

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 158

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO BAIL; AMENDING SECTION 19-2903, IDAHO CODE, TO PROVIDE FOR HOW BAIL ON A BENCH WARRANT SHALL BE DETERMINED WHEN A DEFENDANT FAILS TO APPEAR BEFORE THE COURT; AMENDING SECTION 19-2915, IDAHO CODE, TO PROVIDE FOR THE SETTING OF BAIL WHEN A DEFENDANT FAILS TO APPEAR BEFORE THE COURT UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 19-2903, Idaho Code, be, and the same is hereby amended to read as follows:

19-2903. RIGHT TO BAIL -- LIMITATIONS. Any person charged with a crime who is not released on his own recognizance is entitled to bail, as a matter of right, before a plea or verdict of guilty, except when the offense charged is punishable by death and the proof is evident or the presumption is great. The setting of bail on a bench warrant following a failure by a defendant to appear before the court as ordered and without sufficient excuse shall be determined under the provisions of section 19-2915, Idaho Code. In the discretion of the court, bail may be allowed in the following cases:

(1) After the defendant is found guilty or pleads guilty and before sentencing;

(2) While an appeal is pending from a judgment of conviction, an order withholding judgment or an order imposing sentence, except that a court shall not allow bail when the defendant has been sentenced to death or life imprisonment;

(3) Upon a charge of a violation of the terms of probation; and

(4) Upon a finding of a violation of the conditions of release pursuant to section 19-2919, Idaho Code.

SECTION 2. 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

1 (c) Set no bail on the bench warrant and require that the defendant not
2 be released until appearing before the court where the charges are pend-
3 ing, at which time the court shall set bail or release the defendant on
4 the defendant's own recognizance, and shall set any conditions of re-
5 lease.

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

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