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Bill Analysis

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Primary Sponsors: Reps. Swearingen and LaRe

Shalanda R. Plowden, Attorney

SUMMARY

Ohio Holly Act

- Names the act the "Ohio Holly Act."

Surety information and risk assessment for setting bail

- Requires a court to consider the results of an offender's risk assessment for setting bail for persons charged with committing a sexually oriented offense, public indecency, or certain domestic violence offenses.
- Requires courts or clerks to require a surety to include specific descriptions of property offered as security in the surety's affidavit.
- Requires a court or clerk to require any additional evidence of financial responsibility from a surety.

Denying bail

- Requires a judge to consider the results of an offender's risk assessment when granting or denying bail and makes an order from the court of common pleas that does not deny bail a final appealable order.
- Allows the court of appeals to keep an offender in custody during the pendency of an appeal of a bail denial order under certain determinations.
- Requires a judge to prepare a written order with findings of fact and an explanation for choosing not to deny bail when denial was considered.
- Allows the Attorney General to intervene in an appeal under certain bail determinations.

Bail amounts, forfeiture, and remission

- Prohibits a court from permitting a defendant to be released on a personal recognizance bond or a bail bond if the defendant fails to appear in court.
- Requires a court to consider the results of an offender’s risk assessment when setting bail if the defendant was previously convicted of a felony.
- Provides that bail should not be forfeited based only upon a breach of a condition of bail.
- Allows the court to declare bail forfeited and allows the magistrate or court to continue on a later date after providing notice to the accused or witness.
- Prohibits a court from reinstating a surety on a forfeited bond and requires a court to set a new bond when the accused appears.
- Requires bail proceedings to begin within one year of the failure of the accused to appear.
- Provides that sureties show good cause to avoid bail forfeiture when the accused is held on the process of another court.
- Requires the court or magistrate to remit all money paid toward a penalty by the surety after judgment has been rendered against the surety.
- Allows a surety to file a motion for remission at any time after the accused is returned to the court forfeiting bail and prevents the court from claiming certain procedural defenses.
- Requires the court to remit all, some, or hold a hearing on the amount paid upon a forfeiture judgment.

Charitable bail organizations

- Prohibits charitable bail organizations from purposely posting bail or acting as a surety for the appearance of a person charged with a criminal offense.
- Prohibits charitable bail organizations from purposely posting bail as surety for individuals accused of violence or who previously received bail from a charitable organization.
- Requires each charitable bail organization to annually report expenditures and represented offender classifications to Legislative Service Commission for referral to the Ohio General Assembly.
- Requires any bond posted by a charitable organization and then forfeited because of the person charged committing a new offense to be given to the victim of the new offense.
- Prohibits a bail organization from failing to annually report as described above and criminally penalizes charitable bail organizations for violating the prohibitions regarding posting bail or acting as a surety.
- Defines the term “charitable bail organization.”

DETAILED ANALYSIS

Ohio Holly Act

The bill names the act the “Ohio Holly Act.”¹

Surety information and risk assessment for setting bail

The bill requires a court to consider, in addition to any other circumstances, the results of a risk assessment of the offender conducted through use of the single validated risk assessment tool for setting bail for persons charged with the commission of a sexually oriented offense or public indecency if the person charged previously was convicted of or pleaded guilty to a prior qualifying sexual offense or for persons charged with domestic violence under certain circumstances.² The single validated risk assessment tool predicts recidivism, classifies the risk level of offenders, and identifies both factors that lead to crime and barriers that prevent rehabilitation.³

Current law specifies that any defendant who is entitled to release may be released upon a surety bond and allows courts or clerks to require a surety to include specific descriptions of property offered as security with any encumbrances, the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged, and all other liabilities in the surety’s affidavit. The bill requires the court or clerk to require the information described above to be included in the surety’s affidavit. Current law also allows a court or clerk to seek any additional evidence of financial responsibility from a surety. Under the bill, courts or clerks are now required to seek additional evidence of financial responsibility from a surety and the surety is required to provide that additional evidence if it exists.⁴

