

SENATE BILL REPORT

SB 5779

As of January 31, 2022

Title: An act relating to oversight of bail funds.

Brief Description: Concerning oversight of bail funds.

Sponsors: Senators Padden and Honeyford.

Brief History:

Committee Activity: Law & Justice: 1/31/22.

Brief Summary of Bill

- Defines bail fund.
- Requires that bail funds disclose certain information about each case in which a bail fund contributed money towards the payment of bail whenever a bail fund initially registers or renews their registration as a charitable organization with the Secretary of State.
- Requires bail funds to publish information about each case in which a bail fund contributed money towards the payment of bail on the bail funds' websites and to provide such information to each donor of the bail fund.
- Enables the state auditor to audit bail funds to ensure financial and legal compliance.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: The Charitable Solicitations Act (CSA) regulates charitable organizations and commercial fund raisers in the state. Under the CSA, charitable organizations and

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commercial fund raisers that solicit contributions from the public must first register with the office of the Secretary of State (SOS) before conducting any solicitations. Registration under the CSA is effective for one year or longer, as established by the SOS's office. The SOS must send notices to renew registrations to the entities by mail.

Each application for registration, whether initial or renewal, must include specific information as provided in statute, including a solicitation report of the organization for the preceding accounting year. The solicitation report must include the types of solicitations conducted; the gross revenue received from all sources by or on behalf of the charitable organization before any expenses are paid or deducted; the total amount of money received from all solicitations for or on behalf of the charitable organization before any expenses are paid or deducted; the total value of funds expended for charitable purposes; and, total expenses, including expenditures for charitable purposes, fund-raising costs, and administrative expenses.

Charitable organizations that raise less than \$50,000 per year are exempt from registration, provided the fund-raising is conducted by volunteers and the officers or members of the organization do not receive assets or benefits from the organization.

The office of the Washington State Auditor holds state and local governments accountable for the use of public resources. The State Auditor has the power to examine the financial affairs of all governments in the state, including local governments, schools, state agencies, and institutions of higher education. In addition, the State Auditor's office carries out special investigations and performance audits of state agencies and local governments.

Pretrial release is the release of the accused from custody pending trial. A personal recognizance release is the release of the defendant from custody solely upon their promise to appear for future court proceedings. Bail allows the defendant to be released from custody only upon the posting of cash or other security with the court. The property is held as collateral to assure the defendant's appearance in future court proceedings. Bail is fulfilled by the posting of a bond. The defendant may post cash, securities, or other liquid assets to satisfy the amount of the bond.

Bail funds provide cash bail for people charged with crimes who are unable to afford bail and who are incarcerated while awaiting court appearances.

Summary of Bill: "Bail funds" are defined as charitable organizations that collect money for the purposes of securing a person's release before trial with a payment of bail.

Bail funds are required to include in an application for initial registration or renewal the following information about each case where a bail fund contributed money towards the payment of bail:

- the crime charged;
- the maximum possible penalty of the crime charged;

- the amount of bail posted; and
- the percentage of the amount of bail posted that was contributed by the bail fund.

Bail funds are required to disclose to donors and publish on their websites, quarterly reports containing information about each case where a bail fund contributed money towards the payment of bail, including:

- the crime charged;
- the maximum possible penalty of the crime charged;
- the amount of bail posted;
- the percentage of the amount of bail posted that was contributed by the bail fund; and
- other relevant information.

The State Auditor may audit a bail fund to ensure financial and legal compliance.

Appropriation: None.

Fiscal Note: Requested on January 24, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2022.

Staff Summary of Public Testimony: PRO: Some payment of bail efforts have not made communities safer. Some oversight and transparency of bail funds is a positive thing. Individuals who contribute money to bail funds should be entitled to know how their contributions are being used. The bill provides transparency to the public and donors without requiring onerous requirements on bail funds. If bail funds are charitable organizations, they already have to register with the Office of Secretary of State.

CON: Pretrial detention is an immense burden to primarily people of lesser means. The bill imposes requirements on charitable bail funds that are not applicable to for-profit bail services which pose the same purported safety concerns. There is already oversight of charitable organizations and donors can already inquire about how funds will be used. Imposing additional burdens on charitable bail funds will make it harder for people of lesser means to post bail.

OTHER: The Office of Secretary of State will not be able to update its system to meet the current effective date of this bill. New service lines or system enhancements take on average six to nine months before being ready to deploy to the public. The State Auditor does not have the statutory authority to audit charitable organizations except in circumstances where there is reasonable cause to believe that misuse of state monies has occurred. Audits conducted under this bill may best be left to a private certified public accountant firm.

Persons Testifying: PRO: Senator Mike Padden, Prime Sponsor; Tim Parrish, National Center For Public Policy Research - Project 21; Preston McCollam.

CON: Lucas Garrett.

OTHER: Brian Hatfield, Office of Secretary of State; Raylene Wilson, Office of the Washington State Auditor.

Persons Signed In To Testify But Not Testifying: No one.