
SENATE BILL 5116

State of Washington

68th Legislature

2023 Regular Session

By Senator Padden

Prefiled 12/30/22.

1 AN ACT Relating to oversight of bail funds; amending RCW
2 19.09.020 and 19.09.075; adding a new section to chapter 19.09 RCW;
3 and adding a new section to chapter 43.09 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.09.020 and 2020 c 57 s 28 are each amended to
6 read as follows:

7 When used in this chapter, unless the context otherwise requires:

8 (1) A "bona fide officer or employee" of a charitable
9 organization is one (a) whose conduct is subject to direct control by
10 such organization; (b) who does not act in the manner of an
11 independent contractor in his or her relation with the organization;
12 and (c) whose compensation is not computed on funds raised or to be
13 raised.

14 (2) "Bail fund" means a charitable organization that collects
15 money for the purpose of securing a person's release before trial
16 with a payment of bail.

17 (3) "Charitable organization" means any entity that solicits or
18 collects contributions from the general public where the contribution
19 is or is purported to be used to support a charitable purpose, but
20 does not include any commercial fund-raiser, commercial fund-raising
21 entity, commercial coventurer, or any fund-raising counsel, as

1 defined in this section. Churches and their integrated auxiliaries,
2 and political organizations are not charitable organizations, but all
3 are subject to RCW 19.09.100 (15) through (18).

4 ~~((3))~~ (4) "Charitable purpose" means any religious, charitable,
5 scientific, testing for public safety, literary, or educational
6 purpose or any other purpose that is beneficial to the community,
7 including environmental, humanitarian, patriotic, or civic purposes,
8 the support of national or international amateur sports competition,
9 the prevention of cruelty to children or animals, the advancement of
10 social welfare, or the benefit of law enforcement personnel,
11 firefighters, and other persons who protect public safety. The term
12 "charitable" is used in its generally accepted legal sense and
13 includes relief of the poor, the distressed, or the underprivileged;
14 advancement of religion; advancement of education or science;
15 erecting or maintaining public buildings, monuments, or works;
16 lessening the burdens of government; lessening neighborhood tensions;
17 eliminating prejudice and discrimination; defending human and civil
18 rights secured by law; and combating community deterioration and
19 juvenile delinquency.

20 ~~((4))~~ (5) "Commercial coventurer" means any individual or
21 corporation, partnership, sole proprietorship, limited liability
22 company, limited partnership, limited liability partnership, or any
23 other legal entity, that:

24 (a) Is regularly and primarily engaged in making sales of goods
25 or services for profit directly to the general public;

26 (b) Is not otherwise regularly or primarily engaged in making
27 solicitations in this state or otherwise raising funds in this state
28 for one or more charitable organizations;

29 (c) Represents to prospective purchasers that, if they purchase a
30 good or service from the commercial coventurer, a portion of the
31 sales price or a sum of money or some other specified thing of value
32 will be donated to a named charitable organization; and

33 (d) Does not ask purchasers to make checks or other instruments
34 payable to a named charitable organization or any entity other than
35 the commercial coventurer itself under its regular commercial name.

36 ~~((5))~~ (6) "Commercial fund-raiser" or "commercial fund-raising
37 entity" means any entity that for compensation or other consideration
38 directly or indirectly solicits or receives contributions within this
39 state for or on behalf of any charitable organization or charitable
40 purpose, or that is engaged in the business of, or represents to

1 persons in this state as independently engaged in the business of,
2 soliciting or receiving contributions for such purposes. However, a
3 commercial coventurer, fund-raising counsel, or consultant is not a
4 commercial fund-raiser or commercial fund-raising entity.

5 ~~((+6))~~ (7) "Compensation" means salaries, wages, fees,
6 commissions, or any other remuneration or valuable consideration.

7 ~~((+7))~~ (8) "Contribution" means the payment, donation, or
8 promise, for consideration or otherwise, of any money or property of
9 any kind or value which contribution is wholly or partly induced by a
10 solicitation. Reference to dollar amounts of "contributions" or
11 "solicitations" in this chapter means in the case of payments or
12 promises to pay for merchandise or rights of any description, the
13 value of the total amount paid or promised to be paid for such
14 merchandise or rights.

