

2019 RESOLUTION NO. _____

TITLE: Deputy residency requirement option

SPONSOR: Boise County Sheriff

STATUTES AFFECTED: Idaho Code 44-902

COUNTY OFFICE(S) AFFECTED: Sheriff

COUNTIES AFFECTED: All counties in Idaho

ISSUE/PROBLEM: Although case law allows for law enforcement agencies to require that their officers reside in the jurisdiction in which they work, Idaho statute currently prohibits imposing this requirement on officers. When officers live in outside the jurisdiction in which they work, officers can sometimes adopt a “mercenary”-type perspective because they and their families do not live there. As such, officers can sometimes lack the desire to explore active problem-solving within the community because they are not vested in the community. Residing elsewhere can also create some issues regarding call-out and on-call status.

BACKGROUND & DATA:

PROPOSED POLICY: Enact legislation that gives County Sheriffs the option of requiring their officers to reside within the community that they work.

ARGUMENTS & ENTITIES IN SUPPORT:

Boise County Sheriff’s Office

Idaho Sheriff’s Association (not verified, but expected to be in support) **we voted on this to support, confirm it with Vaughn.**

ARGUMENTS & ENTITIES AGAINST:

FISCAL IMPACT: None expected, as this legislation only creates an option for law enforcement to require their employees to reside in their jurisdiction.

STATEMENT OF PURPOSE
RS _____

When law enforcement employees are not residents of the jurisdiction that they protect and serve, they do not have a personal investment in the community, and as such, can sometimes end up slipping into a “mercenary” mindset. By living in the community that they serve, not only do law enforcement employees have a vested interest in improving the well-being of the community, but they become an integral part of furthering community policing efforts. This legislation allows law enforcement agencies to require residency as a condition of continued employment if the agencies so choose. Requiring employees of law enforcement agencies to be residents of the jurisdiction of the agency has been upheld as constitutional (see *McCarthy v. Phila. Civil Serv. Comm'n*, 424 U.S. 645, 96 S. Ct. 1154 (1976); *Tiffany v. Payette*, 121 Idaho 396, 825 P.2d 493 (1992)).

FISCAL NOTE

No fiscal impact is expected on any level of government.

Contact:

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. ____

BY _____ COMMITTEE

AN ACT

RELATING TO CONDITIONS OF EMPLOYMENT; AMENDING SECTION 44-902,
IDAHO CODE, TO ALLOW FOR RESIDENCY REQUIREMENTS FOR
CONTINUED EMPLOYMENT WITH A LAW ENFORCEMENT AGENCY.

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

SECTION 1. That Section 44-902, Idaho Code, be, and the
same is hereby amended to read as follows:

44-902. CONTRACTS RESTRICTING BOARD AND LODGING
PROHIBITED. (a) It shall be unlawful for any employer, by
himself or by his agent, or for any agent of any employer, or
for any other person, directly or indirectly, to impose as a
condition, express or implied, in or for the employment of any
workman or employee, any terms as to the place at which, or the
person with whom any workman or employee is to board, lodge,
subsist or reside; or as to the place or store at which he shall
purchase his goods, wares or merchandise; or as to the place at
which, or the manner in which, or the person with whom any wages
or portion of wages paid to the workman or employee are or is to
be expended; and no employer shall, by himself or his agent,
~~nor shall~~

(b) It shall be unlawful for any agent of any employer
dismiss any workman or employee from his employment for or on
account of the place at which, or the person with whom such
workmen or employee may board, lodge, subsist or reside; or as
to the place or store at which he shall purchase his goods,
wares and merchandise; or for or on account of the place at
which, or the person with whom any wages or portion of wages
paid by the employer to such workman or employee are or is
expended, or fail to be expended: provided, that this shall not
apply to the collection of hospital fees or dues.
Notwithstanding this subsection, law enforcement agencies may
require their employees to live within the jurisdiction of the
agency.

1 (c) Any employer, who by himself or by his agent, or any
2 agent of any employer, or any other person, who shall violate
3 any of the provisions of this section, shall be guilty of a
4 misdemeanor, and upon conviction thereof shall be fined not less
5 than \$100 nor to exceed \$300, or be imprisoned in the county
6 jail for not less than thirty (30) days nor to exceed ninety
7 (90) days, or shall suffer both such fine and imprisonment.