

SENATE BILL No. 1497

November 12, 2002, Introduced by Senator VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 26 and 28 of chapter V (MCL 765.26 and
765.28).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER V

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

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

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

26 Sec. 28. (1) ~~In addition to any other method available, it~~
27 ~~is hereby provided that whenever~~ IF default ~~shall be~~ IS made

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

22 (2) THE COURT SHALL SET ASIDE THE FORFEITURE AND DISCHARGE
23 THE BAIL OR SURETY BOND WITHIN 1 YEAR FROM THE DATE OF FORFEITURE
24 JUDGMENT IF THE DEFENDANT HAS BEEN APPREHENDED, THE ENDS OF JUS-
25 TICE HAVE NOT BEEN THWARTED, AND THE COUNTY HAS BEEN REPAID ITS
26 COSTS FOR APPREHENDING THE PERSON. IF THE BOND OR BAIL IS

1 DISCHARGED, THE COURT SHALL ENTER AN ORDER TO THAT EFFECT WITH A
2 STATEMENT OF THE AMOUNT TO BE RETURNED TO THE SURETY.