

KEEPING VIOLENT OFFENDERS OFF OUR STREETS ACT

SEPTEMBER 23, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JORDAN, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 8205]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8205) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that Byrne grant funds may be used for public safety report systems, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keeping Violent Offenders Off Our Streets Act”.

SEC. 2. FRAUD IN CONNECTION WITH POSTING BAIL.

Section 1033(f)(1)(A) of title 18, United States Code, is amended by inserting before the comma the following: “(including the posting of monetary bail, criminal bail bonds, and Federal immigration bail bonds)”.

Purpose and Summary

H.R. 8205, the Keeping Violent Offenders Off Our Streets Act, introduced by Rep. Scott Fitzgerald (R-WI), defines bail bonds as insurance products, which subjects them to federal insurance fraud laws and allows states to enact licensing requirements for corporate, for-profit, and non-profit entities that post bail on behalf of defendants. It would also require the employees and agents of charitable bail funds to pass a criminal background check as required by the Violent Crime Control Act of 1994, which places certain requirements on individuals operating in the insurance industry.¹

Background and Need for the Legislation

Charitable Bail Funds

Charitable bail funds are organizations that use money from donations to help pay cash bail for defendants. These charitable funds are a small part of the larger movement to significantly reform or eliminate the cash bail system. According to the National Bail Fund Network, there are over ninety charitable bail funds across the country that specialize in helping low-income individuals, protesters, LGBTQ individuals, immigrants, sex workers, and other individuals post bail.²

Charitable bail funds regularly post bail for individuals who have been charged with violent felonies and have previous convictions. For example, a CNN investigation in 2023 into charitable bail funds found that in Indiana from 2019 to 2021, “24 percent of the roughly 1,000 defendants cut loose by The Bail Project—among the largest charitable bail groups in the United States—had been charged with a crime of violence; 35 percent were facing felony charges and had a previous charge of at least one crime of violence.”³ This led Indiana to pass a law in July 2022 that prohibits charitable bail funds from bailing out felony offenders with a previous conviction for a violent crime.⁴ According to the investigation done by CNN, at least nine individuals who were released by a bail charity were subsequently arrested for murder.⁵ CNN found that if the Indiana law had been applied nationally, it “likely would have prohibited charities from releasing at least five of the nine defendants who were later arrested on murder charges.”⁶ CNN’s in-

¹Pub. L. 103–322 (1994).

²Community Justice Exchange, National Bail Fund Network, Directory of Community Bail Funds, <https://www.communityjusticeexchange.org/en/nbfn-directory> (last visited Sep. 13, 2024); Jack Karp, *Do New Laws Seek To Regulate Charitable Bail, Or End It?*, LAW 360 (Apr. 5, 2024).

³Rob Kuznia and Yahya Abou-Ghazala, *Bailed out, arrested again: These charities boomed after the murder of George Floyd. They’re under fire for bailing out violent offenders*, CNN (Mar. 21, 2023).

⁴Jack Karp, *Do New Laws Seek To Regulate Charitable Bail, Or End It?*, LAW 360 (Apr. 5, 2024).

⁵Kuznia and Abou-Ghazala, *supra* note 3.

⁶*Id.*

vestigation also found dozens of cases after the death of George Floyd in which individuals were bailed out by charitable funds and subsequently committed violent crimes, such as robbery, assault, kidnapping, and attempted murder.⁷

Commercial bail bondsmen—who are subject to licensing and background check requirements—are more successful at ensuring defendants show up to their court dates when compared to charitable bail funds. According to data reviewed by CNN, of the 500 defendants bailed out by the Minnesota Freedom Fund (MFF), a charitable bail fund, in 2021 and 2022, about 42 percent of them failed to show up for their court dates.⁸ By comparison, of the 16,000 defendants assisted by commercial bail companies during the same period, only approximately 22 percent failed to appear for their court date.⁹ Similarly, the Seattle area’s Northwest Community Bail Fund, a charitable bail fund, has bailed out roughly 440 individuals since the 2020 summer riots and 52 percent of them failed to appear in court.¹⁰ Commercial bail bondsmen in the Seattle area secured the pre-trial release of 3,000 individuals and only 24 percent of those individuals failed to appear in court.¹¹

Defendants are more likely to show up for their court appearances if they or their family members have to provide collateral to ensure the defendant’s appearance in court. With a charitable bail fund posting bail on the defendant’s behalf, defendants have less of an incentive to show up to court as there is no financial burden on them or their family if they fail to appear. Joe Tamburino, a defense attorney in Minneapolis, put it plainly to CNN: “If you run, so what? . . . It’s not your money or your mom’s money being lost.”¹²

