

Accessible Bail Sureties Act

SECTION 1. This Act shall be known and may be cited as the “Accessible Bail Sureties Act of 202X.”

- 1) **Purpose.** This Act provides a subsidy to defendants for the use of covering fees charged by a bail surety for posting that defendant’s bond amount, establishes the procedure for a bid by sureties to be the defendant’s bondsman, and specifies the responsibilities of bail sureties.

SECTION 2. Definitions.

- 1) As used in this chapter:

- a) **“Bond”** shall mean the monetary amount requested by a court to guarantee that a defendant will duly appear in court when expected and, if a defendant is jailed, to obtain that defendant’s release from confinement, given to the court by a surety.
- b) **“Surety bond”** shall mean a monetary amount normally paid to a surety by a defendant as collateral for that surety’s posting of the full bond amount.
- c) **“Surety”** shall mean any legal entity which
 - i) primarily engages in the business of paying a bond on behalf of a criminal defendant; and
 - ii) is compliant with all legal, regulatory, and insurance requirements applicable to bail sureties within the jurisdictions in which the entity operates.
- d) **“Risk”** shall mean a holistic assessment of the nature of a defendant, including but not limited to the defendant’s criminal record including past or pending charges, the likelihood of their evading mandatory court appearances, their likelihood of committing additional crimes, and their likelihood of contacting or attempting to contact victims or witnesses, if allowed to be released into the community prior to their hearing.
- e) **“Subsidy”** shall mean a payment made to a surety on behalf of a defendant by the [State/county/district] for the purpose of covering part or all of the surety bond amount, up to the cost of pretrial incarceration.
- f) **“Cost of pretrial incarceration”** shall be calculated using the median length of time spent incarcerated, in days, between a defendant’s arraignment and their trial, in that judicial district, multiplied by the marginal cost of incarceration per day, per defendant, within that judicial district.

SECTION 3. Bond

- 1) In determining the total bond of a defendant, the presiding judge shall consider holistically the risk posed by the defendant.
- 2) The bond amount shall be set at the minimum amount which reasonably ensures the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense, as applicable.

SECTION 4. Eligible defendants.

- 1) A defendant is eligible to use the subsidy only if the court has determined that criminal defendant to be indigent.

SECTION 5. Bidding procedure.

- 1) If an eligible defendant desires to obtain a bail bond from a surety for pretrial release, that defendant's bond, as set by the court, shall be published to sureties located in the jurisdiction in which the defendant may be committed to jail.
- 2) All relevant information concerning the defendant, compliant with relevant restrictions concerning the release of sensitive information about the defendant or criminal case, shall be made available to the sureties
- 3) Sureties desiring to execute a bail bond published under this section shall submit a bid [to the jurisdiction] within [XX] days reasonable time allowed for the review and assessment of that defendant's riskiness.
- 4) The amount of a surety's bid shall not exceed the cost of incarceration, as calculated in 2(1)(f).
- 5) The eligible defendant may select a bid received from a surety under this section.
- 6) If a defendant executes a bail bond in response to a selection of a bid from a surety under this section, the [State/county/district] shall [pay/credit] to the defendant an amount not to exceed the amount of the lowest bid received from a potential surety in response to a solicitation under this section, for the purpose of covering part or all of the costs normally incurred by the defendant for the surety bond.

SECTION 6. Responsibilities of the lowest-bidding surety.

- 1) The surety which accepts the subsidy shall be held liable for the defendant during the pretrial period, including responsibility for, but not limited to:
 - a) ensuring the defendant attends all required court appointments;
 - b) maintaining necessary supervision on the defendant; and

- c) ensuring the defendant does not commit new crimes.
- 2) If the defendant violates their terms of release on bond, the surety shall be held liable for and must forfeit the total monetary amount of the bond as set by the court.

SECTION 7. Severability and effective date.

- 1) It is the intention of the legislature that the provisions of this Chapter shall be severable. If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances is not affected, including but not limited to the applicability of this Chapter to the provisions of future agreements subject to this Chapter.
- 2) This Act takes effect on [effective date].