15 ~~((+8))~~ (9) "Cost of solicitation" means and includes all direct
16 and indirect costs, expenditures, debts, obligations, salaries,
17 wages, commissions, fees, or other money or thing of value paid or
18 incurred in making a solicitation.

19 ~~((+9))~~ (10) "Entity" means an individual, organization, group,
20 association, partnership, corporation, agency or unit of state
21 government, or any combination thereof.

22 ~~((+10))~~ (11) "Fund-raising counsel" or "consultant" means any
23 entity or individual who is retained by a charitable organization,
24 for a fixed fee or rate, that is not computed on a percentage of
25 funds raised, or to be raised, under a written agreement only to
26 plan, advise, consult, or prepare materials for a solicitation of
27 contributions in this state, but who does not manage, conduct, or
28 carry on a fund-raising campaign and who does not solicit
29 contributions or employ, procure, or engage any compensated person to
30 solicit contributions, and who does not at any time have custody or
31 control of contributions. A volunteer, employee, or salaried officer
32 of a charitable organization maintaining a permanent establishment or
33 office in this state is not a fund-raising counsel. An attorney,
34 investment counselor, or banker who advises an individual,
35 corporation, or association to make a charitable contribution is not
36 a fund-raising counsel as a result of the advice.

37 ~~((+11))~~ (12) "General public" or "public" means any individual
38 or entity located in Washington state without a membership or other
39 official relationship with a charitable organization before a
40 solicitation by the charitable organization.

1 (~~(12)~~) (13) "Gross revenue" or "annual gross revenue" means,
2 for any accounting period, the total value of revenue, excluding
3 unrealized capital gains, but including noncash contributions of
4 tangible, personal property received by or on behalf of a charitable
5 organization from all sources, without subtracting any costs or
6 expenses.

7 (~~(13)~~) (14) "Membership" means that for the payment of fees,
8 dues, assessments, etc., an organization provides services and
9 confers a bona fide right, privilege, professional standing, honor,
10 or other direct benefit, in addition to the right to vote, elect
11 officers, or hold office. The term "membership" does not include
12 those persons who are granted a membership upon making a contribution
13 as the result of solicitation.

14 (~~(14)~~) (15) "Other employee" of a charitable organization means
15 any person (a) whose conduct is subject to direct control by such
16 organization; (b) who does not act in the manner of any independent
17 contractor in his or her relation with the organization; and (c) who
18 is not engaged in the business of or held out to persons in this
19 state as independently engaged in the business of soliciting
20 contributions for charitable purposes or religious activities.

21 (~~(15)~~) (16) "Political organization" means those organizations
22 whose activities are subject to chapter 42.17A RCW or the federal
23 elections campaign act of 1971, as amended.

24 (~~(16)~~) (17) "Religious organization" means those entities that
25 are not churches or integrated auxiliaries and includes
26 nondenominational ministries, interdenominational and ecumenical
27 organizations, mission organizations, speakers' organizations,
28 faith-based social agencies, and other entities whose principal
29 purpose is the study, practice, or advancement of religion.

30 (~~(17)~~) (18) "Secretary" means the secretary of state.

31 (~~(18)~~) (19) "Sign" means, with present intent to authenticate
32 or adopt a record:

33 (a) To execute or adopt a tangible symbol; or

34 (b) To attach to or logically associate with the record an
35 electronic symbol, sound, or process.

36 (~~(19)~~) (20) (a) "Solicitation" means any oral or written request
37 for a contribution, including the solicitor's offer or attempt to
38 sell any property, rights, services, or other thing in connection
39 with which:

40 (i) Any appeal is made for any charitable purpose;

1 (ii) The name of any charitable organization is used as an
2 inducement for consummating the sale; or

3 (iii) Any statement is made that implies that the whole or any
4 part of the proceeds from the sale will be applied toward any
5 charitable purpose or donated to any charitable organization.

6 (b) The solicitation shall be deemed completed when made, whether
7 or not the person making it receives any contribution or makes any
8 sale.

9 (c) "Solicitation" does not include bingo activities, raffles,
10 and amusement games conducted under chapter 9.46 RCW and applicable
11 rules of the Washington state gambling commission.