After the death of George Floyd in May 2020, there was an unprecedented surge of cash that flowed to charitable bail funds. For example, the MFF received \$231,000 in 2019 but took in close to \$42 million in 2020.¹³ The Chicago Community Bond Fund raised \$1 million in 2019 but took in approximately \$8 million in 2020.¹⁴ Similarly, the Northwest Community Bail Fund took in approximately \$158,000 in 2019 but took in around \$6 million in 2020.¹⁵ Charitable bail funds used this large influx of cash to bail out violent criminals across the country. Among other solicitations, then-Senator Kamala Harris publicly supported the MFF and encouraged people to “chip in now to the @MNFreedomFund to help post bail” for the rioters and looters in Minnesota.¹⁶

Victims of Criminals Released by Charitable Bail Funds

Charitable bail funds have repeatedly posted bail for criminals previously charged and convicted of serious violent crimes, including sexual assault of a minor. Greg Lewin, Executive Director of the MFF, has stated, “I often don’t even look at a charge when I

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

¹³*Id.*

¹⁴*Id.*

¹⁵*Id.*

¹⁶Alec Schemmel, *Kamala Harris-backed bail fund helped incarcerated man, now charged with murder, go free*, ABC NEWS 4 (Aug. 30, 2022).

bail someone out.”¹⁷ He added, “I will see it after I pay the bill because it is not the point. The point is the system we are fighting.”¹⁸ After these individuals are released by the charitable bail funds, they often continue to commit crimes. For example:

- Christopher Boswell, a two-time convicted rapist and level 3 sex offender, was bailed out by the MFF in the summer of 2020 after being charged with ten felonies including sexual assault, kidnapping, and assault.¹⁹ Despite his violent history, the MFF paid \$350,000 to secure his release, and by September 2020 Boswell had already violated the conditions of his release and a felony warrant was issued for his arrest.²⁰

- Timothy Wayne Columbus, a 37-year-old previously convicted sex offender, was bailed out by the MFF after sexually assaulting an 8-year-old girl.²¹ The victim told police officers that Columbus held her down on the couch, sexually abused her, and told her that if she told anyone he would hurt her.²² Despite his previous criminal history, the MFF paid \$300,000 for the unconditional release of Columbus.²³

- Lionel Timms, a convicted felon, was bailed out by the MFF after being charged with domestic assault for an attack on a bus rider who refused to give him money.²⁴ Shortly after his arrest, the MFF paid \$11,500 to bail Timms out of jail despite his history of violence.²⁵ After his release, Timms violently assaulted and robbed a bar manager behind Mac’s Industrial Bar in Minneapolis, leaving the manager in the hospital with a traumatic brain injury.²⁶

- In 2002, Myon Burrell was sentenced to life in prison for the murder of an 11-year-old girl.²⁷ Burrell’s sentence was commuted in 2020 by Governor Tim Walz after Minnesota’s pardons board found that exculpatory evidence was originally kept from Burrell’s legal team nearly twenty years ago.²⁸ In August 2023, Burrell was arrested after law enforcement officers found a loaded handgun and drugs in his vehicle during a traffic stop.²⁹ The MFF paid \$100,000 cash to bail Burrell out of jail after his arrest in August 2023.³⁰ While out on the MFF’s bail, Burrell was arrested and charged in a separate drug case after a traffic stop led to police finding methamphetamine.³¹

¹⁷Tom Lynden, *Minnesota nonprofit with \$35M bails out those accused of violent crimes*, FOX 9 (Aug. 10, 2020).

¹⁸*Id.*

¹⁹Crime Watch MN, *Rapist bailed out by Minnesota Freedom Fund after being charged in new cases now wanted on felony warrant*, ALPHA NEWS (Mar. 1, 2021).

²⁰*Id.*

²¹Kyle Hooten, *Minnesota Freedom Fund bailed out 37-year-old man accused of raping 8-year-old girl*, ALPHA NEWS (Mar. 1, 2021).

²²*Id.*

²³*Id.*

²⁴Crime Watch MN, *Suspect bailed out by Minnesota Freedom Fund leaves bar manager with traumatic brain injury in violent assault*, ALPHA NEWS (Aug. 21, 2020).

