## SUBSTITUTE FOR

## HOUSE BILL NO. 5846

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 28 of chapter V (MCL 765.28), as amended by 2002 PA 659.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER V
- 2 Sec. 28. (1) If default is made in any recognizance in a
- 3 court of record, the default shall be entered on the record by
- 4 the clerk of the court. After the default is entered, the court
- 5 , upon the motion of the attorney general, prosecuting attorney,
- 6 or the attorney for the local unit of government, shall give
- 7 each surety immediate notice not to exceed 7 days after the date
- 8 of the failure to appear. The notice shall be served upon each
- 9 surety in person or left at the surety's last known business
- 10 address. Each surety shall be given an opportunity to appear

- 1 before the court on a day certain and show cause why judgment
- 2 should not be entered against the surety for the full amount of
- 3 the recognizance. If good cause is not shown, the court shall
- 4 enter judgment against the surety on the recognizance for an
- 5 amount determined appropriate by the court but not more than the
- 6 full amount of the recognizance. Execution shall be awarded and
- 7 executed upon the judgment in the manner provided for in personal
- 8 actions.
- 9 (2) Except as provided in subsection (3), the court shall set
- 10 aside the forfeiture and discharge the bail or surety bond within
- 11 1 year from the date of forfeiture judgment if the defendant has
- 12 been apprehended, the ends of justice have not been thwarted, and
- 13 the county has been repaid its costs for apprehending the
- 14 person. If the bond or bail is discharged, the court shall enter
- 15 an order to that effect with a statement of the amount to be
- 16 returned to the surety.
- 17 (3) Subsection (2) does not apply if the defendant was
- 18 apprehended more than 56 days after the bail or bond was ordered
- 19 forfeited and judgment entered and the surety did not fully pay
- 20 the forfeiture judgment within that 56-day period.