

# HOUSE BILL No. 1300

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-10-2; IC 33-24-6-3; IC 35-33-8-3.2.

**Synopsis:** Bail. Allows a charitable organization to pay bail on behalf of a defendant if the organization: (1) is certified by the commissioner of the department of insurance; (2) pays cash bail in the amount of \$2,000 or less on behalf of a defendant charged only with a misdemeanor; (3) only pays bail for a defendant who is indigent; (4) is represented by a bail agent; and (5) meets certain other requirements. Exempts from the certification requirement a charitable organization that pays bail for not more than two individuals in any 180 day period. Provides that if money or bonds have been set, bail by surety may be substituted for the money or bonds at any time before a breach. Provides that a case management system developed and operated by the office of judicial administration must include a searchable field for certain information of the person or entity that pays bail for an individual.

**Effective:** July 1, 2022.

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## Mayfield

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January 11, 2022, read first time and referred to Committee on Financial Institutions and Insurance.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1300



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-10-2-4 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. Every surety for the  
3 release of a person on bail shall be qualified as:  
4 (1) an insurer as defined and meeting the qualifications prescribed  
5 in IC 27-1-5-1, and represented by a bail agent as defined in and  
6 meeting the qualifications prescribed in this article; ~~or~~  
7 (2) a person who:  
8 (A) has reached the age of eighteen (18) years;  
9 (B) is a citizen of the United States;  
10 (C) has been a bona fide resident of Indiana for at least one (1)  
11 year immediately preceding the execution of the bond;  
12 (D) is related to the person for whom release on bail is sought  
13 within the third degree of affinity; and  
14 (E) owns real or tangible personal property in Indiana with a  
15 net asset value that is acceptable to the proper authority  
16 approving the bond; **or**  
17 **(3) a charitable bail organization that:**



1 (A) is certified by the commissioner under section 4.5 of  
2 this chapter; or

3 (B) posts bail for not more than two (2) individuals in a one  
4 hundred eighty (180) day period.

5 SECTION 2. IC 27-10-2-4.5 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2022]: Sec. 4.5. (a) As used in this section, "charitable bail  
8 organization" means a person that:

- 9 (1) solicits or accepts donations from the public; and  
10 (2) agrees to deposit money for bail for another person.

11 (b) The commissioner may certify a person as a charitable bail  
12 organization if the person:

- 13 (1) is a nonprofit charitable organization under Section  
14 501(c)(3) of the Internal Revenue Code;  
15 (2) is currently registered to do business in Indiana;  
16 (3) is located in Indiana; and  
17 (4) exists for the purpose of depositing cash bail of two  
18 thousand dollars (\$2,000) or less for an indigent person  
19 charged with a misdemeanor.

20 (c) A person may apply for certification under this section in  
21 accordance with rules adopted under this section.

22 (d) The commissioner shall certify a person as a charitable bail  
23 organization if the:

- 24 (1) person pays an application fee of three hundred dollars  
25 (\$300);  
26 (2) person meets the requirements of this section; and  
27 (3) person, including an officer or director of the person, has  
28 not engaged in conduct that:  
29 (A) constitutes fraud, dishonesty, or deception;  
30 (B) constitutes malfeasance, misfeasance, or nonfeasance  
31 in dealing with money; or  
32 (C) resulted in the suspension or revocation of a previous  
33 certification.

34 (e) A charitable bail certification is valid for two (2) years from  
35 the date of issuance and may be renewed upon payment of a  
36 renewal fee of three hundred dollars (\$300). If a person applies for  
37 renewal before the expiration of the existing certification, the  
38 existing certification remains valid until the commissioner renews  
39 the certification, or until five (5) days after the commissioner  
40 denies the application for renewal. A person is entitled to renewal  
41 unless the commissioner denies the application for renewal under  
42 subsection (f).