²⁵*Id.*

²⁶*Id.*

²⁷Crime Watch MN, *Myon Burrell convicted on gun and drug charges stemming from traffic stop last year*, ALPHA NEWS (Sep. 7, 2024).

²⁸*Id.*

²⁹*Id.*

³⁰*Id.*

³¹*Id.*

Current State Regulation of Commercial Bail Bonds and Charitable Bail Funds

At least thirty-seven states currently have licensing requirements for professional bail agents to practice in the commercial bail industry.³² Most states rely on the state insurance department or state insurance commission to regulate bond agents, but some states use a financial services agency or the courts.³³ The most common requirements for bail agents to maintain a license include “reaching a certain age, paying a fee, passing an exam, completing education requirements, and submitting a criminal background check.”³⁴

For example, in California, bond agents must complete twenty hours of classwork, pass an exam, take continuing education courses, and renew their license every two years.³⁵ Some states will not issue or renew a bail agent’s license if they “commit a felony, a crime of moral turpitude or offenses involving misappropriation of money or property.”³⁶ Jeffrey J. Clayton, the Executive Director of the American Bail Coalition, stated, “the for-profit corporate surety industry is heavily regulated as an insurance product” and that similar licensing requirements for charitable bail funds would ensure accountability for the large donations these funds receive.³⁷

Many states have recently sought to regulate charitable bail funds. For example, Georgia recently passed a bill that prohibits charitable bail funds from paying more than three cash bonds per year in a given jurisdiction and also subjects them to the same requirements as professional bail bond agencies in the state.³⁸ New York heavily regulates charitable bail funds by prohibiting them from posting bail in an amount more than \$2,000.³⁹ It also only allows these funds to post bail for defendants who are indigent and accused of low-level misdemeanor offenses.⁴⁰ Additionally, those operating the charitable bail funds in New York must be licensed by the Department of Financial Services.⁴¹ Indiana also passed a law in July 2022 prohibiting charitable bail funds from posting bail for felony offenders with a violent crime conviction.⁴²

The Kentucky House of Representatives recently passed the Safer Kentucky Act, which bars charitable bail funds from paying more than \$5,000 in bail and prohibits them from bailing out someone accused of certain crimes, including domestic violence.⁴³ The bill also requires charitable bail funds to disclose their donors and expenditures in an annual report to the state legislature.⁴⁴ The bill gained traction after the Louisville Community Bail Fund posted

³² Amber Widgery, *Bail Bond Agent Licensure*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Apr. 23, 2013).

³³ *Id.*

³⁴ *Id.*

³⁵ Karp, *supra* note 4.

³⁶ Widgery, *supra* note 32.

³⁷ Karp, *supra* note 4.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Alyssa Work, *Establishing a Charitable Bail Fund in New York State, A Step-by-Step Guide*, BRONX FREEDOM FUND (last visited Sep. 13, 2024).

⁴¹ *Id.*

⁴² Kuznia and Abou-Ghazala, *supra* note 3.

⁴³ Joe Sonka, *Measure to ban charitable bail groups softened; bill advances after emotional testimony*, LOUISVILLE COURIER JOURNAL (Feb. 24, 2022).

⁴⁴ *Id.*

the \$100,000 bond of Quintez Brown, who, after being released to home confinement, tried to murder mayoral candidate Crag Greenberg.⁴⁵ Other states like Idaho, Minnesota, Pennsylvania, and Virginia have introduced similar legislation.⁴⁶

The Keeping Violent Offenders Off Our Streets Act amends the federal criminal statute dealing with insurance-related crimes (18 U.S.C. § 1033) to include the posting of bail by a corporate entity, non-profit entity, or for-profit entity as “engaged in the business of insurance.”⁴⁷ Therefore, if a charitable bail fund is posting bail on behalf of another individual, it will be subject to the criminal provisions within the statute. For example, charitable bail funds will be prohibited from making materially false statements in any financial reports or documents sent to an insurance regulatory official or agency.⁴⁸ Charitable bail funds and their agents will also be prohibited from embezzling or misappropriating the fund’s money. The criminal penalties associated with a violation of this section vary by the specific offense, but generally include both a fine and a prison term not exceeding 15 years.⁴⁹ Additionally, as charitable bail funds would be “engaged in the business of insurance” under federal law, this would subject them to state licensing requirements and regulation by state insurance commissions.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H.R. 8205: “Victims of Violent Crime in Manhattan” a hearing held on April 17, 2023, before the Committee on the Judiciary. The Committee heard testimony from the following witnesses:

