

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 16

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
(MCL 791.201 to 791.285) by adding chapter IIIB.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IIIB

SEC. 58. THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
"PAROLE SANCTION CERTAINTY ACT".

SEC. 58A. AS USED IN THIS CHAPTER:

(A) "CONFINEMENT SANCTION" MEANS A VIOLATION SANCTION
RESULTING IN CONFINEMENT IN A DEPARTMENTAL FACILITY OR LOCAL COUNTY
JAIL FOR NOT MORE THAN 60 DAYS.

(B) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED UNDER
SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

(C) "EVIDENCED-BASED PRACTICES" MEANS A PROGRESSIVE,
ORGANIZATIONAL USE OF DIRECT AND CURRENT SCIENTIFIC EVIDENCE TO

1 GUIDE AND INFORM EFFICIENT AND EFFECTIVE CORRECTIONAL SERVICES THAT
2 HAVE BEEN SHOWN TO REDUCE RECIDIVISM.

3 (D) "GRADUATED SANCTION" MEANS ANY OF A WIDE RANGE OF OFFENDER
4 ACCOUNTABILITY MEASURES AND PROGRAMS, INCLUDING, BUT NOT LIMITED
5 TO, ELECTRONIC SUPERVISION TOOLS, DRUG AND ALCOHOL TESTING AND
6 MONITORING, DAY OR EVENING REPORTING CENTERS, COMMUNITY SERVICE OR
7 WORK CREW, REHABILITATIVE INTERVENTIONS SUCH AS SUBSTANCE ABUSE OR
8 MENTAL HEALTH TREATMENT, REPORTING REQUIREMENTS, RESIDENTIAL
9 TREATMENT, COUNSELING, CONFINEMENT, AND INCARCERATION.

10 (E) "NONCONFINEMENT SANCTION" MEANS A VIOLATION SANCTION THAT
11 DOES NOT RESULT IN IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OR
12 THE COUNTY JAIL, INCLUDING, BUT NOT LIMITED TO, ANY OF THE
13 FOLLOWING:

14 (i) EXTENSION OF THE PERIOD OF SUPERVISION WITH THE TIME
15 PERIOD PROVIDED BY LAW.

16 (ii) ADDITIONAL REPORTING AND COMPLIANCE REQUIREMENTS.

17 (iii) TESTING FOR THE USE OF CONTROLLED SUBSTANCES OR ALCOHOL.

18 (iv) COUNSELING OR TREATMENT FOR BEHAVIORAL HEALTH PROBLEMS,
19 INCLUDING SUBSTANCE ABUSE.

20 (F) "PAROLE SANCTION CERTAINTY PROGRAM" MEANS THE PROGRAM
21 CREATED UNDER THIS CHAPTER THAT UTILIZES A SET OF ESTABLISHED
22 GRADUATED SANCTIONS TO SUPERVISE ELIGIBLE OFFENDERS THAT HAVE BEEN
23 PLACED ON PAROLE SANCTION CERTAINTY SUPERVISION.

24 (G) "PAROLE SANCTION CERTAINTY SUPERVISION" MEANS BEING PLACED
25 ON PAROLE SUBJECT TO CONDITIONS AND SANCTIONS AS SET FORTH IN THE
26 PAROLE SANCTION CERTAINTY PROGRAM CREATED UNDER THIS CHAPTER.

27 (H) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS PLACED

1 ON PAROLE SUBJECT TO PAROLE SANCTION CERTAINTY SUPERVISION UNDER
2 THIS CHAPTER.

3 (I) "SUPERVISING AGENT" MEANS THE PAROLE AGENT ASSIGNED TO
4 DIRECTLY SUPERVISE AN INDIVIDUAL ON PAROLE SANCTION CERTAINTY
5 SUPERVISION.

6 (J) "VALIDATED RISK AND NEEDS ASSESSMENT" MEANS A TOOL OR
7 TOOLS ADOPTED BY THE DEPARTMENT THAT HAVE BEEN VALIDATED AS TO THE
8 EFFECTIVENESS OF THE TOOL IN DETERMINING A SUPERVISED INDIVIDUAL'S
9 LIKELY RISK OF REOFFENSE, VIOLENT REOFFENSE, OR BOTH, AS WELL AS
10 THE OFFENDER'S CRIMINOGENIC NEEDS.

