

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1250

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending sections 26 and 28 of chapter V, section 36 of chapter IX, and section 14m of chapter XVII (MCL 765.26, 765.28, 769.36, and 777.14m), section 36 of chapter IX as added by 2001 PA 246 and section 14m of chapter XVII as added by 2002 PA 29.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER V

2 Sec. 26. (1) In all criminal cases where ~~any~~ A person ~~or~~  
3 ~~persons have~~ HAS entered into any recognizance for the personal  
4 appearance of another and such bail and surety ~~shall~~ afterwards  
5 ~~desire~~ DESIRES to be relieved from ~~his~~ responsibility, he OR  
6 SHE may, with or without assistance, arrest OR DETAIN the accused  
7 and deliver him ~~at the~~ OR HER TO ANY jail or to the sheriff of  
8 ~~said~~ ANY county. In making ~~such~~ THE arrest OR DETAINMENT, he

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1 ~~shall be~~ OR SHE IS entitled to the assistance of ~~the sheriff,~~  
2 ~~chief of police of any city or~~ any peace officer.

3 (2) The sheriff or keeper of any jail ~~in said county~~ is  
4 authorized to receive ~~such~~ THE principal and detain him OR HER  
5 in jail until he OR SHE is discharged. ~~in due course of law.~~  
6 Upon delivery of his OR HER principal at the jail by the surety  
7 OR HIS OR HER AGENT or any officer, ~~such~~ THE surety shall be  
8 released from the conditions of his OR HER recognizance.

9 (3) Whenever the prosecuting attorney of ~~any~~ A county  
10 ~~shall become~~ IS satisfied that ~~any~~ A person who has been rec-  
11 ognized to appear for trial has absconded, or is about to  
12 abscond, and that his OR HER sureties or either of them have  
13 become worthless, or are about to dispose or have disposed of  
14 their property for the purpose of evading the payment or the  
15 obligation of such bond or recognizance ~~—~~, or with intent to  
16 defraud their creditors, and ~~such~~ THAT prosecuting attorney  
17 ~~shall make~~ MAKES a satisfactory showing to this effect to the  
18 court having jurisdiction of ~~such~~ THAT person, ~~said~~ THE court  
19 or judge shall ~~forthwith~~ PROMPTLY grant a mittimus to the sher-  
20 iff or any ~~constable of said~~ PEACE OFFICER OF THAT county, com-  
21 manding him OR HER forthwith to arrest the person so recognized  
22 and bring him OR HER before the officer issuing ~~such~~ THE mitti-  
23 mus ~~—~~, and on the return of ~~said~~ THAT mittimus may, after a  
24 ~~full~~ hearing on the merits, order him OR HER to be recommitted  
25 to the county jail until such time as he ~~shall give~~ OR SHE  
26 GIVES additional and satisfactory sureties, or ~~be~~ IS otherwise  
27 discharged. ~~according to law.~~

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1       Sec. 28. (1) ~~In addition to any other method available, it~~  
2 ~~is hereby provided that whenever~~ IF default ~~shall be~~ IS made  
3 in any recognizance in ~~any~~ A court of record, the ~~same~~  
4 DEFAULT shall be ~~duly~~ entered ~~of~~ ON THE record by the clerk  
5 of ~~said~~ THE court. ~~and thereafter said~~ AFTER THE DEFAULT IS  
6 ENTERED, THE court, upon the motion of the attorney general,  
7 prosecuting attorney, or ~~city~~ THE attorney FOR THE LOCAL UNIT  
8 OF GOVERNMENT, ~~may~~ SHALL give ~~the~~ EACH surety ~~or sureties~~ 20  
9 ~~days' notice, which~~ IMMEDIATE NOTICE NOT TO EXCEED 7 DAYS AFTER  
10 THE DATE OF THE FAILURE TO APPEAR. THE notice shall be served  
11 upon ~~said~~ EACH surety ~~or sureties~~ in person or left at ~~his~~  
12 ~~or their~~ THE SURETIES' last known ~~place of residence~~ BUSINESS  
13 ADDRESS. ~~Said~~ EACH surety ~~or sureties~~ shall be given an  
14 opportunity to appear before the court on a day certain and show  
15 cause why judgment should not be entered against ~~him or them~~  
16 THE SURETY for the full amount of ~~such~~ THE recognizance. If  
17 good cause is not shown, the court shall ~~then~~ enter judgment  
18 against the surety ~~or sureties~~ on ~~said~~ THE recognizance for  
19 ~~such~~ AN amount ~~as it may see fit~~ DETERMINED APPROPRIATE BY  
20 THE COURT BUT not ~~exceeding~~ MORE THAN the full amount ~~thereof~~  
21 OF THE RECOGNIZANCE. Execution shall be awarded and executed  
22 upon ~~said~~ THE judgment in ~~like~~ THE manner ~~as is~~ provided  
23 FOR in personal actions.