- Madeline Brame, Chairwoman of the Victims Rights Reform Council and mother of a homicide victim;
- Jose Alba, Former Manhattan bodega clerk and victim of assault in Manhattan;
- Jennifer Harrison, Founder of Victim’s Rights New York;
- Paul Digiaco, President of the New York Police Department (NYPD) Detectives’ Endowment Association (DEA);
- Joseph Borgen, Victim of anti-Semitic attack in Manhattan;
- Robert F. Holden, New York City Council Member;
- Jim Kessler, Executive Vice President for Policy, Third Way; and
- Rebecca Fischer, Executive Director, New Yorkers Against Gun Violence.

The hearing examined the various policies passed by the New York State Legislature and implemented by Manhattan District Attorney Alvin Bragg, including bail reform. New York passed bail reform legislation in 2019 that prohibited judges from setting cash bail for most misdemeanors and nonviolent felonies and mandated the immediate release of individuals who committed these offenses. The Committee received testimony from victims of crime, law en-

⁴⁵ *Id.*

⁴⁶ Erin George, *Turning a blind eye to the bail bond industry*, THE BAIL PROJECT (Mar. 22, 2024).

⁴⁷ 18 U.S.C. § 1033.

⁴⁸ *Id.*

⁴⁹ *Id.*

forcement officers, and local city officials about the crime in New York City and the dangerous laws and policies that are fueling it.

Committee Consideration

On September 19, 2024, the Committee met in open session and ordered the bill, H.R. 8205, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 14 to 9, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee's consideration of H.R. 8205:

1. Vote on favorably reporting H.R. 8205, as amended—passed 14 ayes to 9 nays.

COMMITTEE ON THE JUDICIARY
 118th CONGRESS
 25-19
 ROLL CALL

Date: 9/19/24

Vote on: Final passage of HR 825, as amended

Roll Call #: 1

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>	✓			MR. NADLER (NY) <i>Ranking Member</i>		✓	
MR. ISSA (CA)	✓			MS. LOFGREN (CA)			
MR. GAETZ (FL)	✓			MR. COHEN (TN)		✓	
MR. BIGGS (AZ)	✓			MR. JOHNSON (GA)			
MR. McCLINTOCK (CA)				MR. SCHIFF (CA)			
MR. TIFFANY (WI)	✓			MR. SWALWELL (CA)			
MR. MASSIE (KY)	✓			MR. LIEU (CA)			
MR. ROY (TX)				MS. JAYAPAL (WA)			
MR. BISHOP (NC)	✓			MR. CORREA (CA)			
MS. SPARTZ (IN)				MS. SCANLON (PA)			
MR. FITZGERALD (WI)	✓			MR. NEGUSE (CO)			
MR. BENTZ (OR)	✓			MS. McBATH (GA)		✓	
MR. CLINE (VA)				MS. DEAN (PA)		✓	
MR. ARMSTRONG (ND)				MS. ESCOBAR (TX)		✓	
MR. GOODEN (TX)				MS. ROSS (NC)		✓	
MR. VAN DREW (NJ)				MS. BUSH (MO)			
MR. NEHLS (TX)				MR. IVEY (MD)		✓	
MR. MOORE (AL)	✓			MS. BALINT (VT)		✓	
MR. KILEY (CA)	✓			MR. GARCIA (IL)		✓	
MS. HAGEMAN (WY)							
MR. MORAN (TX)	✓						
MS. LEE (FL)	✓						
MR. HUNT (TX)							
MR. FRY (SC)							
MR. RULLI (OH)	✓						

Roll Call Totals: Ayes: 14 Nays: 9 Present: _____
 Passed: X Failed: _____

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Committee Estimate of Budgetary Effects

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974*.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 8205 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 8205 would define bail bonds as insurance products, which subjects them to federal insurance fraud laws and allows states to enact licensing requirements for corporate, for-profit, and non-profit entities that post bail on behalf of defendants.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 8205 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House rule XXI.

Federal Mandates Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104–1).

Section-by-Section Analysis

Section 1: Short Title. This Act may be cited as the “Keeping Violent Offenders Off Our Streets Act.”

