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**BILL ANALYSIS**



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Senate Bill 932 (as introduced 5-3-16)  
Sponsor: Senator John Proos  
Committee: Michigan Competitiveness

Date Completed: 5-27-16

**CONTENT**

**The bill would create the "Parole Sanction Certainty Act" as Chapter IIIB of the Corrections Code to do the following:**

- **Require the Department of Corrections (DOC) to adopt a system of sanctions for violations of conditions of parole sanction certainty supervision.**
- **Require the system to set forth a list of presumptive sanctions for the most common types of supervision violations, and to define positive reinforcements.**
- **Require the Department to implement the system in the five counties with the most individuals convicted of criminal violations and sentenced to DOC incarceration.**
- **Require an individual to be informed of the conditions of parole sanction certainty supervision and to sign an agreement, before being placed on that supervision.**
- **Provide that a supervised individual who violated the conditions of his or her parole sanction certainty supervision could be sanctioned with confinement for up to 30 days.**
- **Provide that a supervised individual who violated any condition of his or her parole sanction certainty supervision would be subject to sanctions other than parole revocation and incarceration, or parole revocation proceedings and possible incarceration, depending on various factors.**
- **Require a supervising agent to notify a supervised individual if the agent intended to impose a sanction.**
- **Provide that failure to comply with a sanction would constitute a violation of parole.**
- **Require chief supervising agents, on a quarterly basis, to review confinement sanctions recommended by agents, and to report specified information to the House and Senate committees concerned with corrections.**

The bill would take effect 90 days after enactment.

**Definitions**

"Parole sanction certainty supervision" would mean being placed on parole subject to conditions and sanctions as set forth in the proposed Act.

"Sanction" would mean any of a wide range of nonprison offender accountability measures and programs, including electronic supervision tools, drug and alcohol testing or monitoring, day or evening reporting centers, restitution centers, forfeiture of earned compliance credits, rehabilitative interventions such as substance abuse or mental health treatment, requirements

to report to supervision officers, community service or work crews, secure or unsecure residential treatment facilities or halfway houses, and short-term or intermittent incarceration.

"Supervised individual" would mean an individual placed on parole subject to parole sanction certainty supervision.

"Supervising agent" would mean the parole agent assigned to directly supervise an individual on parole sanction certainty supervision. "Chief supervising agent" would mean the highest-ranking parole administrator in each judicial circuit.

### System of Sanctions

By January 1, 2017, the DOC would have to adopt a system of sanctions for violations of conditions of parole sanction certainty supervision. To the extent possible, the system of sanctions would have to be uniform throughout the State for all parolees subject to parole sanction certainty supervision. Subject to the following provision, the Department would have to determine which offenders would be placed in the community on parole sanction certainty supervision.

The DOC would have to implement the parole sanction certainty system in the five counties in the State in which the greatest number of individuals convicted of criminal violations were sentenced to incarceration under the Department's supervision, as determined by the DOC's annual statistical report.

In developing a plan for implementing parole sanction certainty supervision, the DOC would have to consult with and seek recommendations from local law enforcement agencies in the counties where the system was implemented, including the sheriff's departments, circuit courts, county prosecutor's offices, and community corrections programs.

### Notice to & Agreement of Supervised Individual

Before a supervised individual was placed on parole sanction certainty supervision subject to sanctions, he or she would have to be informed of its conditions. The individual would have to sign a written agreement to abide by those conditions or to be immediately subject to sanctions or to parole revocation, whichever the DOC determined to be appropriate.

### Presumptive Sanctions

The system of parole sanction certainty supervision would have to set forth a list of presumptive sanctions for the most common types of supervision violations, including failing to report, participate in a required program or service, or complete community service; violating a protective or no-contact order; or failing to refrain from the use of alcohol or a controlled substance.

The system of sanctions would have to take into account factors such as the severity of the violation, the supervised individual's previous criminal record and assessed risk level, the number and severity of any previous supervision violations, and the extent to which sanctions were imposed for previous violations. The system also would have to define positive reinforcements that supervised individual would receive for complying with their conditions of supervision.

"Positive reinforcement" would mean any of a wide range of rewards and incentives, including awarding certificates of achievement, reducing reporting requirements, deferring a monthly supervision fee payment, awarding earned compliance credits, removing supervision conditions such as home detention or curfew, or asking the offender to be a mentor to others.

