

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 534

BY JUDICIARY, RULES AND ADMINISTRATION 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 PRO-  
5 VIDE REQUIREMENTS FOR BAIL ENFORCEMENT AGENTS, TO PROVIDE FOR IDENTIFI-  
6 CATION ON OUTER GARMENTS IN CERTAIN INSTANCES, TO PROVIDE FOR NOTIFI-  
7 CATION TO THE SHERIFF, TO PROHIBIT CERTAIN ACTS, TO PROVIDE PENALTIES,  
8 TO PROVIDE REQUIREMENTS FOR PROSECUTION AND TO PROVIDE THAT A BAIL AGENT  
9 SHALL KEEP CERTAIN 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 twenty-one (21) 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. During the course of a planned apprehension, an  
12 agent must wear a jacket, shirt or vest as an outer garment with the words  
13 "bail enforcement agent" plainly printed and readily visible on the front  
14 and back of the garment. An agent is not required to wear such an outer gar-  
15 ment in circumstances when wearing the garment could jeopardize an agent's  
16 ability to arrest a defendant or would endanger the safety of the public. A  
17 badge may be worn by bail enforcement agents that is designed exclusively for  
18 bail enforcement agents. The badge must clearly delineate the title of "bail  
19 enforcement agent" directly on and below the badge.

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

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

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

27 (b) 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 (c) 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 (d) Carry a weapon, unless in compliance with all state and federal  
34 laws.

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

47 (8) Requirements for prosecution. Venue for prosecution for a viola-  
48 tion under the provisions of this section shall be in the county where the  
49 violation occurred, and such prosecution will be handled by the prosecuting  
50 attorney of such county. A prosecution for a violation of this section must

1 be commenced within the time limitations set forth in section 19-403, Idaho  
2 Code.

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