

HOUSE BILL No. 1300

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.

Mayfield

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



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 NPLEEx 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 NPLEEx for each individual reported under this clause.
 11 (B) Notify NPLEEx 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, NPLEEx 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.**