Section 2: Fraud in Connection with Posting Bail. This section defines bail bonds as insurance products and subjects them to federal insurance fraud laws, background check requirements, and allows states to regulate them.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * *

§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner, shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

(b)(1) Whoever—

(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed \$5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such

person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(f) As used in this section—

(1) the term “business of insurance” means—

(A) the writing of insurance (*including the posting of monetary bail, criminal bail bonds, and Federal immigration bail bonds*), or

(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

(2) the term “insurer” means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

(3) the term “interstate commerce” means—

(A) commerce within the District of Columbia, or any territory or possession of the United States;

- (B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;
 - (C) all commerce between points within the same State through any place outside such State; or
 - (D) all other commerce over which the United States has jurisdiction; and
- (4) the term “State” includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

* * * * *

Dissenting Views

H.R. 8205 is poorly drafted and accomplishes very little. Rather than do something useful that might actually reduce violent crime, the Republican Majority seeks to use this legislation as a platform to spread Donald Trump’s falsehoods and to attack Vice President Harris and Governor Walz.

This legislation would amend the federal insurance fraud statute, 18 U.S.C. §1033, to define “the business of insurance” to include the posting of monetary bail, criminal bail bonds and federal immigration bail bonds, so that entities that post bail are subject to federal criminal penalties for insurance fraud and other insurance-related offenses. It is designed to target nonprofit bail funds, which attempt to level the playing field by posting bail for poor and disadvantaged persons for whom a bail amount has been set, but who remain in pretrial custody solely because they cannot afford to pay their bail.

The only conceivable purpose for moving this bill is to further the Majority’s baseless attacks on Vice President Kamala Harris, who in 2020 expressed support for a nonprofit bail fund, the Minnesota Freedom Fund, which in 2022—two years later—posted bail for an offender who went on to commit murder.

But H.R. 8205 will do nothing to achieve the stated goal of the bill: keeping violent offenders off our streets. Despite its title, all it would do is subject bail organizations and corporations—which operate in state and local courts and are regulated by the states—to federal criminal penalties for conduct that is already covered by federal statutes criminalizing wire fraud and money laundering. This bill is also based on the false premise that so-called “soft-on-crime” progressive bail policies have led to an increase in crime, despite the data showing that crime, including violent crime, has been dropping nationwide for years under the Biden-Harris Administration.

For the reasons discussed below, I urge the Majority to reconsider this legislation, and to instead focus on addressing the root causes of violent crime by investing in proven solutions, such as community violence intervention and drug treatment, and by supporting law enforcement with funding and other resources. Democrats have consistently supported such legislation, which Republicans have repeatedly blocked.

I. NONPROFIT BAIL FUNDS ADDRESS THE INEQUITIES OF THE CASH BAIL SYSTEM

A. OVERVIEW OF CASH BAIL

When cash bail is set in a criminal case (or in an immigration proceeding), an individual has few options: they can use their own money to pay bail; they can pay a commercial bail company to secure their release, often with non-refundable fees of 10–15% of the bond amount or higher; or they can remain in jail. Today, an individual’s ability to afford the cost of bail is the single most important factor in determining if the person—who is presumed innocent of a crime—is released to the community pending trial, or if they will remain in jail.¹ As a result of cash bail, nearly 450,000 people are held in local jails each year due to a lack of money, not because they are deemed a danger to society.² Pretrial detention, which typically lasts between 50 and 250 days, has enormous economic consequences on a person and their family: it can mean losing a job, housing, custody of their children, and it often impacts their physical and mental health.³ Meanwhile, local governments bear the cost of pretrial incarceration, which costs taxpayers \$14 billion annually.⁴

Reliance on cash bail also results in racially and economically unjust outcomes. People of color, particularly black people, have bail set at higher rates than similarly situated white people.⁵ There are also disparate pretrial outcomes for women. While women are more likely than men to be granted release on their own recognizance, they are much less likely to be able to afford bail when it is ordered.⁶ Eighty percent of women who are incarcerated are single mothers or primary caregivers for their children.⁷ When mothers are jailed, their children are more likely to end up with grandparents, family friends, or in foster care leading to long-term intergenerational harm.

The reliance on cash bail is particularly troubling in light of the fact that high cash bail rates are regularly set for nonviolent offenses.⁸ Fewer than five percent of the more than 10.5 million arrests each year in the U.S. are for violent offenses.⁹ As a result of the proliferation of cash bail, wealthier people in the U.S. are able to buy their freedom—even when they are charged with violent offenses—while poor defendants remain in jail, even for nonviolent offenses.

¹Center For American Progress, *Fact Sheet: Profit over People: Inside the Commercial Bail Bond Industry Fueling America’s Cash Bail Systems*, (CAP Fact Sheet), <https://www.americanprogress.org/article/fact-sheet-profit-over-people/>.