1           **(f) The commissioner may suspend, revoke, or refuse to renew**  
 2 **a certification if the commissioner finds that the:**

3           **(1) person no longer qualifies as a charitable bail organization**  
 4 **under this section, or does not otherwise meet the**  
 5 **requirements of this section;**

6           **(2) person violated subsection (g); or**

7           **(3) person, including an officer or director of the person, has**  
 8 **engaged in conduct that constitutes:**

9               **(A) fraud, dishonesty, or deception; or**

10              **(B) malfeasance, misfeasance, or nonfeasance in dealing**  
 11 **with money.**

12           **(g) A charitable bail organization must comply with all of the**  
 13 **following:**

14           **(1) If the charitable bail organization pays, or intends to pay,**  
 15 **bail for more than two (2) individuals in any one hundred**  
 16 **eighty (180) day period, the charitable bail organization must**  
 17 **be:**

18               **(A) certified by the commissioner under this section; and**

19               **(B) represented by a bail agent;**

20 **before soliciting or accepting donations for bail for another**  
 21 **person, and before depositing money for bail for another**  
 22 **person.**

23           **(2) If the charitable bail organization is not certified under**  
 24 **this section, the charitable bail organization may pay bail for**  
 25 **not more than two (2) individuals in any one hundred eighty**  
 26 **(180) day period.**

27           **(3) A charitable bail organization may only deposit cash bail**  
 28 **of two thousand dollars (\$2,000) or less for an indigent person**  
 29 **charged with a misdemeanor. A charitable bail organization**  
 30 **may not pay bail for a defendant charged with a felony, even**  
 31 **if the defendant is also charged with a misdemeanor.**

32           **(4) A charitable bail organization may not execute a surety**  
 33 **bond for a defendant.**

34           **(5) A charitable bail organization shall, before paying bail for**  
 35 **an individual, execute an agreement described in**  
 36 **IC 35-33-8-3.2 allowing the court to retain all or a part of the**  
 37 **bail to pay publicly paid costs of representation and fines,**  
 38 **costs, fees, and restitution that the court may order the**  
 39 **defendant to pay if the defendant is convicted.**

40           **(6) A charitable bail organization may not charge a premium**  
 41 **or receive any consideration for acting as a charitable bail**  
 42 **organization.**



1           **(h) All fees collected under this section must be deposited in the**  
 2 **state general fund.**

3           **(i) The commissioner shall adopt rules under IC 4-22-2 to**  
 4 **implement this section.**

5           SECTION 3. IC 27-10-2-15 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. If money or bonds  
 7 have been ~~deposited, set,~~ bail by sureties may be substituted ~~therefor~~  
 8 at any time before a breach of the undertaking, and the official taking  
 9 the new bail shall make an order that the money or bonds be refunded  
 10 to the person depositing the **same money or bonds** and ~~they the money~~  
 11 **or bonds** shall be refunded accordingly and the original undertakings  
 12 shall be ~~cancelled:~~ **canceled.**

13           SECTION 4. IC 33-24-6-3, AS AMENDED BY P.L.115-2021,  
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2022]: Sec. 3. (a) The office of judicial administration shall  
 16 do the following:

17           (1) Examine the administrative and business methods and systems  
 18 employed in the offices of the clerks of court and other offices  
 19 related to and serving the courts and make recommendations for  
 20 necessary improvement.

21           (2) Collect and compile statistical data and other information on  
 22 the judicial work of the courts in Indiana. All justices of the  
 23 supreme court, judges of the court of appeals, judges of all trial  
 24 courts, and any city or town courts, whether having general or  
 25 special jurisdiction, court clerks, court reporters, and other  
 26 officers and employees of the courts shall, upon notice by the  
 27 chief administrative officer and in compliance with procedures  
 28 prescribed by the chief administrative officer, furnish the chief  
 29 administrative officer the information as is requested concerning  
 30 the nature and volume of judicial business. The information must  
 31 include the following:

32           (A) The volume, condition, and type of business conducted by  
 33 the courts.