Denying bail

The bill requires a judge to consider the results of an offender’s risk assessment conducted through use of the single validated risk assessment tool when granting or denying bail and specifies that an order from the court of common pleas that does not deny bail is a final appealable order.⁵ The court of appeals may stay the order of the court of common pleas during the pendency of the appeal if the court of appeals determines, by a preponderance of the evidence, that the accused committed the offense with which the accused is charged, that the accused poses a substantial risk of serious physical harm to any person or to the community, and that no release conditions will reasonably assure the safety of any person and the community.⁶ A judge that considers the denial of bail and does not deny bail must prepare a written order with

¹ Section 3.

² R.C. 2907.41(A) and (B) and 2919.251(B).

³ [The Creation and Validation of the Ohio Risk Assessment System](#), last accessed May 12, 2026.

⁴ R.C. 2937.011(C)(3) and (L).

⁵ R.C. 2937.222(C)(1) and (D).

⁶ R.C. 2937.222(D)(3).

findings of fact and a statement explaining the justification for the judge's decision and the determination made when denial was originally considered.⁷

The bill allows the Attorney General to intervene in an appeal if the Attorney General determines that bail was not properly denied and that the prosecuting attorney in the case will not appeal the order of the court of common pleas. When the Attorney General files an appeal, the Attorney General and any assistant or special counsel designated by the Attorney General may exercise all rights, privileges, and powers of prosecuting attorneys in such cases.⁸

Bail amounts, forfeiture, and remission

Bail amounts

Current law states that in all cases, bail must be fixed with consideration of the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of the defendant appearing at the trial of the case.⁹ Under the bill, if a defendant has failed to appear in the current case or has failed to appear in response to two or more summons issued by the court within the five-year period preceding the defendant's current charge, the court is prohibited from permitting the defendant to be released upon a bail bond secured by a deposit that is less than 25% of the amount of the bond in cash or upon a person recognizance bond.¹⁰ The bill requires a court to consider the results of an offender's risk assessment conducted through use of the single validated risk assessment tool when setting bail if the defendant was previously convicted of a felony.¹¹

Bail forfeiture

The bill specifies that bail may not be declared forfeit based only upon a breach of a condition of bail. The bill prohibits a court from reinstating a surety on a forfeited bond and requires a court to set a new bond when the accused returns to court. Forfeiture proceedings must be commenced within one year of the failure of the accused to appear.¹²

Bail remission

Under existing law regarding recognizances, the magistrate or clerk is required to notify the accused and each surety within 15 days after a declaration of forfeiture of the default of the accused and the adjudication of forfeiture. Each surety is then required to show cause on or before a date stated in the notice why judgment should not be entered against each surety for the penalty stated in the recognizance. If good cause by production of the accused is not shown, the court or magistrate must enter judgement against the sureties or either of them in such an

⁷ R.C. 2937.222(E).

⁸ R.C. 2937.222(F).

⁹ R.C. 2937.23(A)(3).

¹⁰ R.C. 2937.23(A)(4).

¹¹ R.C. 2937.23(A)(5).

¹² R.C. 2937.35.

amount not exceeding the penalty of the bond, as has been set in the adjudication of forfeiture, and must award execution as in civil cases.¹³ The bill provides that good cause to avoid bail forfeiture and judgment is shown by the sureties whenever the accused is held on the process of another court in Ohio or another state and is available to the forfeiting court by means of a detainer, holder, extradition, or other means, and the sureties will be entitled to exoneration and release.¹⁴ After judgement has been rendered against surety or after securities sold or cash bail applied, the bill requires the court or magistrate, rather than allows under current law, to remit all or such portion of the penalty as it deems just and in the cause of previous application and transfer of cash or proceeds, the magistrate or clerk may deduct an amount equal to the amount so transferred from subsequent payments to the agencies receiving such proceeds of forfeiture until the amount is recouped for the benefit of the person or persons entitled thereto under order or remission. Under the bill, a motion for remission may be made at any time subsequent to the return of the accused to the forfeiting court, and *res judicata*, *laches*, or similar doctrine is not a defense to the motion.¹⁵

