

Indiana Coalition Opposes HB 1376

February 2, 2021

Dear Members of the Indiana General Assembly:

We, the undersigned public safety, community justice, civil and human rights stakeholders serving your Indiana constituents, write to implore you to oppose consideration of HB 1376, which would make it nearly impossible for charitable bail organizations to operate in Indiana, leaving people who cannot afford bail behind bars or forcing them to rely on the for-profit private bail bonds industry.

Charitable Bail Organizations Provide a Critical Resource for Hoosiers

The Bail Project and other charitable bail funds operating in Indiana offer bail assistance and other resources for people released pretrial. In addition to bail assistance, The Bail Project offers Community Release with Support, which includes the automatic issuance of court reminders, travel assistance, and other services to meet the unmet needs of clients. These wraparound supports not only increase appearance rates, they help keep people out of jail over the long-term. Under HB 1376, only eight percent of The Bail Project's clients would have received the help they needed.

Pretrial liberty should not be a question of money. HB 1376, however, nearly guarantees that the hundreds of Hoosiers who each year are supported by charitable bail funds would languish in jail. In Indiana, bail bond companies charge a non-refundable fee of 10-15 percent of the full bail amount, an amount that can be out of reach for the poor, sick and vulnerable people who charitable bail funds help. Charitable bail funds, on the other hand, do not charge fees for assistance. At The Bail Project, bail is paid, returned at the end of a client's case, and then used to free someone else. HB 1376 would do nothing more than exacerbate pretrial detention and expand the number of people inside Indiana's already overpopulated jails.

Charitable Bail Organizations Advance Public Safety in Indiana

Pretrial liberty should not be a question of money. Yet, the most common defense of the continued use of money bond is an unsubstantiated argument that money bond is the only way to make people come to court and uphold public safety. This isn't true. Releasing people without money or surety bond or letting a charitable bail fund post their bond before trial has better results.

National research shows that people who are released without paying money bond show up to court and stay arrest-free at the same rate as those who are forced to post bail. Kentucky, for example, eliminated the private bail industry in 1976; mid-2020 data shows that 87 percent of people released appear for their court date, and 85 percent are not arrested on new charges.

The Bail Project, which has been operating in Indiana since 2018, has an even better record. Since then, The Bail Project has provided free bail assistance and pretrial support to nearly 800 people in Indiana and clients were present at 95 percent of all court appearances. These are community members who would have languished in jail for weeks or months awaiting court dates. Instead, they were able to return to their families, jobs, and schools, and receive referrals to social services and community resources that meet their specific needs.

Beyond just the adverse budgetary impacts that the elimination of charitable bail funds will have throughout Indiana, the more important implications of this bill would be the human costs. Compared to people who are released pretrial, those who are forced to remain in pretrial detention because of their inability to pay bond have significantly worse outcomes. Because of the criminogenic effects of incarceration, people detained pretrial are more likely to plead guilty to a charge before trial to avoid having to remain deprived of their liberty. They are also more likely to be sentenced to jail or prison time due to bias injected into the system that suggests those detained pretrial have “committed a crime.” Pretrial detention, a form of structural racism, disproportionately impacts people of color. In Indianapolis, 65 percent of Bail Project clients are African American or Latinx; in Gary, three out of four Bail Project clients are Black.

Charitable Bail Organizations are a Cost Savings for Indiana

The impacts of incarceration are not simply limited to the detained individuals. Those who are incarcerated are more likely to lose their jobs, housing and custody of their children, and these consequences are not without a public cost. People who have been jailed because they are poor are more reliant on homeless shelters and public assistance after they are released. Also, in a state where a substantial portion of the incarcerated population has a history of substance use, incarceration only worsens one’s probability of overdose death upon release. Charitable bail organizations address these social needs and unburden taxpayer dollars from the obligation to cover the cost of detaining someone pretrial.

Nationally, it is estimated that the bail industry collects \$2 billion in profits each year. From 2000 through 2019, the bail industry contributed approximately \$680,000 to Indiana’s elected officials. The Indiana legislature should not let politics and money take precedence over good policy and safe communities. While Indiana needs comprehensive bail reform, not only as a matter of racial justice and economic equity but as a public health imperative, House Bill 1376 is not it.

We invite Indiana lawmakers to work with us to end cash bail. We ask that you partner with us to address the larger systemic issues that make the intervention of charitable bail organizations necessary in the first place.

Sincerely,

ACLU of Indiana
The Bail Project
Clark County CARES
Count US INdiana
Emma House
Exodus Refugee Immigration, Inc.
Fair Housing Center of Central Indiana, Inc.
Fathers and Families Center
Gary Commission on the Social Status of Black Males
Gary Re-Entry Coalition
Greater Terre Haute NAACP Branch
Groundwork Indy, Inc.
Heartland Communities
Indiana Public Defender Council
Indy Hunger Network
Indy Pride, Inc.

Marion County Reentry Coalition
MCCOY (Marion County Commission on Youth)
National Lawyers Guild, Indiana Chapter
Queering Indy
The Reform Movement of Terre Haute
Saint Margaret's House