



SENATE BILL No. 473

March 9, 1993, Introduced by Senators VAN REGENMORTER, DINGELL, CISKY, DE GROW, DUNASKISS, FAUST and KELLY and referred to the Committee on Judiciary.

A bill 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:

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

4 Sec. 6. (1) The person for whom bail has been set shall
5 execute the bail bond and deposit with the clerk of the court
6 before which the proceeding is pending a sum of money equal to
7 10% of the bail but at least \$10.00. THE PERSON SHALL BE

1 NOTIFIED THAT THE DEPOSIT MAY BE USED TO COLLECT AN ASSESSMENT
2 PURSUANT TO SUBSECTION (8).

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

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

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

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

16 (6) When the conditions of the bail bond have been performed
17 and the accused has been discharged from all obligations in the
18 cause, the clerk of the court shall return to the accused 90% of
19 the sum ~~which~~ THAT had been deposited, EXCEPT AS PROVIDED IN
20 SUBSECTIONS (8) AND (9), and shall retain as bail bond costs 10%
21 of the amount deposited, except that ~~—~~ if the accused has not
22 been convicted of the charge, the entire sum deposited shall be
23 returned to the accused.

24 (7) If the accused does not comply with the conditions of
25 the bail bond, the court having jurisdiction shall enter an order
26 declaring the bail to be forfeited. Notice of the order of
27 forfeiture shall be mailed ~~forthwith~~ PROMPTLY by the court to

1 the accused at his OR HER last known address. If the accused
2 does not appear and surrender to the court having jurisdiction
3 within 30 days from the date of the forfeiture, or within ~~such~~
4 THAT period satisfy the court that appearance and surrender by
5 the accused is impossible and without his fault, the court shall
6 enter judgment for the state or local unit of government against
7 the accused for the amount of the bail and costs of the court
8 proceedings. The deposit made in accordance with subsection (1)
9 shall be applied to the payment of costs. If any amount of the
10 deposit remains after the payment of costs, it shall be applied
11 to payment of the judgment and transferred to the treasury of the
12 unit of government ~~wherein~~ IN WHICH the court is located. The
13 balance of the judgment may be enforced and collected in the same
14 manner as a judgment entered in a civil action.

15 (8) IF THE COURT ORDERED THE PERSON FOR WHOM BAIL HAS BEEN
16 SET TO PAY AN ASSESSMENT UNDER SECTION 5 OF ACT NO. 196 OF THE
17 PUBLIC ACTS OF 1989, BEING SECTION 780.905 OF THE MICHIGAN
18 COMPILED LAWS, THE COURT SHALL COLLECT THE ASSESSMENT OUT OF THE
19 CASH DEPOSIT MADE IN ACCORDANCE WITH SUBSECTION (1).

20 (9) ~~(8)~~ After a judgment for a fine and court costs or
21 either is entered in the prosecution of a cause in which a
22 deposit had been made in accordance with subsection (1), the bal-
23 ance of ~~such~~ THE deposit, after ~~deduction of~~ bail bond costs
24 ARE DEDUCTED AND AN ASSESSMENT DESCRIBED IN SUBSECTION (8) IS
25 COLLECTED, shall be applied to the payment of the judgment.

26 Sec. 7. (1) In lieu of the bail deposit provided for in
27 section 6, ~~any~~ A person for whom bail has been set may execute

1 the bail bond with or without sureties. ~~which~~ THE bond may be
2 secured BY 1 OR MORE OF THE FOLLOWING:

3 (a) ~~By a deposit,~~ DEPOSITING with the clerk of the court
4 ~~, of~~ an amount equal to the required bail ~~, of~~ IN cash ~~,~~ or
5 stocks ~~and~~ OR bonds in which trustees are authorized to invest
6 trust funds under the laws of this state. ~~or~~ THE PERSON SHALL
7 BE NOTIFIED THAT THE DEPOSIT MAY BE USED TO COLLECT AN ASSESSMENT
8 PURSUANT TO SUBSECTION (7).

9 (b) ~~By real~~ REAL estate situated in this state with unen-
10 cumbered equity not exempt AND owned by the accused or sureties
11 worth double the amount of bail set in the bond.

12 (2) If the bail bond is secured by cash or stocks and bonds,
13 the accused or sureties shall file with the bond a sworn schedule
14 ~~which contains~~ CONTAINING ALL OF THE FOLLOWING:

15 (a) A list of the stocks ~~and~~ OR bonds deposited, describ-
16 ing each in sufficient detail that it may be identified.

17 (b) The market value of each stock ~~and~~ OR bond.

18 (c) The total market value of the stocks ~~and~~ OR bonds
19 listed.

20 (d) A statement that the affiant is the sole owner of the
21 stocks ~~and~~ OR bonds listed and THAT they are not exempt from
22 execution.

23 (e) A statement that ~~such~~ THE stocks ~~and~~ OR bonds have
24 not previously been used or accepted as bail in this state during
25 the 12 months preceding the date of the bail bond.