11 SEC. 58B. (1) THE PAROLE SANCTION CERTAINTY PROGRAM IS
12 ESTABLISHED WITHIN THE DEPARTMENT. BY JANUARY 1, 2018, THE
13 DEPARTMENT SHALL ADOPT A SYSTEM OF GRADUATED SANCTIONS FOR
14 VIOLATIONS OF CONDITIONS OF PAROLE FOR OFFENDERS SUPERVISED UNDER
15 THE PAROLE SANCTION CERTAINTY PROGRAM. THE GRADUATED SANCTIONS
16 ADOPTED UNDER THIS SECTION MUST UTILIZE EVIDENCE-BASED PRACTICES
17 THAT HAVE BEEN DEMONSTRATED TO REDUCE RECIDIVISM AND INCREASE
18 COMPLIANCE WITH THE CONDITIONS OF PAROLE BASED ON THE IDENTIFIED
19 RISK AND NEEDS OF THE SUPERVISED INDIVIDUAL AS DETERMINED BY A
20 VALIDATED RISK AND NEEDS ASSESSMENT. TO THE EXTENT POSSIBLE, THE
21 SYSTEM OF GRADUATED SANCTIONS MUST BE UNIFORM THROUGHOUT THE STATE
22 FOR ALL PAROLEES SUBJECT TO PAROLE SANCTION CERTAINTY SUPERVISION.

23 (2) SUBJECT TO SUBSECTION (3), THE DEPARTMENT SHALL, IN
24 CONSULTATION WITH THE PAROLE BOARD, DETERMINE WHICH OFFENDERS SHALL
25 BE PLACED IN THE COMMUNITY ON PAROLE UNDER THE PAROLE SANCTION
26 CERTAINTY PROGRAM.

27 (3) THE DEPARTMENT SHALL IMPLEMENT THE PAROLE SANCTION

1 CERTAINTY PROGRAM CREATED IN SUBSECTION (1) IN AT LEAST THE 5
2 COUNTIES IN THIS STATE IN WHICH THE GREATEST NUMBER OF INDIVIDUALS
3 CONVICTED OF CRIMINAL VIOLATIONS ARE SENTENCED TO INCARCERATION
4 UNDER THE JURISDICTION OF THE DEPARTMENT, AS DETERMINED BY THE
5 DEPARTMENT'S ANNUAL STATISTICAL REPORT. THE DEPARTMENT MAY
6 IMPLEMENT THE PAROLE SANCTION CERTAINTY PROGRAM IN ADDITIONAL
7 COUNTIES IN THIS STATE.

8 (4) THE DEPARTMENT SHALL CONSULT WITH AND SEEK RECOMMENDATIONS
9 FROM LOCAL LAW ENFORCEMENT AGENCIES IN THE COUNTIES WHERE THE
10 PAROLE SANCTION CERTAINTY PROGRAM IS IMPLEMENTED, INCLUDING THE
11 SHERIFF'S DEPARTMENTS, CIRCUIT COURTS, COUNTY PROSECUTOR'S OFFICES,
12 AND COMMUNITY CORRECTIONS PROGRAMS IN DEVELOPING A PLAN FOR
13 IMPLEMENTING THE PAROLE SANCTION CERTAINTY PROGRAM IN THE COUNTY.

14 SEC. 58C. (1) SUBJECT TO SUBSECTION (3), THE PAROLE SANCTION
15 CERTAINTY PROGRAM DESCRIBED IN SECTION 58B MUST SET FORTH A LIST OF
16 PRESUMPTIVE GRADUATED SANCTIONS FOR THE MOST COMMON TYPES OF
17 SUPERVISION VIOLATIONS, INCLUDING, BUT NOT LIMITED TO, FAILING TO
18 REPORT, FAILING TO PARTICIPATE IN A REQUIRED PROGRAM OR SERVICE,
19 FAILING TO COMPLETE COMMUNITY SERVICE, FAILING TO REFRAIN FROM THE
20 USE OF ALCOHOL OR A CONTROLLED SUBSTANCE, FAILING TO PAY FINES,
21 FEES, OR VICTIM RESTITUTION, VIOLATING A PROTECTIVE OR NO-CONTACT
22 ORDER, REFUSING TO COMPLETE A DRUG TEST, POSSESSING A FIREARM, OR
23 BEING INVOLVED IN FELONY-RELATED ACTIVITY. THE SYSTEM OF GRADUATED
24 SANCTIONS MUST TAKE INTO ACCOUNT FACTORS SUCH AS THE SEVERITY OF
25 THE VIOLATION, THE IMPACT OF THE VIOLATION ON THE SAFETY OR WELL-
26 BEING OF THE CRIME VICTIM, IF APPLICABLE, THE SUPERVISED
27 INDIVIDUAL'S PREVIOUS CRIMINAL RECORD, THE NUMBER AND SEVERITY OF

1 ANY PREVIOUS SUPERVISION VIOLATIONS, THE SUPERVISED INDIVIDUAL'S
2 ASSESSED RISK LEVEL, THE SUPERVISED INDIVIDUAL'S NEEDS AS
3 ESTABLISHED BY A VALIDATED RISK AND NEEDS ASSESSMENT, AND THE
4 EXTENT TO WHICH GRADUATED SANCTIONS WERE IMPOSED FOR PREVIOUS
5 VIOLATIONS. THE SYSTEM MUST ALSO DEFINE POSITIVE REINFORCEMENTS
6 THAT SUPERVISED INDIVIDUALS WILL RECEIVE FOR COMPLYING WITH THEIR
7 CONDITIONS OF SUPERVISION.

