

SENATE BILL No. 381

May 17, 2017, Introduced by Senator JONES and referred to the Committee on Judiciary.

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:

CHAPTER V

Sec. 28. (1) If default is made in any recognizance in a court
of record, the default ~~shall~~**MUST** be entered on the record by the
clerk of the court. After the default is entered, the court shall
give 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, **OR MAILED BY FIRST-CLASS MAIL TO THE SURETY'S LAST KNOWN**

1 **BUSINESS ADDRESS.** Each surety shall be given an opportunity to
2 appear before the court on a day certain and show cause why
3 judgment should not be entered against the surety for the full
4 amount of the bail or surety bond. If good cause is not shown for
5 the defendant's failure to appear, the court shall enter judgment
6 against the surety on the recognizance for an amount determined
7 appropriate by the court but not more than the full amount of the
8 bail, or if a surety bond has been posted the full amount of the
9 surety bond. If the amount of a forfeited surety bond is less than
10 the full amount of the bail, the defendant shall continue to be
11 liable to the court for the difference, unless otherwise ordered by
12 the court. Execution ~~shall~~**MUST** be awarded and executed upon the
13 judgment in the manner provided for in personal actions.

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

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

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