The bill provides that if the accused is returned to the forfeiting court within one year of the order of forfeiture, the court is required to remit all of any amount paid upon the forfeiture judgment. If the accused is returned to the forfeiting court within two years of the order of forfeiture, the court is required to remit 80% of any amount paid upon the forfeiture judgment. If the accused is not returned to the forfeiting court for three or more years after forfeiture and the surety has paid on the forfeiture judgment, the court is required to hold a hearing regarding remission and apply factors enunciated in *State v. Delgado*, 2004-Ohio-69 (2d Dist.).¹⁶ In *State v. Delgado* the court quotes the Third District Court of Appeals stating that, “when considering a request for post-appearance bond remission, a trial court should balance the reappearance of the accused and the efforts expended by the surety to effectuate the reappearance against the inconvenience, expense, and delay suffered by the state and any other factors the court finds relevant.”¹⁷

Charitable bail organizations

Prohibitions and requirements for charitable bail organizations

The bill prohibits charitable bail organizations from purposely doing either of the following for the appearance of a person charged with a criminal offense or to secure payments of fines and costs imposed by a court upon conviction of a felony or misdemeanor:¹⁸

- Furnishing bail or funds or property to serve as bail in an amount of \$5,000 or more;

¹³ R.C. 2937.36(C).

¹⁴ R.C. 2937.36(C).

¹⁵ R.C. 2937.39.

¹⁶ R.C. 2937.39.

¹⁷ *State v. Delgado*, 2004-Ohio-69 (2d Dist.).

¹⁸ R.C. 3905.84(B).

- Make bonds or enter into undertakings as surety in an amount of \$5,000 or more.

The bill also prohibits charitable bail organizations from purposely furnishing bail or funds or property to serve as bail or make bonds or enter into undertakings as surety, regardless of the amount, for any of the following:¹⁹

- A person alleged to have committed domestic violence;
- A person alleged to have committed an act that constitutes dating violence;
- A person alleged to have committed an offense of violence;
- A person who has previously received bail or funds or property to serve as bail from a charitable bail organization.

The bill requires each charitable bail organization to maintain and annually report the following information to the Ohio Legislative Service Commission for referral to the standing committee of the Ohio House of Representatives and the Ohio Senate with primary responsibility for criminal justice issues before October 31 each year. The bill also requires each organization to make all of the following publicly available on the bail organization's website or in a newspaper of general circulation if the organization does not maintain a website:²⁰

- The expenditures of the organization, including a separate reporting of the amount furnished for bail, or funds or property to serve as bail;
- The number of individuals and classification of offenses for those individuals for which any bail, or funds or property to serve as bail, has been provided.

A charitable bail organization is prohibited from purposely failing to report the required information as described above.²¹

Any bond posted by a charitable organization that is ordered forfeited as a result of the person charged committing a new criminal offense must be distributed to the victim of the new offense, if a victim is identified.²² Any charitable bail organization that violates the requirements established for a charitable bail organization is guilty of a first degree misdemeanor on a first offense and a fifth degree felony for each subsequent offense.²³

¹⁹ R.C. 3905.84(C).

²⁰ R.C. 3905.84(D)(1).

²¹ R.C. 3905.84(D)(2).

²² R.C. 3905.84(E).

²³ R.C. 3905.99(E)(2).

Definitions

“**Charitable bail organization**” means an organization, including a charitable organization that is exempt from federal income taxation under §501(c)(3) of the Internal Revenue Code, that solicits or accepts donations from the public for either of the following purposes:²⁴

- 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 Ohio court;
- Securing the payment of fines or costs assessed by a court upon conviction of a felony or misdemeanor.

HISTORY

Action	Date
Introduced	03-10-26

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²⁴ R.C. 3905.83(A).