

HOUSE BILL No. 5846

May 4, 2004, Introduced by Rep. Stakoe and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 28 of chapter V (MCL 765.28), as amended by
2002 PA 659.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER V

1
2 Sec. 28. (1) If default is made in any recognizance in a
3 court of record, the default shall be entered on the record by
4 the clerk of the court. After the default is entered, the court,
5 upon the motion of the attorney general, prosecuting attorney, or
6 the attorney for the local unit of government, shall give each
7 surety immediate notice not to exceed ~~7~~ 14 days after the date
8 of the failure to appear. The notice shall be served upon each
9 surety in person or left at the surety's last known business
10 address. Each surety shall be given an opportunity to appear

1 before the court on a day certain and show cause why judgment
2 should not be entered against the surety for the full amount of
3 the recognizance. If good cause is not shown, the court shall
4 enter judgment against the surety on the recognizance for an
5 amount determined appropriate by the court but not more than the
6 full amount of the recognizance. Execution shall be awarded and
7 executed upon the judgment in the manner provided for in personal
8 actions.

9 (2) Except as provided in subsection (3), the court shall set
10 aside the forfeiture and discharge the bail or surety bond within
11 1 year from the date of forfeiture judgment if the defendant has
12 been apprehended, the ends of justice have not been thwarted, and
13 the county has been repaid its costs for apprehending the
14 person. If the bond or bail is discharged, the court shall enter
15 an order to that effect with a statement of the amount to be
16 returned to the surety.

17 (3) Subsection (2) does not apply if the defendant was
18 apprehended more than 56 days after the bail or bond was ordered
19 forfeited and judgment entered and the surety did not fully pay
20 the forfeiture judgment within that 56-day period.