

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1497 (Substitute S-1 as reported)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to require a court, if bail or bond were forfeited, to set aside the forfeiture and discharge the bail or surety bond within one year from the date of the forfeiture judgment, if the defendant were apprehended, the ends of justice had not been thwarted, and the county had been repaid its costs for apprehending the person. If the bond or bail were discharged, the court would have to enter an order to that effect, with a statement of the amount to be returned to the surety. These requirements would not apply, however, if the defendant were apprehended more than 56 days after the bail or bond was ordered forfeited and the surety had not fully paid the forfeiture judgment within that 56-day period.

Under the Code, if default is made in any recognizance (bail or bond) because the person subject to it failed to appear in court, and that default is entered on the record, the court may give the surety 20 days' notice of the default judgment. (The surety must be given an opportunity to appear in court and show cause why judgment should not be entered against the surety for the full amount of the recognizance.) Under the bill, the court would be required to give each surety immediate notice of the default judgment, not to exceed seven days after the date of the failure to appear.

In addition, the Code provides that, in all criminal cases in which a person has entered into any recognizance for the personal appearance of another, and later desires to be relieved of that responsibility, he or she may, with or without assistance, "arrest" the accused and deliver him or her to any jail or sheriff. The bill would allow such a person to "arrest or detain" the accused. In making an arrest, the surety is entitled to the assistance of the sheriff, chief of police of any city, or any peace officer. The bill specifies that, in making the arrest or detainment, the surety would be entitled to the assistance of any peace officer.

MCL 765.26 & 765.28

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the State or local units of government. Changes proposed in Section 28(2), requiring a court to set aside forfeiture, would be a reiteration of MCL 765.15(1).

Date Completed: 11-13-02

Fiscal Analyst: Bill Bowerman