

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**

BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1264 (as introduced 9-15-98)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

Date Completed: 9-21-98

### **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); require notice to the surety when default was made in any recognizance in a court of record; and require the court to set aside a forfeiture and discharge the bail or surety bond under certain circumstances. The bill is tie-barred to Senate Bill 820.**

#### Compliance With Regulation Act

The bill provides that in all criminal cases in which a person had entered into any recognizance for the personal appearance of another, and afterward wished to be relieved from the responsibility, he or she could arrest or detain, and deliver the accused to the jail or the county sheriff, in compliance with the proposed Bail Enforcement Agent Regulation Act if subject to the Act.

Currently, under the Code of Criminal Procedure, 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.

#### Default Notice, Forfeiture, and Discharge

Default Notice. Under the Code, 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 permissible, 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.

Forfeiture and Discharge. 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 the court determines appropriate, 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.

Fiscal Analyst: B. Bowerman