12 ~~((20))~~ (21) "Solicitation report" means the financial
13 information the secretary requires pursuant to RCW 19.09.075 or
14 19.09.079.

15 **Sec. 2.** RCW 19.09.075 and 2011 c 199 s 8 are each amended to
16 read as follows:

17 (1) An application for initial registration and renewal as a
18 charitable organization must be submitted on the form approved by the
19 secretary and must contain:

20 (a) The name, address, and telephone number of the charitable
21 organization;

22 (b) The name(s) under which the charitable organization will
23 solicit contributions;

24 (c) The name, address, and telephone number of the officers of or
25 persons accepting responsibility for the charitable organization;

26 (d) The names of the three officers or employees receiving the
27 greatest amount of compensation from the charitable organization;

28 (e) The purpose of the charitable organization;

29 (f) Whether the organization is exempt from federal income tax;
30 and if so the organization shall attach to its application a copy of
31 the letter by which the internal revenue service granted such status;

32 (g) The name and address of the entity that prepares, reviews, or
33 audits the financial statement of the charitable organization;

34 (h) A solicitation report of the charitable organization for the
35 preceding, completed accounting year including:

36 (i) The types of solicitations conducted;

37 (ii) The gross revenue received from all sources by or on behalf
38 of the charitable organization before any expenses are paid or
39 deducted;

1 (iii) The total value of contributions received from all
2 solicitations for or on behalf of the charitable organization before
3 any expenses are paid or deducted;

4 (iv) The total value of funds expended for charitable purposes;
5 and

6 (v) Total expenses, including expenditures for charitable
7 purposes, fund-raising costs, and administrative expenses;

8 (i) The name, address, and telephone number of any commercial
9 fund-raiser retained by the charitable organization; (~~and~~)

10 (j) An irrevocable appointment of the secretary to receive
11 service of process in noncriminal proceedings as provided in RCW
12 19.09.305; and

13 (k) Such other information the secretary deems necessary by rule.

14 (2) An application for initial registration and renewal as a bail
15 fund must contain the information required in subsection (1) of this
16 section, as well as information about each case where a bail fund
17 contributed money towards the payment of bail including:

18 (a) The crime charged;

19 (b) The maximum possible penalty of the crime charged;

20 (c) The amount of bail posted; and

21 (d) The percentage of the amount of bail posted that was
22 contributed by the bail fund.

23 (3) The governing body or committee thereof must review and
24 accept any financial report that the charitable organization may be
25 required to file with the office of the secretary.

26 (~~(3)~~) (4) Charitable organizations that are required under
27 federal tax law to file an annual return in the form 990 series or
28 any successor series is not required to file a copy of such annual
29 return with the secretary: PROVIDED, That the charitable organization
30 complies with all federal tax law requirements with respect to public
31 inspection of such annual return.

32 (~~(4)~~) (5) The president, treasurer, or comparable officer of
33 the organization must sign and date the application. The application
34 must be submitted with a nonrefundable filing fee established in RCW
35 19.09.062.

36 (~~(5)~~) (6) Charitable organizations required to register and
37 renew under this chapter must file a notice of change of information
38 within thirty days of any change in the information contained in
39 subsection (1) (a) through (k) of this section.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.09
2 RCW to read as follows:
3 Bail funds must publish quarterly reports that include
4 information about each case that bail funds contributed money towards
5 the payment of bail. The information about each case must include:
6 (1) The crime charged; (2) the maximum possible penalty of the crime
7 charged; (3) the amount of bail posted; (4) the percentage of the
8 amount of bail posted that was contributed by the bail fund; and (5)
9 other relevant information. Bail funds must make this information
10 publicly available on the bail funds' websites. Bail funds must
11 provide this information to each donor to the bail fund.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09
13 RCW to read as follows:
14 The state auditor may conduct an audit of financial and legal
15 compliance of a bail fund as defined in RCW 19.09.020. Such a
16 financial audit shall be performed in a manner consistent with this
17 chapter and may be performed according to an agreed upon procedures
18 engagement as in the existing 1998 standards of the American
19 institute of certified public accountants professional standards
20 section 600.

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