²Sawyer, W. & Wagner, P., *Mass Incarceration: The Whole Pie 2024*, PRISON POL’Y INITIATIVE (March 14, 2024).

³Murdock, K. & Kessler, J., *Analyzing Cash Bail Reform*, THIRD WAY (July 11, 2023), <https://www.thirdway.org/memo/analyzing-cash-bail-reform>.

⁴Bernadette Rabuy, *Pretrial detention costs \$13.6 Billion Each Year*, PRISON POL’Y INITIATIVE (Feb. 7, 2017), https://www.prisonpolicy.org/blog/2017/02/07/pretrial_cost/.

⁵Preston, A., *5 Ways Cash Bail Systems Undermine Community Safety*, CENTER FOR AMERICAN PROGRESS (Nov. 3, 2022).

⁶Richardson, R., *Paying ransom for freedom: How cash bail is keeping Black mothers stuck in prisons*, NBC NEWS (Feb. 13, 2022).

⁷*Id.*

⁸CAP Fact Sheet.

⁹Murdock, K. & Kessler, J., *Analyzing Cash Bail Reform*, THIRD WAY (July 11, 2023), <https://www.thirdway.org/memo/analyzing-cash-bail-reform>.

B. COMMERCIAL BAIL COMPANIES

The U.S. is one of only two countries in the world that allows commercial bail bonds, in which a for-profit company enters into an agreement with the Court to pay an individual's full bail amount if they fail to appear in court, in exchange for a *nonrefundable* fee of 10–15% of the bail amount, paid by arrestee (or their family). This fee can be thousands of dollars, depending on the bail amount.

There are approximately 15,000 bail bond agents in the U.S. who bail out more than 2 million people each year.¹⁰ Some of these commercial bail agents hire bounty hunters to find and return to custody clients who miss their court dates, or who fail to make their bond payments. Most commercial bail bond agents are backed by large insurance companies. In 2021, six large insurance companies underwrote 76% of bail bonds written that year.¹¹

C. NONPROFIT BAIL FUNDS

Nonprofit bail funds are organizations that raise money to pay the cash bail of indigent detainees who are unable to afford the bail itself or even the percentage charged by commercial bail agents. With nonprofit bail funds, the amounts posted are typically returned to the fund at the conclusion of the defendant's case. The practice of collectively funding the freedom of loved ones and friends dates back to before the Civil War, when black communities raised money to purchase the freedom of enslaved friends and families.¹² One of the first large bail funds emerged in 1920, when the ACLU established a fund in response to anti-Communist prosecutions during the "Red Scare."¹³

Similar to the ACLU's National Bail Fund, the Civil Rights Congress—a litigation and defense organization founded in 1946 to advocate for the rights of African Americans, workers, and dissidents—established a bail fund to make bail available to persons charged with political crimes. During the Civil Rights movement in the 1960s, numerous bail funds were established to free those fighting to end segregation and highlight the racist laws of the Jim Crow South. One such fund was the Mississippi Bail Loan Fund, established in conjunction with the Student Non-Violent Coordinating Committee (SNCC) to bail out protestors in Mississippi. And in 1965, the Congress of Racial Equality (CORE) and the NAACP created a temporary fund for protesters in Springfield, Massachusetts.

Numerous bail funds have emerged in the decades since, often led by civil rights activists. Many bail funds are local, and some specialize in helping a specific community. For example, the National Black Mamas Bailout pays the cash bail owed by Black caregivers around Mother's Day, and several mass bailout initiatives exist for Juneteenth and Father's Day as well.¹⁴ The National Bail Fund Network is an association of over 90 community bail and im-

¹⁰CAP Fact Sheet.

¹¹*Id.*

¹²Cynthia Golembeski and Matthew Bakko, *What are bail funds? Two social policy experts explain*, <https://theconversation.com/what-are-bail-funds-two-social-policy-experts-explain-182631>.

¹³*Id.*

¹⁴*Id.*

migration bond funds across the country—each of which would be impacted by H.R. 8205.

The Majority likes to point out selective examples of individuals who were bailed out by bail funds and then went on to commit serious offenses, and those who were bailed out when the charged offenses were violent. But it is only these relatively few unfortunate cases that make headlines, while the vast majority of defendants freed by bail funds go back to their lives and finish their cases without incident.¹⁵

What the Majority fails to note is that it is the judge—not the bail fund—who determines whether to set bail, and in what amount. The decision about whether a person is released rests with the court; bail funds do nothing more than help pretrial detainees gain the freedom to which a judge already has determined they are entitled.