8 (2) SUBJECT TO SUBSECTION (3), THE DEPARTMENT SHALL ESTABLISH
9 A PROCESS TO REVIEW AND TO APPROVE OR REJECT, BEFORE IMPOSITION,
10 GRADUATED SANCTIONS THAT DEVIATE FROM THOSE THAT ARE OTHERWISE
11 PRESCRIBED UNDER SUBSECTION (1).

12 (3) A SUPERVISED INDIVIDUAL WHO VIOLATES THE TERMS OF HIS OR
13 HER PAROLE SANCTION CERTAINTY SUPERVISION, BUT WHOSE PAROLE WILL
14 NOT BE REVOKED UNDER SECTION 40A AS A RESULT OF THE VIOLATION, MAY
15 BE SUBJECT TO A CONFINEMENT SANCTION AND BE CONFINED IN A
16 CORRECTIONAL OR DETENTION FACILITY FOR NOT MORE THAN 60 DAYS. AFTER
17 A SUPERVISED INDIVIDUAL COMPLETES HIS OR HER CONFINEMENT UNDER THIS
18 SUBSECTION, HE OR SHE MAY BE RETURNED TO PAROLE SANCTION CERTAINTY
19 SUPERVISION UNDER THE SAME TERMS OF SUPERVISION UNDER WHICH HE OR
20 SHE WAS PREVIOUSLY SUPERVISED, OR UNDER NEW PAROLE SANCTION
21 CERTAINTY SUPERVISION TERMS AT THE DISCRETION OF THE DEPARTMENT.

22 (4) NOTHING IN THIS CHAPTER PREVENTS THE ARREST OF A PAROLEE
23 UNDER SECTION 39 OR THE REVOCATION OF PAROLE UNDER SECTION 40A.

24 SEC. 58D. A SUPERVISED INDIVIDUAL IS SUBJECT TO 1 OF THE
25 FOLLOWING FOR VIOLATING ANY CONDITION OF HIS OR HER PAROLE SANCTION
26 CERTAINTY SUPERVISION:

27 (A) A NONCONFINEMENT SANCTION.

1 (B) A CONFINEMENT SANCTION.

2 (C) PAROLE REVOCATION PROCEEDINGS UNDER SECTION 40A AND
3 POSSIBLE INCARCERATION FOR FAILURE TO COMPLY WITH A CONDITION OF
4 SUPERVISION.

5 SEC. 58E. DURING THE INITIAL ORIENTATION WITH HIS OR HER
6 SUPERVISING AGENT, A SUPERVISED INDIVIDUAL MUST BE INFORMED IN
7 PERSON OF THE CONDITIONS OF HIS OR HER PAROLE SANCTION CERTAINTY
8 SUPERVISION. THE SUPERVISED INDIVIDUAL SHALL ALSO SIGN A WRITTEN
9 AGREEMENT TO ABIDE BY THOSE CONDITIONS OR TO BE IMMEDIATELY SUBJECT
10 TO GRADUATED SANCTIONS OR TO PAROLE REVOCATION UNDER SECTION 40A,
11 WHICHEVER IS DETERMINED BY THE DEPARTMENT TO BE APPROPRIATE.

12 SEC. 58F. (1) THE DEPARTMENT MAY DO EITHER OF THE FOLLOWING IF
13 AN INDIVIDUAL VIOLATES A CONDITION OF PAROLE SANCTION CERTAINTY
14 SUPERVISION:

15 (A) MODIFY THE CONDITIONS OF PAROLE SANCTION CERTAINTY
16 SUPERVISION FOR THE LIMITED PURPOSE OF IMPOSING GRADUATED
17 SANCTIONS.

18 (B) PLACE THE INDIVIDUAL IN A STATE OR LOCAL CORRECTIONAL OR
19 DETENTION FACILITY OR RESIDENTIAL CENTER FOR A PERIOD SPECIFIED IN
20 THE LIST OF PRESUMPTIVE GRADUATED SANCTIONS UNDER SECTION 58C(1) OR
21 AS OTHERWISE PROVIDED UNDER SECTION 58C(2) AND (3). IF AN
22 INDIVIDUAL IS TO BE PLACED IN A LOCAL CORRECTIONAL OR DETENTION
23 FACILITY, HE OR SHE MUST ONLY BE PLACED IN A FACILITY THAT AGREES
24 TO TAKE THE INDIVIDUAL AND WITH WHICH THE DEPARTMENT HAS AN
25 EXISTING REIMBURSEMENT AGREEMENT.

