

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 151

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE IDAHO BAIL ACT; AMENDING SECTION 19-2905, IDAHO CODE, TO RE-
VISE A DEFINITION, TO DEFINE A TERM, AND TO MAKE TECHNICAL CORRECTIONS;
AND AMENDING SECTION 19-2907, IDAHO CODE, TO PROVIDE FOR A BAIL BOND OR
CASH DEPOSIT POSTED BY A CHARITABLE BAIL ORGANIZATION.

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

SECTION 1. That Section 19-2905, Idaho Code, be, and the same is hereby
amended to read as follows:

19-2905. DEFINITIONS. As used in this chapter, unless the context re-
quires otherwise:

(1) "Bail" means a monetary amount required by the court to release the
defendant from custody and to ensure his appearance in court as ordered.

(2) "Bail agent" means a producer licensed by the state of Idaho in the
line of surety insurance who is authorized by an insurer to execute or coun-
tersign undertakings of bail in connection with judicial criminal proceed-
ings.

(3) "Bail bond" means a financial guarantee, posted by a bail agent and
underwritten by a surety insurance company, that the defendant will appear
as ordered. "Bail bond" also includes a financial guarantee or cash deposit
by a charitable bail organization.

(4) "Bench warrant" means a warrant issued by the court because the de-
fendant failed to appear as ordered, ~~failed or~~ to comply with a condition of
release or the sureties are no longer sufficient.

(5) "Cash deposit" means payment in the form of United States currency,
money order, certified check, cashier's check or such other form of payment
as provided by the rules of the supreme court.

(6) "Certificate of surrender" means a certificate in a form approved
by the supreme court that is completed by a surety insurance company or its
bail agent, or a person who has posted a property bond or cash deposit, and
provided to the sheriff of the county where the action is pending for signa-
ture.

(7) "Charitable bail organization" means a nonprofit corporation or
person that solicits or accepts donations from the public and agrees to post
a financial guarantee or cash deposit for bail for another person more than
once in a one hundred eighty (180) day period and that is a producer licensed
by the state of Idaho in the line of surety insurance to post charitable bail
bonds for defendants charged with criminal offenses.

(8) "Conditions of release" means any reasonable restrictions, condi-
tions or prohibitions placed upon the defendant's activities, movements,
associations or residences by the court, excluding the court order requiring
the defendant to appear in court.

1 (89) "Exoneration" means a court order directing the full or partial
2 release and discharge from liability of the surety underwriting a bail bond
3 or the person posting a cash deposit or a property bond.

4 (910) "Forfeiture" means an order of the court reciting that the defen-
5 dant failed to appear as ordered and stating that bail is forfeited.

6 (101) "Order of recommitment" means an order of the court committing the
7 defendant back to the custody of the sheriff.

8 (112) "Person" means a natural person, legal corporation, limited lia-
9 bility corporation, partnership, sole proprietorship or any other business
10 entity recognized by the state of Idaho.

11 (123) "Property bond" means a financial guarantee approved by the
12 court, ~~and~~ secured by property, real or personal, that the defendant will
13 appear in court as ordered.

14 (134) "Readmittance to bail" means an order of the court allowing the
15 defendant to post new bail following an order of revocation.

16 (145) "Recommitment" means the return of the defendant to the custody of
17 the sheriff following revocation or forfeiture of bail.

18 (156) "Reinstatement of bail" means an order of the court allowing the
19 defendant to be released on the same bail previously posted that has been or-
20 dered forfeited.

21 (167) "Revocation of bail" means an order by the court revoking the de-
22 fendant's release on bail.

23 (178) "Surety insurance company" means an admitted insurer authorized
24 in the line of surety pursuant to title 41, Idaho Code.

25 (189) "Surrender" means the voluntary surrender or delivery of the de-
26 fendant into the custody of the sheriff of the county where the action is
27 pending.

28 SECTION 2. That Section 19-2907, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 19-2907. POSTING BAIL -- SUFFICIENT SURETIES. (1) The posting of bail
31 consists of filing sufficient sureties with the court, as required by the
32 court, to ensure the defendant's appearance. Sufficient sureties shall con-
33 sist of any one (1) of the following:

34 (a) A bail bond;

35 (b) A property bond; ~~or~~

36 (c) A cash deposit; or

37 (d) A bail bond or cash deposit posted by a charitable bail organ-
38 ization, but only if the charitable bail organization is a producer
39 licensed by the state of Idaho in the line of surety insurance to post
40 charitable bail bonds for defendants charged with criminal offenses.
41 No charitable bail organization may post a bail bond or cash deposit
42 unless so licensed by the state of Idaho to do so.

43 (2) Although bail may be posted in the form of a cash deposit pursuant
44 to the provisions of subsection (1) of this section, a defendant shall not be
45 required to post bail in the form of a cash deposit.