D. REPUBLICAN MISINFORMATION ABOUT BAIL FUNDS AND BAIL REFORM

Now that Kamala Harris and Tim Walz are on the Democratic ticket, Republicans are using the Minnesota Freedom Fund as a campaign tool, making patently false allegations about the candidates' involvement with the fund. Specifically, Donald Trump has claimed that Harris “helped bail out of jail” a repeat offender named Shawn Michael Tillman who, according to Trump, was set free with Harris's help, and who then went on to commit a murder.¹⁶ But that is simply not true.

In June 2020, during the George Floyd protests, then-Senator Harris tweeted, “If you're able to, chip in now to the @MNFreedomFund to help post bail for those protesting on the ground in Minnesota.” That one tweet, four years ago, is the extent of her “support” for the fund; MFF has confirmed that Vice President Harris has never donated to the fund, and that one tweet is her only connection to the fund.¹⁷ Two years after her tweet, in May 2022, MFF did post \$2000 bail for Tillman, who was arrested on a misdemeanor charge of indecent exposure. He went on to murder a man several weeks after his release. But Vice President Harris had no involvement with the fund, and to say that Tillman was released “with her help” is simply not true. That one falsehood, however, is the clear impetus for H.R. 8205—as evidenced by the Majority's choice to play a video during the markup of then-Senator Harris discussing the George Floyd protests.

H.R. 8205 is also an attempt for Republicans to recycle their attacks on progressive criminal justice policies such as bail reform. Over the last several years, a number of local jurisdictions and states have responded to the growing body of research that has highlighted the inequities in bail systems by reforming their bail practices and, in many instances, eliminating the use of cash bail. Alaska, Connecticut, California, Maryland, New Jersey (championed and signed by Republican Governor, Chris Christie), David-

¹⁵ *Id.*

¹⁶ Esme Murphy, “Despite Trump claim and 2020 tweet showing support, Harris never donated to the Minnesota Freedom Fund, CBS News (July 25, 2024), <https://www.cbsnews.com/minnesota/news/donald-trump-kamala-harris-minnesota-freedom-fund-donation/>.

¹⁷ *Id.*

son County (Nashville), and New York modified their bail practices to eliminate or deemphasize the use of monetary bail systems.

Some states, such as Maine and Illinois, have eliminated money bail entirely or for whole categories of lower-level offenses such as misdemeanors.¹⁸ Others, like Nebraska, have established a clear preference or an explicit presumption for releasing individuals on their own recognizance—that is, releasing them without any payment or other conditions.¹⁹ Still others, including New Jersey and West Virginia, require judges to impose the “least restrictive” conditions necessary to secure a statutory objective, such as reducing the risk of flight or perceived threat to the community.²⁰ In most instances, bail reform is focused on those deemed not a risk to their community and ensures that people arrested for non-violent offenses are not held in jail simply because they cannot afford to post bail.

With the onset of the COVID–19 pandemic, increases in crime were felt in communities of all sizes, political alignments, and geographies—in states that enacted bail reform policies but *also as much or more* in states that did not. And murder rates were *higher* in red states than blue states every year this century. But Americans’ perceptions about crime rates are heavily influenced by reckless and disingenuous messaging by conservatives, while actual evidence points to sizable declines in crime across the country.

The quarterly data shows that, after crime rates began to drop in 2022, 2023 featured one of the lowest rates of violent crime in the United States in more than 50 years and crime rates continue to fall in 2024. The FBI recently released its quarterly report looking at crime trends for January through March 2024 compared to January through March 2023. The data indicates violent crime decreased by 15.2 percent; murder decreased by 26.4 percent, rape decreased by 25.7 percent, robbery decreased by 17.8 percent, and aggravated assault decreased by 12.5 percent. Property crime also decreased by 15.1 percent.

