

May 25, 2022

Written Testimony of Michael J. Whitlock, Executive Vice President, American Surety Company

HB 315 - Opposed

Dear Chair LaRe, Vice-Chair White, and Members of the House Criminal Justice Committee

My name is Mike Whitlock. I am Executive Vice President of American Surety Company, an Indiana based national property & casualty company. We are a corporate citizen of the State of Ohio. Our company offers a surety product that provides financial guarantees on criminal appearance bonds written through licensed and appointed bail agents. I entered my profession in 1982 and I rise in opposition to HB 315.

Those who desire to radically alter the criminal justice system specifically bail, offer throw away lines to make their case for the elimination of bail like, people are innocent until proven, only the wealthy can afford bail, bail does nothing to secure appearance and law enforcement picks up fugitives at traffic stops. This is all designed to distract from the truth, bail works, and it has for centuries.

In this country, people are arrested on probable cause of having committed a crime. They are arraigned and bail is set based on the risk of flight, seriousness of offense and risk to public safety, guilt or innocence is an instruction at trial not at arraignment.

During my years in the bail profession, I have posted bail for people charge with public intoxication and identity theft to rape and kidnapping. These bonds were not written because the funds were available to pay the bond premium, they were written because someone, a family member, friend, or employer, stepped forward with a willingness to vouch for the defendant and sign as a financial guarantor that person will appear for court every time required.

I speak from experience when I say, not everyone goes to court. When they do not, many times it is for a lame excuse like, they forgot their court, they did not have a ride, or their attorney said their presence was not required, those situations are easily resolved by the bail agent. Then there are the absconders

who flee the area. They pay with cash, do not use their own vehicle and crash on a friend's couch. They are difficult to find, and a lot of time, energy and expense goes into locating, apprehending, and returning these absconders to jail. Not everyone is located prior to the statutory deadline on those bonds, and when there is inability to perform, the court calls the bond due.

Reformers will suggest other means of release in lieu of bail, pre-trial services, texted court dates, ankle monitors and home detention. They make them sound like sure things, they are not and when they fail to check-in with pretrial services or cut-off ankle monitors law enforcement has limited resources to track them down and the forfeited bail never collect. It's a lose, lose situation. Only a bail agent, backed by a surety company provides a financial guarantee of appearance, there is a financial incentive to perform.

There has been one positive correction made in the last five years and it is related to due process. If someone has been sitting in jail unable to post bail for more than 3-4 days, they are entitled to a bail review hearing so a judge can reconfirm the set bail is appropriate. If a judge deems bail to be sufficient and not excessive, the reason a defendant remains in jail are likely because the defendant has committed a profoundly serious offense, has too many prior arrests and convictions and/or they have lost the confidence of family and friends who have typically come to their aid. You might find it helpful to request a list from every jail in the state of those who have been sitting in jail more than thirty days and you will confirm what I say to you today is true.

The bail bond system works because it involves third-party guarantors, family, friends, and employers. It works because crime victims feel safer when, if the offender is Constitutionally entitled to bail, that they are out on secured release and finally, when a defendant fails to go to court, bail agents bring them back. We produce or pay.

Thank you for your time.