

Legislative Analysis



DEFAULT ON BAIL BOND: ELIMINATE MOTION BY PROSECUTOR BEFORE SURETY NOTIFIED

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House Bill 5846 (Substitute H-1)

Sponsor: Rep. John Stakoe

Committee: Criminal Justice

First Analysis (6-15-04)

BRIEF SUMMARY: The bill would remove the requirement that a prosecutor motion a court before the court sends a notice to a surety that a defendant “jumped bail” (that is, failed to keep a required court appearance).

FISCAL IMPACT: The bill apparently would reduce costs for local units of government by creating efficiencies for local prosecutors' offices without increasing administrative burdens for court clerks.

THE APPARENT PROBLEM:

Currently, if a defendant jumps bail, the prosecuting attorney must file a motion with the court regarding the defendant's failure to keep the court appearance. The court then must notice the surety (person who put up the bail or bond money) as to the defendant's failure to appear. This notice must be sent within seven days of the missed court date.

Since the court already is aware of the defendant's failure to appear at the scheduled proceeding, some feel it unnecessary that the prosecutor must make a return trip to the courthouse to file a motion before the court sends notice to the surety. They believe that eliminating this requirement will expedite the notice process.

THE CONTENT OF THE BILL:

If a defendant who had been released on bail or bond fails to show for his or her court appearance, the court must send notice to the surety (the person putting up the bail or bond money) immediately – not to exceed seven days after the date of the missed court appearance. (The notice informs the surety of the failure to appear and that the surety has the right to appear before the court to show cause why judgment should not be entered against him or her for the full amount of the bail or bond amount.) However, the court does not issue the notice until the prosecutor files a motion for the court to do so.

House Bill 5846 would amend the Code of Criminal Procedure to remove the requirement for the prosecutor to file this motion after a defendant fails to appear for a court proceeding.

MCL 765.28

ARGUMENTS:

For:

The bill would make a minor amendment that would greatly alleviate an unnecessary burden on prosecutors' offices. Under the bill, a prosecutor would no longer have to motion a court before the court noticed a surety that a defendant jumped bail. The court would still have to send the notice out immediately, or no later than seven days after the failed court appearance, just as is done currently.

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (6-9-04)

A representative of the Court Officers, Deputy Sheriffs, and Process Servers Association of Michigan indicated support for the bill. (6-9-04)

A representative of the Michigan Professional Bail Agents Association indicated support for the bill. (6-9-04)

A representative of Universal Insurance indicated support for the bill. (6-9-04)

A representative of the Professional Bail Agents of the U.S. indicated a position of neutrality on the bill. (6-9-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.