

SERVICE OF DEFAULT NOTICE TO SURETY: REVISE

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 381 (Substitute S-2) as passed by the Senate

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 10-2-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 381 would amend the Code of Criminal Procedure to revise the manner in which a court must notice a surety if the criminal defendant for whom the bail or surety bond was posted failed to appear.

Currently, if a defendant in a criminal case who was released on bond or bail fails to appear before the court when scheduled, the clerk of the court must enter the default on the record. The court is then required to give the surety (the person or company who posted the bond) notice of the default within 7 days after the date the defendant failed to appear. The notice must be served upon each surety in person or left at the surety's last known business address. Unless good cause is shown as to why the defendant failed to appear, the court is required to enter judgment against the surety for up to the full amount of the bail or surety bond.

The bill would revise the process a court must follow when a defendant fails to appear. The bill would delete the current provision requiring the clerk to enter the default on the record and would change the notice requirements to instead require that if a defendant failed to appear, the court must serve each surety notice within 7 days after the date of the failure to appear.

The bill would expand the required notice methods to include an option for the court to electronically mail the notice to an e-mail address provided to the court by the surety or mail by first-class mail to the surety's last known business address. If the notice were served by first-class mail, the notice would have to be mailed separately from the notice of intent to enter judgment. The bill would take effect 90 days after enactment.

MCL 765.28

FISCAL IMPACT:

Senate Bill 381 would have no fiscal impact on the state, but could result in indeterminate cost reductions for local court systems. Under the bill, courts would be authorized to serve notice of default by electronic mail or by first-class mail, instead of having to serve notice in person or by leaving notice at the last known address. Authorizing service by these additional methods could result in reduced administrative costs for local courts.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

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