

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 735

By: Rader

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5
6 AS INTRODUCED

7 An Act relating to bail; creating the Charitable Bail
8 Organization Act; providing short title; defining
9 term; authorizing the Insurance Commission to issue
10 certain license; setting qualifications for
11 licensure; providing for refusal to issue license;
12 setting disqualifications; setting term of licensure;
13 providing for renewal; stating license fee amount;
14 allowing for waiver and proration of certain fee;
15 providing for early renewal of license; setting
16 maximum term of refusal to renew license; allowing
17 revocation and suspension of license; providing for
18 notice and hearing; setting conditions for revocation
19 and suspension; requiring compliance with the
20 Oklahoma Administrative Procedures Act; establishing
21 requirements for operation; setting maximum cash bail
22 allowed; limiting bail to misdemeanor defendants;
23 prohibiting surety bonds; prohibiting operation in
24 multiple counties and charging premium; directing
25 promulgation of rules; authorizing certain
26 organization to continue certain operations pending
27 implementation of the Charitable Bail Organization
28 Act; establishing by rule certain administrative
29 fines for violations; authorizing injunctive relief;
30 prohibiting refund of cash bail for certain
31 defendants or under certain conditions; providing for
32 codification; and providing an effective date.

33 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1299 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be sited as the "Charitable Bail
5 Organization Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1299.1 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 For purposes of this act, "charitable bail organization" means
10 an organization that acts to deposit money as bail for an individual
11 detained on criminal charges within this state that is recognized
12 exempt from taxation pursuant to the provisions of the United States
13 Internal Revenue Code, as amended, 26 U.S.C, Section 501(c)(3).

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1299.2 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The Oklahoma Insurance Commissioner may issue a license to a
18 charitable bail organization to deposit money as bail for another in
19 accordance with the provisions of this section; provided, such
20 entity is a non-profit organization pursuant to the United States
21 Internal Revenue Code as described by Section 501(c)(3) of Title 26
22 of the United States Code, is registered as a charitable
23 organization pursuant to the Oklahoma Tax Code and is current on
24 such registrations.

1 B. 1. The application for a charitable bail organization
2 license shall be in such form, and shall contain relevant
3 information, as the Insurance Commissioner shall prescribe
4 including, but not limited to, the requirement to:

5 a. be registered as a nonprofit tax exempt organization
6 under federal tax laws,

7 b. be registered as a charitable organization under the
8 Oklahoma Tax Code,

9 c. obtain a charitable bail organization (CBO) license
10 from the Oklahoma Insurance Department,

11 d. obtain a bail bond agent license or licenses,
12 depending on how many agents are active for the CBO,
13 from the Oklahoma Insurance Department, and

14 e. establish procedures and processes for posting bail in
15 the multiple counties of this state.

16 2. The Commissioner may refuse to issue a charitable bail
17 organization license if, in the Commissioner's opinion, an
18 applicant, or an officer or director of the applicant, has:

19 a. demonstrated untrustworthiness or incompetence,

20 b. been convicted of a felony in this state, another
21 state or the United States,

22 c. given cause for the revocation or suspension of the
23 license, or
24

1 d. failed to comply with any prerequisite for the
2 issuance of the license or any rule promulgated
3 pursuant to the Charitable Bail Organization Act.

4 3. A charitable bail organization license shall be valid for a
5 term of two (2) years from issuance. At the time of application for
6 such license, and for any renewal thereof, an applicant shall pay to
7 the Commissioner a sum of One Thousand Dollars (\$1,000.00) payable
8 each term or fraction of a term; provided, however, that in his or
9 her discretion, the Commissioner may waive and prorate such fee.

10 4. If an application for a renewal license shall have been
11 filed with the Commissioner before the expiration of such license,
12 then the license sought to be renewed shall continue in full force
13 and effect either until the issuance by the Commissioner of the
14 renewal license or until five (5) days after the Commissioner shall
15 have refused to issue such renewal license.

16 5. The Commissioner may refuse to renew or may revoke or
17 suspend a charitable bail organization license for a reasonable
18 period determined by the Commissioner if, after notice and hearing,
19 the Commissioner determines that an applicant or licensee, or an
20 officer or director of the applicant or licensee, has:

- 21 a. demonstrated untrustworthiness or incompetence,
- 22 b. been convicted of a felony in this state, another
23 state or the United States,

1 c. violated any provisions of the Charitable Bail
2 Organization Act or any rule promulgated thereunder,
3 or

4 d. failed to stay current with their registration as a
5 charitable organization pursuant to the Oklahoma Tax
6 Code or the United States Code or Internal Revenue
7 Service provisions for a 501(c)(3) organization.

8 Any hearing conducted pursuant to the provisions of this section
9 shall comply with the requirements of Oklahoma Administrative
10 Procedures Act.

11 C. A charitable bail organization shall:

12 1. Only deposit money as bail in the amount of Two Thousand
13 Dollars (\$2,000.00) or less for a defendant charged with one or more
14 misdemeanors; provided, however, such organization shall not execute
15 as surety any bond for any defendant; and

16 2. Only deposit money as bail on behalf of a person who is
17 financially unable to post bail, which may constitute a portion or
18 the whole amount of such bail;

19 3. Only deposit money as bail in one county in this state; and

20 4. Not charge a premium or receive compensation for acting as a
21 charitable bail organization.

22 D. The Commissioner shall promulgate rules to implement,
23 administer and enforce the provisions of the Charitable Bail
24 Organization Act.

1 E. Any organization operating in this state that has
2 continuously acted as a charitable bail organization as defined
3 herein for any county or political subdivision of this state on or
4 before November 1, 2017, and who continues to operate as such
5 charitable bail organization prior to the effective date of the
6 Charitable Bail Organization Act, is hereby authorized to continue
7 such services to misdemeanor defendants pending the full
8 implementation of the Charitable Bail Organization Act; provided,
9 such organization must be in full compliance with the Charitable
10 Bail Organization Act on November 1, 2019, or such organization
11 shall be deemed in violation of the provisions of the Charitable
12 Bail Organization Act.

13 F. The Insurance Commissioner shall establish by rule
14 administrative fines not be exceed Ten Thousand Dollars (\$10,000.00)
15 for a violation of the provisions or rules of the Charitable Bail
16 Organization Act. In addition, the Commissioner may seek injunctive
17 relief in a court of competent jurisdiction as may be necessary to
18 gain compliance with the provisions or rules of the Charitable Bail
19 Organization Act. No money posted as bail by a charitable bail
20 organization for any person shall be refunded to the organization
21 for a felony defendant or for any purpose in violation of the
22 provisions of the Charitable Bail Organization Act.

1 SECTION 4. This act shall become effective November 1, 2019.

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