



“Charitable Bail Organization” means:

*“ . . . an organization, including but not limited to an organization exempt under Section 501(c)(3) of the Internal Revenue Code, that solicits or accepts donations from the public for the purpose of:*

- *Furnishing bail, making bonds, or entering into undertakings, as surety, whether through direct payment or by payment through a third party, for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment, or death before any of the courts of this state; or*
- *Securing the payment of fines imposed and of costs assessed by any of the courts of this state upon final disposition thereof.*

HCS 1 makes it unlawful for any charitable bail organization from providing bail, funds or property to serve as bail, or to make bonds or enter into undertakings as surety in excess of \$5,000. Charitable bail organizations are prohibited from posting bail of any amount for the offense of domestic violence, any dating violence and abuse offense, and for any offense under a civil court order or warrant under KRS 222.430 to 222.437 also known as Matthew Casey Wethington Act for Substance Abuse Intervention.

The bill requires that any person who posts bail or bond on behalf of any organization shall be required to provide photo identification.

HCS 1 also establishes annual reporting requirements with specified criteria, which must be reported to the General Assembly and be made publically available no later than October 31 of each year.

Charitable bail organizations are required to establish that any bond ordered to be forfeited following a new criminal offense shall be distributed to the victim of the new offense.

Violations of this legislation are considered a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

**The fiscal impact of this legislation is indeterminable. The occurrence of violations of this legislation is expected to be low. The impact on local jails is also indeterminable.**

Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until they are released or until disposition of their case. A reduction in the number of days an offender remains in custody results in less costs to local jails. The number of defendants who cannot post their bond or be released on a non-financial basis, will have a fiscal impact on local jails. For each day an offender remains in jail, the daily cost to house that offender is \$35.43.

According to THE Bail Project, a national charitable bail organization, since 2018, they have assisted approximately 3,800 incarcerated individuals across 21 Kentucky counties meet their financial bail requirements. Over these four years, THE Bail Project provided bail for an average of 950 persons per year with the average amount of bail provided under \$5,000.

**Class B and Class A misdemeanors:**

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky’s 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on an average cost to incarcerate of \$35.43 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average cost to incarcerate of \$35.43 per day.

**Class D and Class C felons:**

When a court denies bail to a Class D or Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky’s 74 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an average cost to incarcerate of \$35.43, which includes the \$31.34 per diem and medical expenses that the Department of Corrections pays jails to house felony offenders. Upon sentencing, a Class D felon is housed in one of Kentucky’s full service jails for the duration of his or her sentence. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays a jail \$31.34 per day to house a Class D and Class C felon. The per diem may be less than, equal to, or greater than the actual housing cost.

**Part III: Differences to Local Government Mandate Statement from Prior Versions**

Part II, above, pertains to the bill as amended by HCS 1. The fiscal impact remains unchanged from the original local mandate.

HCS 1 prohibits any charitable bail organization from:

- Posting bail in excess of \$5,000;
- Posting bail for any offense of domestic violence, dating violence, or for any offense under a civil court order or warrant under KRS 222.430 to 222.437.

It also requires publication of records and annual reporting to the General Assembly by charitable bail organizations.

**Data Source(s):** Kentucky Department of Corrections, Kentucky Pretrial Services, THE Bail Project, Kentucky Equal Justice Center, LRC Staff

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