

SUBSTITUTE FOR
SENATE BILL NO. 381

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
2004 PA 332.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER V

Sec. 28. (1) ~~If default is made in any recognizance in a court
of record, the default shall be entered on the record by the clerk
of the court. After the default is entered,~~ **IF A DEFENDANT FAILS TO
APPEAR, WITHIN 7 DAYS AFTER THE DATE OF THE FAILURE TO APPEAR** the
court shall ~~give~~ **SERVE** each surety ~~immediate notice not to exceed 7
days after the date of the failure to appear. The notice shall~~ **MUST**
be served upon each surety in person, ~~or~~ left at the surety's last
known business address, **ELECTRONICALLY MAILED TO AN ELECTRONIC MAIL**

1 ADDRESS PROVIDED TO THE COURT BY THE SURETY, OR MAILED BY FIRST-
2 CLASS MAIL TO THE SURETY'S LAST KNOWN BUSINESS ADDRESS. HOWEVER, IF
3 THE NOTICE IS SERVED BY FIRST-CLASS MAIL, IT MUST BE MAILED
4 SEPARATELY FROM THE NOTICE OF INTENT TO ENTER JUDGMENT. Each surety
5 ~~shall~~**MUST** be given an opportunity to appear before the court on a
6 day certain and show cause why judgment should not be entered
7 against the surety for the full amount of the bail or surety bond.
8 If good cause is not shown for the defendant's failure to appear,
9 the court shall enter judgment against the surety on the
10 recognizance for an amount determined appropriate by the court but
11 not more than the full amount of the bail, or if a surety bond has
12 been posted the full amount of the surety bond. If the amount of a
13 forfeited surety bond is less than the full amount of the bail, the
14 defendant shall continue to be liable to the court for the
15 difference, unless otherwise ordered by the court. Execution ~~shall~~
16 **MUST** be awarded and executed upon the judgment in the manner
17 provided for in personal actions.

18 (2) Except as provided in subsection (3), the court shall set
19 aside the forfeiture and discharge the bail or surety bond within 1
20 year from the date of forfeiture judgment if the defendant has been
21 apprehended, the ends of justice have not been thwarted, and the
22 county has been repaid its costs for apprehending the person. If
23 the bond or bail is discharged, the court shall enter an order to
24 that effect with a statement of the amount to be returned to the
25 surety.

26 (3) Subsection (2) does not apply if the defendant was
27 apprehended more than 56 days after the bail or bond was ordered

1 forfeited and judgment entered and the surety did not fully pay the
2 forfeiture judgment within that 56-day period.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.