Moreover, data shows that bail reform has not led to an increase in crime or recidivism rates. Neither violent nor nonviolent crime increased markedly immediately after jurisdictions across the political spectrum implemented varying versions of bail reform. Notably, there is no direct evidence that bail reform drove recent pandemic-related increases in violent crime, which itself has been falling since 2023.²¹ Furthermore, several studies show that limiting the use of cash bail does not result in an increase in the rate at which defendants fail to appear in court. The largest and most recent study, published by the Brennan Center in August 2024, studied 33 jurisdictions to test bail reform’s causal impact on crime

¹⁸ L.D. 1703, H.P. 1266, 130th Leg., 1st Spec. Sess. (Maine 2021), <https://legislature.maine.gov/bills/getPDF.asp?paper=HP1266&item=3&num=130>; and H.B. 3653, 101st Gen. Assemb., Reg. Sess. (Ill. 2021), <https://legiscan.com/IL/text/HB3653/id/2255202>.

¹⁹ L.B. 881, 106th Leg., 2d Sess. (Neb. 2020), <https://nebraskalegislature.gov/FloorDocs/106/PDF/Intro/LB881.pdf>; and Shima Baradaran Baughman, *The Bail Book: A Comprehensive Look at Bail in America’s Criminal Justice System* (NEW YORK: CAMBRIDGE UNIVERSITY PRESS (2017), 43 (discussing the process of release on recognizance).

²⁰ N.J. Stat. Ann. § 2A:162–15 (2017), <https://www.njcourts.gov/sites/default/files/attorneys/calendars/appellate-court/bailreformstatute.pdf>; and H.B. 2419, 84th Gen. Assemb., Reg. Sess. (W.Va. 2020), https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=HB2419%20SUB.htm&yr=2020&sesstype=RS&i=2419.

²¹ Preston, A. & Eisenberg, Rachael, *Don’t Blame Bail Reform for Gun Violence*, CENTER FOR AMERICAN PROGRESS (Jun. 23, 2022).

trends, finding “no statistically significant relationship between bail reform and crime rates.”²²

II. H.R. 8205 DOES NOTHING TO ADDRESS VIOLENT CRIME; IT COVERS CONDUCT THAT IS ALREADY ADDRESSED BY OTHER FEDERAL STATUTES; AND IT INFRINGES ON AREAS OF STATE LAW

In addition to its use as a campaign tool to further baseless Republican talking points, H.R. 8205 raises other serious issues. First, despite the fact that the bill’s title is the “Keeping Violent Offenders Off Our Streets Act,” the bill itself has nothing to do with violent crime or offenders. It applies to entities that post any type of monetary bond—including non-criminal immigration bonds, and bonds for nonviolent criminal offenses, which make up the vast majority of criminal bonds.

The bill also infringes on areas of law—the posting of bond in state and local courts, insurance regulation, and regulation of bond agencies—that is typically a matter of state law. In addition to New York, several other states, including Texas, Indiana, Kentucky, and Georgia, already have laws regulating nonprofit bail funds. By making local bail funds subject to federal criminal laws aimed at insurers, H.R. 8205 risks creating conflict in regulations, not to mention the overcriminalization issues that the Committee held a hearing about just recently.

Finally, H.R. 8205 will create confusion due to the statutory (and constitutional) requirement that the insurance businesses subject to regulation in § 1033 affect interstate commerce. Most of the bail funds that the bill’s supporters intend to target are local funds that post bond in local courts; they simply do not affect interstate commerce. If any of the funds do engage in bond-related activities that affect interstate commerce, then the alleged misconduct that the Majority claims to be concerned about—fraud and the use of proceeds of criminal conduct—are already covered by the federal wire fraud and money laundering statutes, which have stiffer penalties than those in § 1033.

CONCLUSION

Instead of addressing the real needs of the American people, and leaving state law issues to the states, Republicans are poised to advance another bill that is designed only to advance false campaign rhetoric. H.R. 8205 is another baseless attempt by the Majority to engage in fearmongering and to label Democrats as “soft on crime,” while ignoring their own documented red state murder problem, the mountain of data showing that crime has been steadily declining throughout the U.S. under the Biden-Harris Administration, and the data showing that bail reform policies have not contributed to increases in crime that occurred during the pandemic.

In bringing up this legislation, the Majority seeks to distract the American people from the fact that their own actions have repeatedly made every American—from presidential candidates to school children—more at risk at every turn by failing to support law enforcement funding and commonsense gun safety measures. For

²²Terry-Ann Craigie and Ames Grawert, *Bail Reform and Public Safety: Evidence from 33 Cities*, THE BRENNAN CENTER (August 15, 2024), <https://www.brennancenter.org/our-work/research-reports/bail-reform-and-public-safety>.

these reasons, I dissent and urge my colleagues to oppose this flawed legislation.

JERROLD NADLER,
Ranking Member.

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