

Ohio House of Representatives
Criminal Justice Committee
Chairman Jeff LaRe,
Vice Chairwoman White,
Ranking Member Leland and members of the committee
77 South High Street, 14th Floor
Columbus, Ohio 43215

RE: Opposition to HB 315

Chairman LaRe and Vice Chairwoman White,

My name is Marc Ebel. I am the Director of Legislative Affairs for Aladdin Bail Bonds. We operate in Ohio and 8 states making us the single largest provider of surety guaranteed pretrial freedom nationally. I am here to testify in opposition to HB 315 as it runs cross-grain to the purpose of bail and the aims of the justice system more broadly. I would like to speak briefly about the purpose of commercial/surety bail and then the problems in HB 315 that justify our opposition.

The purpose of commercial/surety bail is to allow quick access to freedom, while ensuring the justice system that the defendant will appear in court. This is possible because of a bail schedule. A bail schedule allows the jail to release someone, prior to their first arraignment, on the guarantee of appearance by the bond company and surety. A surety bond is quite literally an insurance product regulated by the Dept. of Insurance in Ohio. For underwriting the risk that the person does not appear in court, which means we must deploy resources to find them, we charge a premium fee of 10% of the full bond amount. If we cannot find them, we pay the whole bond amount to the court. This is almost directly comparable to auto insurance. You pay a monthly premium for your insurance underwriting the risk that they must pay the full amount of an accident should you get into one. I would also like to point out the fact that for those who are able to access a bond it is the least restrictive means of securing their freedom pre-conviction.

Studies have shown commercial surety bail to be 97-98% effective at curing failures to appear.¹ As for Aladdin our internal numbers indicate a 99.5% efficacy rate at recovering those who fail to appear (FTA).² The phenomenal success of bail is due to the unique relationship between the bail company, our clients and cosigners. Our clients and their cosigners don't want to be out any more than the 10% and thus wants to make all court appearances. The bonding company does not want to pay the full-face amount of the bond to the court and thus will deploy resources to find and return any FTA's.

However, more than just make sure our clients show up for court, we come alongside them and actively help them, and their family/cosigners navigate the complex and often confusing legal system. Our clients are often overwhelmed with what they face and confused about the steps that are ahead of them. We schedule regular in person visits to review where they are at in the process and what's next. This is supplemented by routine phone calls and our very own app they can download to check in on their case, submit documents and manage their accounts. We can send texts but have found negligible effects on outcomes from texts and thus do not rely on them. We truly become a partner to our clients and even help in their personal lives with transportation needs, childcare, case management ect. All these resources help to ensure they resolve their case(s) and get their lives back in order. The assistance we give our clients and

¹ Cohen, T. H. & Reaves, B. A. (2007). Bureau of Justice Statistics Special Report, State Court Processing Statistics, 1990 The maximum secured bond amount a court may set for an accused person is twenty-five per cent-2004, Pretrial Release of Felony Defendants in State Courts. Pg. 9, Table 7. & Cohen, T. H. (2009). Commercial Surety Bail and the Problem of Missed Court Appearances and Pretrial Detention. 331-355, pp. 355.)

² Internal Documentation.

the lengths we go to help them resolve their cases is often profoundly appreciated. I can supply actual stories about the lengths we go to assist our clients if needed.

This leads to the first insurmountable problem with HB 315. The requirement that bonds not be set higher than 25% of the persons monthly expenses³. If the face amount of the bond is not high enough to either incentivize the defendant not to run or not high enough to make it practical to deploy resources, then no company will write them. In our analogy to car insurance, it is only the writing of lots of other car insurance at certain amounts that allows the company to guarantee payment in case of an accident. If a state limited auto policy premiums to 25% of people income, there would be no more auto insurance. Now some will say that it allows the defendant to post with the court alone and not pay a bonding company the 10% fee. This is fine if the court/pretrial department has resources to track down and remand to custody those who view the 25% as a transaction fee for criminal activity, which I assure you is a greater reality than proponents may even realize. Bonds need to be high enough to incentive the defendant and co-signers to perform and show up for court. It also allows the surety to write the bond and deploy resources to bring people back to court. The other problem is that all the people who would have bonded out now will go to pretrial services. Pretrial services chronically are underfunded and lack adequate resources even for their current workloads.

Furthermore, when someone does have a mistake and FTA's the courts/pretrial do not have additional resources to go out and help people back to court. They will simply issue a warrant. This warrant will either be served by law enforcement or will hang over the persons head impeding their lives until they eventually do run across law enforcement and exacerbate whatever they encountered law enforcement for in the first place.

Law enforcement is also chronically underfunded and resource tight. The private third-party release options help to relieve strain and brings free third-party resources to the aid of the justice system both at the court level and in the aid of law enforcement to help people back to court or deploy resources to find them.

The second insurmountable problem with HB 315 is the revocation of secured bond for certain violations.⁴ It is duplicitous to place these restrictions on bail alone. It would only be fair, and truly be for the smooth administration of justice, if restrictions were placed on own recognizance release and release to pretrial. The same reasons for revocation should apply to OR and Pretrial. The result of which should be the setting of commercial bail, since they have demonstrated a failure. The same failure that costs a bonding company their bail.

The third significant problem with HB 315 is the financial hardship waiver.⁵ This waiver must be a signed document that is sworn to by the defendant. There must be consequences for lying. Anything less will turn it into a very easy out for the experienced criminal. It is typically not the incarcerated defendant who posts bail, but family or friends (with no correlation to the defendants' monthly expenses). In the case of self-indemnification to prevent "gaming the system" the defendants' monthly expenses would need to be verified, credit reports, proof of income, etc. prior to the bond being issued. We have dedicated staff whose role it is do perform this analysis prior to a bond being issued. Who in the criminal justice system will do this? Are we going to charge judges and court staff with doing a financial analysis?

This will increase the revolving door for law enforcement and degrade the integrity of the criminal justice system. Once again, the provision of HB 315 work a terrible and untenable reality for law enforcement. All the schemes envisioned in HB 315 have been tried in other jurisdictions around the country. In the end, it is not court staff or pretrial staff out on the streets finding people when inevitable they don't show up as expected. It is law enforcement who always end up holding the bag on well-intentioned but poorly tested reforms. This is enough of a reason to oppose HB 315 to say nothing of the great loss of liberty to the justice system if the effective compassionate and least restrictive option of surety bail is taken away from the justice system.

There are other significant problems with HB 315. I have touched on the most serious ones and are alone more than enough to require our opposition. As stated earlier many states around the country have and are currently grappling

³ Sub. H.B. 315 line 5097.

⁴ Sub. H.B. 315 line 5005.

⁵ Sub. H.B. 315 line 5072.

with criminal justice reform. I would respectfully caution Ohio does not fall into some of the same mistakes other states have made in this space and then must spend successive legislative sessions to fix the frustration of the public, law enforcement and strained court systems.

Sincerely,

A handwritten signature in black ink that reads "Marc Ebel". The signature is written in a cursive, flowing style.

Marc Ebel
Director of Legislative Affairs
Aladdin Bail Bonds