered and all charges for which the bail has been posted have been resolved by acquittal, dismissal, or sentencing;

1 (2) Written notice of the court's order of forfeiture was not mailed to  
2 the surety insurance company and to the person posting bail or his designated  
3 agent within five (5) business days of the order of forfeiture;

4 (3) Written notice of the court's order to set aside the order of for-  
5 feiture and reinstating bail was not mailed to the person posting bail or his  
6 designated agent within five (5) business days of the order;

7 (4) Before any order of forfeiture, the defendant has been surrendered  
8 or has surrendered himself to the sheriff of the county where the action is  
9 pending and the certificate of surrender has been filed with the court as re-  
10 quired in section 19-2913, Idaho Code;

11 (5) The defendant has appeared before the court within one hundred  
12 eighty (180) days of the court's order of forfeiture, unless the court has  
13 set aside the order of forfeiture and has reinstated bail pursuant to section  
14 19-2916, Idaho Code; provided, that in those cases where the defendant was  
15 not returned by the person posting bail to the sheriff of the county where  
16 the action is pending, the court may condition the exoneration of bail and  
17 the setting aside of the forfeiture on payment by the person posting bail of  
18 any costs incurred by state or local authorities arising from the transport  
19 of the defendant to the jail facility of the county where the charges are  
20 pending. Such costs shall not exceed the amount of the bail posted;

21 (6) The defendant has been returned to the custody of the sheriff of the  
22 county where the action is pending within one hundred eighty (180) days of  
23 the court's order of forfeiture, and the defendant is released from custody  
24 on bail posted by a subsequent surety prior to the defendant's appearance be-  
25 fore the court;

26 (7) The court has revoked bail and has ordered that the defendant be  
27 recommitted.