34           (B) The methods of procedure in the courts.

35           (C) The work accomplished by the courts.

36           (D) The receipt and expenditure of public money by and for  
 37 the operation of the courts.

38           (E) The methods of disposition or termination of cases.

39           (3) Prepare and publish reports, not less than one (1) or more than  
 40 two (2) times per year, on the nature and volume of judicial work  
 41 performed by the courts as determined by the information  
 42 required in subdivision (2).



- 1 (4) Serve the judicial nominating commission and the judicial  
 2 qualifications commission in the performance by the commissions  
 3 of their statutory and constitutional functions.
- 4 (5) Administer the civil legal aid fund as required by IC 33-24-12.
- 5 (6) Administer the court technology fund established by section  
 6 12 of this chapter.
- 7 (7) By December 31, 2013, develop and implement a standard  
 8 protocol for sending and receiving court data:
- 9 (A) between the protective order registry, established by  
 10 IC 5-2-9-5.5, and county court case management systems;
- 11 (B) at the option of the county prosecuting attorney, for:
- 12 (i) a prosecuting attorney's case management system;
- 13 (ii) a county court case management system; and
- 14 (iii) a county court case management system developed and  
 15 operated by the office of judicial administration;  
 16 to interface with the electronic traffic tickets, as defined by  
 17 IC 9-30-3-2.5; and
- 18 (C) between county court case management systems and the  
 19 case management system developed and operated by the office  
 20 of judicial administration.
- 21 The standard protocol developed and implemented under this  
 22 subdivision shall permit private sector vendors, including vendors  
 23 providing service to a local system and vendors accessing the  
 24 system for information, to send and receive court information on  
 25 an equitable basis and at an equitable cost, **and for a case**  
 26 **management system developed and operated by the office of**  
 27 **judicial administration, must include a searchable field for the**  
 28 **name and bail agent license number, if applicable, of the**  
 29 **person or entity that pays bail for an individual as described**  
 30 **in IC 35-33-8-3.2.**
- 31 (8) Establish and administer an electronic system for receiving  
 32 information that relates to certain individuals who may be  
 33 prohibited from possessing a firearm for the purpose of:
- 34 (A) transmitting this information to the Federal Bureau of  
 35 Investigation for inclusion in the NICS; and
- 36 (B) beginning July 1, 2021, compiling and publishing certain  
 37 statistics related to the confiscation and retention of firearms  
 38 as described under section 14 of this chapter.
- 39 (9) Establish and administer an electronic system for receiving  
 40 drug related felony conviction information from courts. The office  
 41 of judicial administration shall notify NPLeX of each drug related  
 42 felony entered after June 30, 2012, and do the following:



- 1 (A) Provide NPLeX with the following information:  
 2 (i) The convicted individual's full name.  
 3 (ii) The convicted individual's date of birth.  
 4 (iii) The convicted individual's driver's license number, state  
 5 personal identification number, or other unique number, if  
 6 available.  
 7 (iv) The date the individual was convicted of the felony.  
 8 Upon receipt of the information from the office of judicial  
 9 administration, a stop sale alert must be generated through  
 10 NPLeX for each individual reported under this clause.  
 11 (B) Notify NPLeX if the felony of an individual reported under  
 12 clause (A) has been:  
 13 (i) set aside;  
 14 (ii) reversed;  
 15 (iii) expunged; or  
 16 (iv) vacated.  
 17 Upon receipt of information under this clause, NPLeX shall  
 18 remove the stop sale alert issued under clause (A) for the  
 19 individual.  
 20 (10) After July 1, 2018, establish and administer an electronic  
 21 system for receiving from courts felony conviction information for  
 22 each felony described in IC 20-28-5-8(c). The office of judicial  
 23 administration shall notify the department of education at least  
 24 one (1) time each week of each felony described in  
 25 IC 20-28-5-8(c) entered after July 1, 2018, and do the following:  
 26 (A) Provide the department of education with the following  
 27 information:  
 28 (i) The convicted individual's full name.  
 29 (ii) The convicted individual's date of birth.  
 30 (iii) The convicted individual's driver's license number, state  
 31 personal identification number, or other unique number, if  
 32 available.  
 33 (iv) The date the individual was convicted of the felony.  
 34 (B) Notify the department of education if the felony of an  
 35 individual reported under clause (A) has been:  
 36 (i) set aside;  
 37 (ii) reversed; or  
 38 (iii) vacated.  
 39 (11) Perform legal and administrative duties for the justices as  
 40 determined by the justices.  
 41 (12) Provide staff support for the judicial conference of Indiana  
 42 established in IC 33-38-9.