### Imposition of Sanctions; Modification; Confinement

Subject to the following provision, the DOC would have to establish a process to review and to approve or reject sanctions that deviated from the presumptive sanctions, before the sanctions were imposed.

A supervised individual who violated the terms of his or her parole sanction certainty supervision, but whose parole was not going to be revoked by the Parole Board as a result of the violation, could be sanctioned with confinement in a correctional or detention facility for not more than 30 days. After completing his or her confinement, the individual could be returned to parole sanction certainty supervision under the same terms of supervision as those under which he or she was previously supervised, or under new terms, at the DOC's discretion.

A supervised individual be subject to one of the following sanctions for violating any condition of his or her parole sanction certainty supervision:

- Sanctions other than parole revocation and incarceration, as appropriate to the severity of the violation behavior, the risk of future criminal behavior, and the need for and availability of interventions that could assist the offender to remain compliant with his or her conditions of release and to be crime-free in the community.
- Parole revocation proceedings and possible incarceration if the failure to comply with a condition of supervision constituted a significant risk to prior victims of the individual or the community at large and the risk could not be appropriately managed in the community.

In addition, if an individual violated a condition of parole sanction certainty supervision, the DOC could either 1) modify the conditions of supervision for the limited purpose of imposing sanctions; or 2) place the individual in a State or local correctional or detention facility for a period specified in the list of presumptive sanctions or as otherwise provided in the proposed Act. An individual could be placed in a local correctional or detention facility only if the DOC had an existing reimbursement agreement with it.

A sanction could not be imposed for any violation of parole that could warrant an additional, separate felony charge. A sanction could be imposed, however, if the violation were based only upon the individual's testing positive for a controlled substance.

If an individual successfully completed conditions imposed under a sanction, the DOC could not revoke the assigned term of parole sanction certainty supervision or impose additional sanctions for the same violation.

### Supervising Agent Imposition of Sanctions

If a supervising agent intended to modify the conditions of a supervised individual's parole sanction certainty supervision by imposing a sanction, the agent would have to notify the individual of the intended sanction. The notice would have to inform the individual of each violation alleged, the date of each violation, and the sanction to be imposed.

A supervising agent's imposition of a sanction would have to comport with the system of sanctions and presumptive sanctions adopted by the DOC. Sanctions imposed by an agent would be immediately effective. A supervised individual's failure to comply with a sanction would constitute a violation of parole.

A sanction that involved confinement in a correctional or detention facility would be subject to the 30-day limit and approval by the chief supervising agent. The supervised individual could be taken into custody for up to four hours, however, while approval was sought. If the individual were employed, the supervising agent would have to impose the sanction for weekend days or other days or times when the individual was not working, to the extent feasible.

If a supervising agent modified the conditions of parole sanction certainty supervision by imposing a sanction, the agent would have to do all of the following:

- Deliver a copy of the modified conditions to the supervised individual.
- Note the date of delivery of the copy in the individual's file.
- File a copy of the modified conditions with the DOC.

#### Chief Supervising Agent Review & Report

On a quarterly basis, the chief supervising agents would have to review confinement sanctions recommended by supervising agents in the five counties where parole sanction certainty supervision was implemented, to assess any disparities that could exist among agents, evaluate the effectiveness of the sanction as measured by the supervised individuals' subsequent conduct, and monitor the impact on the agency's number and type of revocations for violations of the conditions of supervision.

The chief supervising agents also would have to report all of the following on a quarterly basis to the Senate and House committees concerned with corrections issues:

- The number of supervised individuals completing parole supervision and being discharged from parole.
- The number and type of parole violations, including those that did or did not result in parole revocation.
- The number of parole revocations.
- The number of parole violations specifically related to a supervised individual's testing positive for controlled substances, without a physician's prescription, or alcohol in violation of a parole order, as applicable.
- The number of parole violations specifically related to a supervised individual's failure to appear at a scheduled meeting with his or her supervising agent.

Proposed MCL 791.258-791.258g

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. It costs the State an average of \$5,260 per year for each parolee supervised. Parole sanction certainty supervision would likely cost more, but it is unknown by how much. A pilot program was launched in November 2015 in targeted counties, but it is too soon to have data on the costs per parolee or parolee outcomes.

If fewer parolees were returned to prison as a result of the bill, there would be savings to the State from lower incarceration costs. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. In the long term, if the reduced intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year.

Any additional reporting requirements would be handled by the Department of Corrections within existing appropriations.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.