1 (f) A statement that ~~such~~ THE stocks ~~and~~ OR bonds are
2 security for the appearance of the accused in accordance with the
3 conditions of the bail bond.

4 (3) If the bail bond is secured by real estate, the accused
5 or sureties shall file with the bond a sworn schedule ~~which~~
6 ~~contains~~ CONTAINING ALL OF THE FOLLOWING:

7 (a) A legal description of the real estate.

8 (b) A description of any ~~and all encumbrances~~ ENCUMBRANCE
9 on the real estate, including the amount ~~of each~~ and the holder
10 ~~thereof~~ OF EACH ENCUMBRANCE.

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

13 (d) A statement that the affiant is the sole owner of ~~such~~
14 THE unencumbered equity and that it is not exempt from
15 execution.

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

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

22 (4) The sworn schedule ~~shall constitute~~ CONSTITUTES a
23 material part of the bail bond. The affiant commits perjury if
24 in the sworn schedule ~~he~~ THE AFFIANT makes a false statement
25 ~~which~~ he OR SHE does not believe to be true. ~~He~~ THE AFFIANT
26 shall be prosecuted and punished accordingly ~~or~~ or ~~he~~ may be
27 punished for contempt.

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

10 (6) When the conditions of the bail bond have been performed
11 and the accused has been discharged from his OR HER obligations
12 in the cause, the clerk of the court shall return to ~~him~~ THE
13 ACCUSED or his OR HER sureties the deposit of any cash, stocks,
14 or bonds, EXCEPT AS PROVIDED IN SUBSECTION (7). If the bail bond
15 ~~has been~~ WAS secured by real estate, the clerk of the court
16 shall ~~forthwith~~ PROMPTLY notify in writing the register of
17 deeds and the lien of the bail bond on the real estate shall be
18 discharged.

19 (7) IF THE COURT ORDERED THE PERSON FOR WHOM BAIL HAS BEEN
20 SET TO PAY AN ASSESSMENT UNDER SECTION 5 OF ACT NO. 196 OF THE
21 PUBLIC ACTS OF 1989, BEING SECTION 780.905 OF THE MICHIGAN
22 COMPILED LAWS, THE COURT SHALL COLLECT THE ASSESSMENT OUT OF CASH
23 DEPOSITED PURSUANT TO SUBSECTION (1).

24 (8) ~~(7)~~ If the accused does not comply with the conditions
25 of the bail bond, the court having jurisdiction shall enter an
26 order declaring the bail to be forfeited. Notice of the order of
27 forfeiture shall be mailed ~~forthwith~~ PROMPTLY by the clerk of

1 the court to the accused and his OR HER sureties at their last
 2 known address. If the accused does not appear and surrender to
 3 the court having jurisdiction within 30 days from the date of the
 4 forfeiture, or within ~~such~~ THAT period satisfy the court that
 5 appearance and surrender by the accused is impossible and without
 6 his OR HER fault, the court shall enter judgment for the state or
 7 local unit of government against the accused and his OR HER sure-
 8 ties for the amount of the bail and costs of the proceedings.

9 (9) ~~(8)~~ When judgment is entered in favor of the state or
 10 local unit of government on any bail bond the attorney for the
 11 local unit of government, the prosecuting attorney or the attor-
 12 ney general shall have execution issued on the judgment
 13 ~~forthwith~~ PROMPTLY and SHALL deliver ~~same~~ THE EXECUTION to
 14 the sheriff to be executed by levy on the cash, stocks or bonds
 15 deposited with the clerk of the court ~~and~~ OR the real estate
 16 described in the bail bond schedule. The cash shall be used to
 17 satisfy the judgment and costs and SHALL BE paid into the trea-
 18 sury of the unit of government ~~wherein~~ IN WHICH the court is
 19 located. The stocks, bonds, ~~and~~ OR real estate shall be sold
 20 in the same manner as in execution sales in civil actions. ~~and~~
 21 ~~the~~ THE proceeds of ~~such~~ THE sale shall be used to satisfy all
 22 court costs ~~—~~ AND prior encumbrances, if any, and ~~from the~~
 23 ~~balance~~ a sufficient amount to satisfy the judgment shall be
 24 paid into the treasury of the unit of government ~~wherein~~ IN
 25 WHICH the court is located. The balance shall be returned to the
 26 owner. The real estate ~~so sold~~ may be redeemed in the same

1 manner as real estate may be redeemed after judicial or execution
2 sales in civil actions.

3 (10) ~~—(9) No stocks, bonds—~~ A STOCK, BOND, or real estate
4 ~~—may—~~ SHALL NOT be used or accepted as bail bond security in this
5 state more than once in any 12-month period.

6 Section 2. This amendatory act shall not take effect unless
7 Senate Bill No. 470

8 of the 87th Legislature is enacted into law.