

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

765.20 Administering oath to proposed surety to ascertain financial condition; requiring surety upon criminal recognizance to pledge real estate; value of surety's interest in real estate; executing recognizance and affidavit of justification; form; deposition of surety.

Sec. 20. (1) A judge listed in section 1(1) of this chapter or a district court magistrate may administer an oath to a proposed surety upon a recognizance given for the release of a person accused of a felony, misdemeanor, or ordinance violation, to ascertain his or her financial condition. A judge or district court magistrate may require a surety upon a criminal recognizance taken before the judge or magistrate, to pledge to the people of the state, real estate owned by the surety and located in the county in which the court is established. The value of the interest of the surety in the real estate shall be at least equal to the penal amount of the recognizance. If a pledge of real estate is required, the surety shall execute the usual form of recognizance and, in addition, there shall be included in the recognizance, as a part of the recognizance, an affidavit of justification in substantially the following form. The affidavit shall be executed by the proposed surety under an oath administered by the clerk, a district court magistrate, or a judge of the court.

STATE OF MICHIGAN)

)ss.

COUNTY OF)

..... residing at..... who offers himself or herself as surety for..... being first duly sworn, deposes and says that he or she owns in his or her own right real estate subject to levy of execution located in the county of state of Michigan, consisting of and described as follows, to-wit:; that the title to the real estate is in his or her name only; that the value of the real estate is not less than \$..... and is subject to no encumbrances whatever except mortgage of \$.....; that he or she is not surety upon any unpaid or forfeited recognizance and that he or she is not party to any unsatisfied judgment upon any recognizance; that he or she is worth in good property no less than \$..... over and above all debts, liabilities, and lawful claims against him or her and all liens, encumbrances, and lawful claims against his or her property.

..

Subscribed and sworn to before me this

.. day of .. 19__.

..

Judge/district court magistrate/clerk of the court

..

county

(2) The judge or district court magistrate, in addition to the affidavit, may require the proposed surety to depose under oath that he or she is not at the time of executing the recognizance and affidavit a surety upon another recognizance and that there are no unsatisfied judgments or executions against the proposed surety. The judge or district court magistrate may require the proposed surety to depose to any other fact which is relevant and material to a correct determination of the proposed surety's sufficiency to act as bail. However, a lien upon real estate shall not be required for a minor offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17182;—CL 1948, 765.20;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Act 17 of 1926.