

Act No. 347  
Public Acts of 1993  
Approved by the Governor  
January 10, 1994  
Filed with the Secretary of State  
January 10, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

Introduced by Senators Van Regenmorter, Dingell, Cisky, DeGrow, Dunaskiss, Faust and Kelly

# **ENROLLED SENATE BILL No. 473**

AN ACT to amend sections 6 and 7 of Act No. 257 of the Public Acts of 1966, entitled "An act to provide for bail of persons arrested for or accused of criminal offenses involving traffic offenses or misdemeanors; by prescribing the conditions under which security is required; by prescribing the kind and amount of security required; by prescribing the conditions under which security may be forfeited and the manner of forfeiture; by prescribing penalties for violations; and to repeal certain acts and parts of acts," being sections 780.66 and 780.67 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 6 and 7 of Act No. 257 of the Public Acts of 1966, being sections 780.66 and 780.67 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 6. (1) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail but at least \$10.00. A defendant who personally makes the deposit shall be notified that upon the defendant's conviction the defendant's deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (8).

(2) Upon depositing this sum, the person shall be released from custody subject to the conditions of the bail bond.

(3) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction, the latter court shall continue the original bail in that court subject to section 5.

(4) After conviction, the court may order that the original bail stand as bail pending appeal or increase or reduce bail.

(5) After the entry of an order by the trial court allowing bail pending appeal, either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing bail pending appeal.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, the clerk of the court shall return to the accused 90% of the sum that had been deposited, except as provided in subsection (8), and shall retain as bail bond costs 10% of the amount deposited, except that if the accused has not been convicted of the charge, the entire sum deposited shall be returned to the accused.

(7) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the court to the accused at his or her last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the accused is impossible and without his fault, the court shall enter judgment for the state or local unit of government against the accused for the amount of the bail and costs of the court proceedings. The deposit made in accordance with subsection (1) shall be applied to the payment of costs. If any amount of the deposit remains after the payment of costs,

it shall be applied to payment of the judgment and transferred to the treasury of the unit of government in which the court is located. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(8) If the court ordered a defendant who has made a cash deposit in accordance with subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

Sec. 7. (1) In lieu of the bail deposit provided for in section 6, a person for whom bail has been set may execute the bail bond with or without sureties. The bond may be secured by 1 or more of the following:

(a) Depositing with the clerk of the court an amount equal to the required bail in cash or stocks or bonds in which trustees are authorized to invest trust funds under the laws of this state. A defendant who personally makes the cash deposit shall be notified that upon the defendant's conviction the defendant's cash deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (7).

(b) Real estate situated in this state with unencumbered equity not exempt and owned by the accused or sureties worth double the amount of bail set in the bond.

(2) If the bail bond is secured by cash or stocks and bonds, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A list of the stocks or bonds deposited, describing each in sufficient detail that it may be identified.

(b) The market value of each stock or bond.

(c) The total market value of the stocks or bonds listed.

(d) A statement that the affiant is the sole owner of the stocks or bonds listed and that they are not exempt from execution.

(e) A statement that the stocks or bonds have not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the stocks or bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

(3) If the bail bond is secured by real estate, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A legal description of the real estate.

(b) A description of any encumbrance on the real estate, including the amount and the holder of each encumbrance.

(c) The market value of the unencumbered equity owned by the affiant.

(d) A statement that the affiant is the sole owner of the unencumbered equity and that it is not exempt from execution.

(e) A statement that the real estate has not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

(4) The sworn schedule constitutes a material part of the bail bond. The affiant commits perjury if in the sworn schedule the affiant makes a false statement he or she does not believe to be true. The affiant shall be prosecuted and punished accordingly or may be punished for contempt.

(5) A certified copy of the bail bond and schedule of real estate shall be filed immediately by the court in the office of the register of deeds of the county in which the real estate is situated. The state shall have a lien on the real estate from the time copies are filed in the office of the register of deeds. The register of deeds shall enter, index and record the bail bonds and schedules without requiring any advance fee. The fee shall be taxed as costs in the proceeding and paid out of the costs when collected.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from his or her obligations in the cause, the clerk of the court shall return to the accused or his or her sureties the deposit of any cash, stocks, or bonds, except as provided in subsection (7). If the bail bond was secured by real estate, the clerk of the court shall promptly notify in writing the register of deeds and the lien of the bail bond on the real estate shall be discharged.

(7) If the court ordered a defendant who has made a cash deposit according to subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution,

assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

(8) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the clerk of the court to the accused and his or her sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the accused is impossible and without his or her fault, the court shall enter judgment for the state or local unit of government against the accused and his or her sureties for the amount of the bail and costs of the proceedings.

(9) When judgment is entered in favor of the state or local unit of government on any bail bond the attorney for the local unit of government, the prosecuting attorney or the attorney general shall have execution issued on the judgment promptly and shall deliver the execution to the sheriff to be executed by levy on the cash, stocks or bonds deposited with the clerk of the court or the real estate described in the bail bond schedule. The cash shall be used to satisfy the judgment and costs and shall be paid into the treasury of the unit of government in which the court is located. The stocks, bonds, or real estate shall be sold in the same manner as in execution sales in civil actions. The proceeds of the sale shall be used to satisfy all court costs and prior encumbrances, if any, and a sufficient amount to satisfy the judgment shall be paid into the treasury of the unit of government in which the court is located. The balance shall be returned to the owner. The real estate may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions.

(10) A stock, bond, or real estate shall not be used or accepted as bail bond security in this state more than once in any 12-month period.

Section 2. This amendatory act shall take effect May 1, 1994.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 137.
- (b) Senate Bill No. 138.
- (c) Senate Bill No. 139.
- (d) Senate Bill No. 469.
- (e) Senate Bill No. 470.
- (f) Senate Bill No. 472.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.