1 (13) Work with the United States Department of Veterans Affairs  
2 to identify and address the needs of veterans in the court system.

3 (14) If necessary for purposes of IC 35-47-16-1, issue a retired  
4 judicial officer an identification card identifying the retired  
5 judicial officer as a retired judicial officer.

6 (b) All forms to be used in gathering data must be approved by the  
7 supreme court and shall be distributed to all judges and clerks before  
8 the start of each period for which reports are required.

9 (c) The office of judicial administration may adopt rules to  
10 implement this section.

11 SECTION 5. IC 35-33-8-3.2, AS AMENDED BY P.L.161-2018,  
12 SECTION 115, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2022]: Sec. 3.2. (a) After considering the results  
14 of the Indiana pretrial risk assessment system (if available), other  
15 relevant factors, and bail guidelines described in section 3.8 of this  
16 chapter, a court may admit a defendant to bail and impose any of the  
17 following conditions to assure the defendant's appearance at any stage  
18 of the legal proceedings, or, upon a showing of clear and convincing  
19 evidence that the defendant poses a risk of physical danger to another  
20 person or the community, to assure the public's physical safety:

21 (1) Require the defendant to:

22 (A) execute a bail bond with sufficient solvent sureties;

23 (B) deposit cash or securities in an amount equal to the bail;

24 (C) execute a bond secured by real estate in the county, where  
25 thirty-three hundredths (0.33) of the true tax value less  
26 encumbrances is at least equal to the amount of the bail;

27 (D) post a real estate bond; or

28 (E) perform any combination of the requirements described in  
29 clauses (A) through (D).

30 If the court requires the defendant to deposit cash or cash and  
31 another form of security as bail, the court may require the  
32 defendant and each person who makes the deposit on behalf of the  
33 defendant to execute an agreement that allows the court to retain  
34 all or a part of the cash to pay publicly paid costs of  
35 representation and fines, costs, fees, and restitution that the court  
36 may order the defendant to pay if the defendant is convicted. The  
37 defendant must also pay the fee required by subsection (d).

38 (2) Require the defendant to execute:

39 (A) a bail bond by depositing cash or securities with the clerk  
40 of the court in an amount not less than ten percent (10%) of  
41 the bail; and

42 (B) an agreement that allows the court to retain all or a part of





1 the cash or securities to pay fines, costs, fees, and restitution  
2 that the court may order the defendant to pay if the defendant  
3 is convicted.

4 A portion of the deposit, not to exceed ten percent (10%) of the  
5 monetary value of the deposit or fifty dollars (\$50), whichever is  
6 the lesser amount, may be retained as an administrative fee. The  
7 clerk shall also retain from the deposit under this subdivision  
8 fines, costs, fees, and restitution as ordered by the court, publicly  
9 paid costs of representation that shall be disposed of in  
10 accordance with subsection (b), and the fee required by  
11 subsection (d). In the event of the posting of a real estate bond,  
12 the bond shall be used only to insure the presence of the  
13 defendant at any stage of the legal proceedings, but shall not be  
14 foreclosed for the payment of fines, costs, fees, or restitution. The  
15 individual posting bail for the defendant or the defendant  
16 admitted to bail under this subdivision must be notified by the  
17 sheriff, court, or clerk that the defendant's deposit may be  
18 forfeited under section 7 of this chapter or retained under  
19 subsection (b).

