

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO COURT DETERMINATION OF INDIGENCY; AMENDING SECTION 19-854, IDAHO CODE, TO PROVIDE THAT RECEIPT OF A SUBSIDY THROUGH THE IDAHO HEALTH INSURANCE EXCHANGE ESTABLISHED PURSUANT TO CHAPTER 61, TITLE 41, IDAHO CODE, SHALL NOT BE CONSIDERED A FACTOR FOR PURPOSES OF A COURT'S DETERMINATION OF INDIGENCY.

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

SECTION 1. That Section 19-854, Idaho Code, be, and the same is hereby amended to read as follows:

19-854. DETERMINATION OF INDIGENCY -- FACTORS CONSIDERED -- PARTIAL PAYMENT BY ACCUSED -- REIMBURSEMENT. (1) The determination of whether a person covered under section 19-852, Idaho Code, is an indigent person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under section 19-858, Idaho Code, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is an indigent person.

(2) The court concerned shall presume that the following persons are indigent persons unless such a determination is contrary to the interests of justice:

(a) Persons whose current monthly income does not exceed one hundred eighty-seven percent (187%) of the federal poverty guidelines issued annually by the federal department of health and human services;

(b) Persons who receive, or whose dependents receive, public assistance pursuant to title 56, Idaho Code, in the form of food assistance, health coverage, cash assistance or child care assistance; or

(c) Persons who are currently serving a sentence in a correctional facility or are being housed in a mental health facility.

(3) The court concerned may determine that persons other than those described in subsection (2) of this section are indigent persons. In determining whether a person is an indigent person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, the number and ages of his dependents and the cost of bail. Provided however, in no event shall receipt of a subsidy through the Idaho health insurance exchange established pursuant to chapter 61, title 41, Idaho Code, be considered a factor for purposes of a court's determination of indigency.

(4) Release on bail does not necessarily prevent a person from being an indigent person.

(5) In each case, the person shall, subject to the penalties for perjury, certify in writing or by other record such material factors relating to his ability to pay as the court prescribes by rule. No information provided

1 by a person pursuant to this subsection may be used as substantive evidence
2 in any criminal or civil proceeding against the person except:

3 (a) For impeachment purposes;

4 (b) In a prosecution for perjury or contempt committed in providing the
5 information; or

6 (c) In an attempt to enforce an obligation to reimburse the state for
7 the cost of counsel.

8 (6) To the extent that a person covered under section 19-852, Idaho
9 Code, is able to provide for an attorney, the other necessary services and
10 facilities of representation, and court costs, the court may order him to
11 provide for their payment.

12 (7) Upon conviction, notwithstanding the form of judgment or withheld
13 judgment, plea of guilty or finding of guilt for any crime regardless of the
14 original crime or number of counts, an indigent person who receives the ser-
15 vices of an attorney provided by the county may be required by the court to
16 reimburse the county for all or a portion of the cost of those services re-
17 lated to the conviction, plea of guilty or finding of guilt, unless the re-
18 quirement would impose a manifest hardship on the indigent person. The cur-
19 rent inability of the indigent person to pay the reimbursement shall not, in
20 and of itself, restrict the court from ordering reimbursement.