

Senate Fiscal Agency
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SFA

BILL ANALYSIS

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Senate Bill 1264 (as reported without amendment)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to require an individual or business, that had entered into a recognizance to ensure the appearance of an individual charged with a crime, to comply with the "Bail Enforcement Agent Regulation Act" proposed by Senate Bill 820 (S-1). Senate Bill 1264 also would revise forfeiture and notice provisions. The bill is tie-barred to Senate Bill 820.

Under the Code, if a person wishes to be relieved of the responsibility of having entered into a recognizance for the personal appearance of an accused person in a criminal case, the person may arrest and deliver the accused to the jail or the county sheriff. The bill provides that the person could arrest or detain, and deliver the accused to the jail or sheriff, in compliance with the proposed Bail Enforcement Agent Regulation Act if subject to that Act.

If default is made in any recognizance in a court of record, the default must be entered on the record by the court clerk. After entry of the default on the record, the court, upon the motion of the Attorney General, prosecuting attorney, or city attorney, may give 20 days' notice to each surety. The bill would make notification mandatory, rather than permissive, and require that, upon the motion of the Attorney General, prosecuting attorney, or attorney for the local unit of government, the court give each surety immediate notice not to exceed three days from the date of the failure to appear. After receiving notice of a default, each surety must be given an opportunity to appear before the court to show cause why judgment should not be entered for the full amount of the recognizance. If good cause is not shown, the court must enter a judgment against the surety on the recognizance for an amount up to the full amount of the recognizance. The bill would require that the court set aside the forfeiture and discharge the bail or surety bond within one year from the time of a forfeiture judgment if the defendant had been 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.

MCL 765.26 & 765.28

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no impact on the State and an indeterminate impact on local units of government in regard to the amount of funds that would be returned to sureties.

Date Completed: 9-21-98

Fiscal Analyst: B. Bowerman