20 (3) Impose reasonable restrictions on the activities, movements,  
21 associations, and residence of the defendant during the period of  
22 release.

23 (4) Except as provided in section 3.6 of this chapter, require the  
24 defendant to refrain from any direct or indirect contact with an  
25 individual and, if the defendant has been charged with an offense  
26 under IC 35-46-3, any animal belonging to the individual,  
27 including if the defendant has not been released from lawful  
28 detention.

29 (5) Place the defendant under the reasonable supervision of a  
30 probation officer, pretrial services agency, or other appropriate  
31 public official. If the court places the defendant under the  
32 supervision of a probation officer or pretrial services agency, the  
33 court shall determine whether the defendant must pay the pretrial  
34 services fee under section 3.3 of this chapter.

35 (6) Release the defendant into the care of a qualified person or  
36 organization responsible for supervising the defendant and  
37 assisting the defendant in appearing in court. The supervisor shall  
38 maintain reasonable contact with the defendant in order to assist  
39 the defendant in making arrangements to appear in court and,  
40 where appropriate, shall accompany the defendant to court. The  
41 supervisor need not be financially responsible for the defendant.

42 (7) Release the defendant on personal recognizance unless:



- 1 (A) the state presents evidence relevant to a risk by the  
 2 defendant:  
 3 (i) of nonappearance; or  
 4 (ii) to the physical safety of the public; and  
 5 (B) the court finds by a preponderance of the evidence that the  
 6 risk exists.
- 7 (8) Require a defendant charged with an offense under IC 35-46-3  
 8 to refrain from owning, harboring, or training an animal.  
 9 (9) Impose any other reasonable restrictions designed to assure  
 10 the defendant's presence in court or the physical safety of another  
 11 person or the community.
- 12 (b) Within thirty (30) days after disposition of the charges against  
 13 the defendant, the court that admitted the defendant to bail shall order  
 14 the clerk to remit the amount of the deposit remaining under subsection  
 15 (a)(2) to the defendant. The portion of the deposit that is not remitted  
 16 to the defendant shall be deposited by the clerk in the supplemental  
 17 public defender services fund established under IC 33-40-3.
- 18 (c) For purposes of subsection (b), "disposition" occurs when the  
 19 indictment or information is dismissed or the defendant is acquitted or  
 20 convicted of the charges.
- 21 (d) Except as provided in subsection (e), the clerk of the court shall:  
 22 (1) collect a fee of five dollars (\$5) from each bond or deposit  
 23 required under subsection (a)(1); and  
 24 (2) retain a fee of five dollars (\$5) from each deposit under  
 25 subsection (a)(2).
- 26 The clerk of the court shall semiannually remit the fees collected under  
 27 this subsection to the board of trustees of the Indiana public retirement  
 28 system for deposit in the special death benefit fund. The fee required  
 29 by subdivision (2) is in addition to the administrative fee retained under  
 30 subsection (a)(2).
- 31 (e) With the approval of the clerk of the court, the county sheriff  
 32 may collect the bail posted under this section. The county sheriff shall  
 33 remit the bail to the clerk of the court by the following business day  
 34 and remit monthly the five dollar (\$5) special death benefit fee to the  
 35 county auditor.
- 36 (f) When a court imposes a condition of bail described in subsection  
 37 (a)(4):  
 38 (1) the clerk of the court shall comply with IC 5-2-9; and  
 39 (2) the prosecuting attorney shall file a confidential form  
 40 prescribed or approved by the office of judicial administration  
 41 with the clerk.
- 42 **(g) The clerk of the court shall record the name, address and**



1     **bail agent license number, if applicable, of the individual or entity**  
2     **posting bail for the defendant in the county court electronic case**  
3     **management system.**

