

PROPOSED AMENDMENT File 19-0768 AS SUBSTITUED

(Criminal Justice Committee, Wednesday, June 25, 2019)

Sponsored by: LARRY SUFFREDIN, STANLEY MOORE, and PETER N. SILVESTRI, Cook County Board of Commissioners

PROPOSED ORDINANCE

ARTICLE III. - PROTECTIONS FOR CHARITABLE ROTATING CRIMINAL BOND FUNDS AND THIRD-PARTY SURETIES

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 18 COURTS, ARTICLE III. - CHARITABLE ROTATING CRIMINAL BOND FUNDS AND THIRD-PARTY SURETIES, SECTION NUMBER(S) 18-45 - 18-50, of the Cook County Code is hereby enacted as Follows:

Sec. 18-45. - Definitions

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Charitable Bond Fund means a not-for-profit 501c3, as defined by the Internal Revenue Service, organization that uses its funds to post bond for individuals who are detained at the Cook County Jail.

Third Party Surety means any individual who posts bond for an accused person and who does not have a legal duty to support the accused person.

Explicit Voluntary Consent means actual and informed consent and does not include consenting as a predicate to being allowed to post the bond.

Sec. 18-46. –Encourage posting of bond by Charitable Bond Funds and Third-Party Sureties

Cook County encourages Charitable Bond Funds and Third-Party Sureties to post bond for individuals who cannot afford to post bond. This policy will allow for more resources to be put toward Pre-Trial Services and less toward housing individuals at the Cook County Jail. Further, Cook County will work with the Chief Judge of Cook County to revise the local rules to encourage Judges to do the following:

(a) Not deem a criminal defendant whose deposit or cash bond is posted by a Charitable Bond Fund or Third-Party Surety to be ineligible for representation by the Cook County Public Defender's Office due to the posting of bond.

(b) Not order any bonds posted by a Charitable Bond Fund or Third-Party Surety to be used to pay attorney's fees without the surety's explicit voluntary consent. This prohibition applies to reimbursement to the County for representation by the Public Defender's Office.

(c) Order the Clerk of the Court not to deduct any fees, court costs, or penalties from bond funds that were posted by a Charitable Bond Fund or Third-Party Surety without the surety's explicit voluntary consent and, at the conclusion of the case, to return available funds to the Charitable Bond Fund or Third-Party Surety.

(d) In the instance where a judgment of forfeiture is ordered in favor of the state, order that no part of the amount deposited by the Charitable Bond Fund or Third-Party Surety shall be forfeited to the state.

(e) Order the Clerk of the Court to return bond monies posted by a Charitable Bond Fund or a Third-Party Surety within ten (10) business days of the conclusion of the case, and order funds posted by a Charitable Bond Fund to be returned via direct deposit.

Sec. 18-46. – Eligibility for representation by the Public Defender’s Office

A criminal defendant whose deposit or cash bond is posted by a Charitable Bond Fund or Third Party Surety shall not be deemed ineligible for representation by the Cook County Public Defender’s Office due to the posting of bond.

Sec. 18-47. Bond ineligible for bail assignment or attorney’s fees

Any bonds posted by a Charitable Bond Fund or Third Party Surety shall not be used to pay attorney’s fees without the surety’s explicit voluntary consent. This prohibition applies to reimbursement to the county for representation by the Public Defender’s Office.

Sec. 18-48. – Fees

The Clerk of the Court shall not deduct any fees, court costs, or penalties from bond funds that were posted by a Charitable Bond Fund or Third Party Surety without the surety’s explicit voluntary consent and, at the conclusion of the case, shall return available funds to the Charitable Bond Fund or Third Party Surety.

Sec. 18-49. – Forfeiture

In the instance where bond is posted by a Charitable Bond Fund or Third Party Surety and a judgment of forfeiture is ordered in favor of the state, no part of the amount deposited by the Charitable Bond Fund or Third Party Surety shall be forfeited to the state.

Sec. 18-50. – Return of Funds

The Clerk of the Court shall return bond monies posted by a Charitable Bond Funds or a Third Party Surety within ten (10) business days of the conclusion of the case. Funds posted by a Charitable Bond Fund shall be returned via direct deposit.

Effective date: This ordinance shall be in effect immediately upon six months after adoption.