24       (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE COURT SHALL  
25 SET ASIDE THE FORFEITURE AND DISCHARGE THE BAIL OR SURETY BOND  
26 WITHIN 1 YEAR FROM THE DATE OF FORFEITURE JUDGMENT IF THE  
27 DEFENDANT HAS BEEN APPREHENDED, THE ENDS OF JUSTICE HAVE NOT BEEN

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1 THWARTED, AND THE COUNTY HAS BEEN REPAID ITS COSTS FOR  
2 APPREHENDING THE PERSON. IF THE BOND OR BAIL IS DISCHARGED, THE  
3 COURT SHALL ENTER AN ORDER TO THAT EFFECT WITH A STATEMENT OF THE  
4 AMOUNT TO BE RETURNED TO THE SURETY.

5 (3) SUBSECTION (2) DOES NOT APPLY IF THE DEFENDANT WAS  
6 APPREHENDED MORE THAN 56 DAYS AFTER THE BAIL OR BOND WAS ORDERED  
7 FORFEITED AND JUDGMENT ENTERED AND THE SURETY DID NOT FULLY PAY  
8 THE FORFEITURE JUDGMENT WITHIN THAT 56-DAY PERIOD.

9 CHAPTER IX

10 Sec. 36. (1) A person may be charged with and convicted of  
11 any of the following for each death arising out of the same crim-  
12 inal transaction, and the court may order the terms of imprison-  
13 ment to be served consecutively to each other:

14 (a) Section 602a(5), 617(3), 625(4), or 904(4) of the  
15 Michigan vehicle code, 1949 PA 300, MCL 257.602a, 257.617,  
16 257.625, and 257.904.

17 (b) Section 317 or 321 of the Michigan penal code, 1931  
18 PA 328, MCL 750.317 and 750.321, where death results from the  
19 operation of a vehicle, vessel, ORV, snowmobile, aircraft, or  
20 locomotive, or section 479a(5) of the Michigan penal code, 1931  
21 PA 328, MCL 750.479a.

22 (c) Section 80176(4), 81134(7), or 82127(4) of the natural  
23 resources and environmental protection act, 1994 PA 451,  
24 MCL 324.80176, 324.81134, and 324.82127.

25 (d) Section 185(4) of the aeronautics code of the state of  
26 Michigan, 1945 PA 327, MCL 259.185.

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1 (e) Section ~~353~~ 353(6) of the railroad code of 1993, 1993  
2 PA 354, MCL 462.353. ~~, resulting in death.~~

3 (2) As used in this section:

4 (a) "Aircraft" means that term as defined in section ~~4~~ 2  
5 of the aeronautics code of the state of Michigan, 1945 PA 327,  
6 ~~MCL 259.4~~ MCL 259.2.

7 (b) "ORV" means that term as defined in section 81101 of the  
8 natural resources and environmental protection act, 1994 PA 451,  
9 MCL 324.81101.

10 (c) "Snowmobile" means that term as defined in section 82101  
11 of the natural resources and environmental protection act, 1994  
12 PA 451, MCL 324.82101.

13 (d) "Vehicle" means that term as defined in section 79 of  
14 the Michigan vehicle code, 1949 PA 300, ~~MCL 257.49~~ MCL 257.79.

15 (e) "Vessel" means that term as defined in section 80104 of  
16 the natural resources and environmental protection act, 1994  
17 PA 451, MCL 324.80104.

18 CHAPTER XVII

19 Sec. 14m. This chapter applies to the following felonies  
20 enumerated in chapters 460 to 473 of the Michigan Compiled Laws:

21	M.C.L.	Category Class Description			Stat Max
22	462.257(1)	Person	A	Trains -- endangering	Life
23				travel	
24	462.353(5)	Pub saf	E	Operating a locomotive	<del>4</del> 5
25				under the influence --	
26				third or subsequent	
27				offense	
28	462.353(6)	PERSON	C	OPERATING LOCOMOTIVE	15
29				UNDER THE INFLUENCE OR	
30				WHILE IMPAIRED CAUSING	
31				DEATH	

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1	462.353(7)	PERSON	E	OPERATING LOCOMOTIVE	
2				UNDER THE INFLUENCE OR	
3				WHILE IMPAIRED CAUSING	
4				SERIOUS IMPAIRMENT	5
5	472.36	Pub saf	A	Street railways --	
6				obstruction of track	Life

7       Enacting section 1. This amendatory act takes effect April  
8 1, 2003.

9       Enacting section 2. This amendatory act does not take  
10 effect unless Senate Bill No. 1251 of the 91st Legislature is  
11 enacted into law.