

**SENATE BILL NO. 1264**

September 15, 1998, 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:**

1 CHAPTER V

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 BUT IN COMPLIANCE WITH THE  
7 BAIL ENFORCEMENT AGENT REGULATION ACT IF HE OR SHE IS SUBJECT TO  
8 THAT ACT, arrest OR DETAIN the accused and deliver him ~~at the~~  
9 OR HER TO ANY jail or to the sheriff of ~~said~~ THE county. In  
10 making such AN arrest OR DETAINMENT, he ~~shall be~~ OR SHE IS

1 entitled to the assistance of ~~the sheriff, chief of police of~~  
2 ~~any city or~~ any peace officer.

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

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

1           Sec. 28. (1) ~~In addition to any other method available, it~~  
2 ~~is hereby provided that whenever~~ IF default ~~shall be~~ IS made  
3 in any recognizance in ~~any~~ A court of record, the ~~same~~  
4 DEFAULT shall be ~~duly~~ entered ~~of~~ ON THE record by the clerk  
5 of ~~said~~ THE court. ~~and thereafter said~~ AFTER THE DEFAULT IS  
6 ENTERED, THE court, upon the motion of the attorney general,  
7 prosecuting attorney, or ~~city~~ THE attorney FOR THE LOCAL UNIT  
8 OF GOVERNMENT, ~~may~~ SHALL give ~~the~~ EACH surety ~~or sureties~~ 20  
9 ~~days' notice, which~~ IMMEDIATE NOTICE NOT TO EXCEED 3 DAYS FROM  
10 THE DATE OF THE FAILURE TO APPEAR. THE notice shall be served  
11 upon ~~said~~ EACH surety ~~or sureties~~ in person or left at ~~his~~  
12 ~~or their~~ THE SURETIES' last known place of ~~residence~~  
13 BUSINESS. ~~Said~~ EACH surety ~~or sureties~~ shall be given an  
14 opportunity to appear before the court on a day certain and show  
15 cause why judgment should not be entered against ~~him or them~~  
16 THE SURETY for the full amount of ~~such~~ THE recognizance. If  
17 good cause is not shown, the court shall ~~then~~ enter judgment  
18 against the surety ~~or sureties~~ on ~~said~~ THE recognizance for  
19 ~~such~~ AN amount ~~as it may see fit~~ DETERMINED APPROPRIATE BY  
20 THE COURT BUT not ~~exceeding~~ MORE THAN the full amount ~~thereof~~  
21 OF THE RECOGNIZANCE. Execution shall be awarded and executed  
22 upon ~~said~~ THE judgment in ~~like~~ THE manner ~~as is~~ provided  
23 FOR in personal actions.

24           (2) THE COURT SHALL SET ASIDE THE FORFEITURE AND DISCHARGE  
25 THE BAIL OR SURETY BOND WITHIN 1 YEAR FROM THE TIME OF THE FOR-  
26 FEITURE JUDGMENT IF THE DEFENDANT HAS BEEN APPREHENDED, THE ENDS  
27 OF JUSTICE HAVE NOT BEEN THWARTED, AND THE COUNTY HAS BEEN REPAID

1 ITS COSTS FOR APPREHENDING THE PERSON. IF THE BOND OR BAIL IS  
2 DISCHARGED, THE COURT SHALL ENTER AN ORDER TO THAT EFFECT WITH A  
3 STATEMENT OF THE AMOUNT TO BE RETURNED TO THE SURETY.

4 Enacting section 1. This amendatory act does not take  
5 effect unless Senate Bill No. 820 of the 89th Legislature is  
6 enacted into law.