26 (2) A SUPERVISING AGENT INTENDING TO MODIFY THE CONDITIONS OF
27 PAROLE SANCTION CERTAINTY SUPERVISION BY IMPOSING A GRADUATED

1 SANCTION SHALL ISSUE TO THE SUPERVISED INDIVIDUAL A NOTICE OF THE
2 INTENDED GRADUATED SANCTION. THE NOTICE MUST INFORM THE SUPERVISED
3 INDIVIDUAL OF EACH VIOLATION ALLEGED, THE DATE OF EACH VIOLATION,
4 AND THE GRADUATED SANCTION TO BE IMPOSED.

5 (3) THE IMPOSITION OF A SANCTION MUST COMPORT WITH THE SYSTEM
6 OF GRADUATED SANCTIONS ADOPTED BY THE DEPARTMENT UNDER SECTIONS 58B
7 AND 58C. THE FAILURE OF THE SUPERVISED INDIVIDUAL TO COMPLY WITH A
8 GRADUATED SANCTION CONSTITUTES A VIOLATION OF PAROLE. GRADUATED
9 SANCTIONS SPECIFIED AND IMPOSED ARE IMMEDIATELY EFFECTIVE.

10 (4) A GRADUATED SANCTION THAT INVOLVES CONFINEMENT IN A
11 CORRECTIONAL OR DETENTION FACILITY IS SUBJECT TO SECTION 58C(3). IF
12 THE SUPERVISED INDIVIDUAL IS EMPLOYED, THE DEPARTMENT SHALL, TO THE
13 EXTENT FEASIBLE, IMPOSE THE CONFINEMENT SANCTION FOR WEEKEND DAYS
14 OR OTHER DAYS OR TIMES WHEN THE SUPERVISED INDIVIDUAL IS NOT
15 WORKING.

16 (5) IF AN INDIVIDUAL SUCCESSFULLY COMPLETES CONDITIONS IMPOSED
17 UNDER A GRADUATED SANCTION, THE DEPARTMENT SHALL NOT REVOKE THE
18 ASSIGNED TERM OF PAROLE SANCTION CERTAINTY SUPERVISION OR IMPOSE
19 ADDITIONAL GRADUATED SANCTIONS FOR THE SAME VIOLATION.

20 (6) IF A SUPERVISING AGENT MODIFIES THE CONDITIONS OF PAROLE
21 SANCTION CERTAINTY SUPERVISION BY IMPOSING A GRADUATED SANCTION,
22 THE SUPERVISING AGENT SHALL DO ALL OF THE FOLLOWING:

23 (A) DELIVER A COPY OF THE MODIFIED CONDITIONS TO THE
24 SUPERVISED INDIVIDUAL.

25 (B) FILE A COPY OF THE MODIFIED CONDITIONS WITH THE
26 DEPARTMENT.

27 (C) NOTE THE DATE OF DELIVERY OF THE COPY IN THE SUPERVISED

1 INDIVIDUAL'S FILE.

2 SEC. 58G. (1) THE DEPARTMENT SHALL REVIEW THE USE OF
3 CONFINEMENT SANCTIONS BY SUPERVISING AGENTS IN THE COUNTIES WHERE
4 THE PAROLE SANCTION CERTAINTY PROGRAM IS IMPLEMENTED ON A BIENNIAL
5 BASIS TO ASSESS ANY DISPARITIES THAT MAY EXIST AMONG THE
6 SUPERVISING AGENTS' USE OF CONFINEMENT SANCTIONS AND EVALUATE THE
7 EFFECTIVENESS OF THE SANCTION AS MEASURED BY THE SUPERVISED
8 INDIVIDUALS' SUBSEQUENT CONDUCT.

9 (2) THE DEPARTMENT SHALL REPORT ALL OF THE FOLLOWING ON A
10 BIENNIAL BASIS TO THE HOUSE AND SENATE COMMITTEES CONCERNED WITH
11 CORRECTIONS ISSUES:

12 (A) THE NUMBER OF SUPERVISED INDIVIDUALS WHOM THE DEPARTMENT,
13 IN CONSULTATION WITH THE PAROLE BOARD, HAS REFERRED FOR SUPERVISION
14 UNDER THE PAROLE SANCTION CERTAINTY PROGRAM.

15 (B) THE NUMBER OF SUPERVISED INDIVIDUALS CURRENTLY BEING
16 SUPERVISED UNDER THE PAROLE SANCTION CERTAINTY PROGRAM.

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