

SENATE BILL No. 932

May 3, 2016, Introduced by Senators PROOS, HORN, JONES, GREGORY, SHIRKEY, COLBECK, WARREN, BRANDENBURG, KNOLLENBERG, GREEN and NOFS and referred to the Committee on Michigan Competitiveness.

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) "CHIEF SUPERVISING AGENT" MEANS THE HIGHEST RANKING PAROLE
ADMINISTRATOR IN EACH JUDICIAL CIRCUIT.

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

(C) "PAROLE SANCTION CERTAINTY SUPERVISION" MEANS BEING PLACED
ON PAROLE SUBJECT TO CONDITIONS AND SANCTIONS AS SET FORTH IN THIS

1 CHAPTER.

2 (D) "POSITIVE REINFORCEMENT" MEANS ANY OF A WIDE RANGE OF
3 REWARDS AND INCENTIVES, INCLUDING, BUT NOT LIMITED TO, AWARDING
4 CERTIFICATES OF ACHIEVEMENT, REDUCING REPORTING REQUIREMENTS,
5 DEFERRING A MONTHLY SUPERVISION FEE PAYMENT, AWARDING EARNED
6 COMPLIANCE CREDITS, REMOVING SUPERVISION CONDITIONS SUCH AS HOME
7 DETENTION OR CURFEW, OR ASKING THE OFFENDER TO BE A MENTOR TO
8 OTHERS.

9 (E) "SANCTION" MEANS ANY OF A WIDE RANGE OF NONPRISON OFFENDER
10 ACCOUNTABILITY MEASURES AND PROGRAMS, INCLUDING, BUT NOT LIMITED
11 TO, ELECTRONIC SUPERVISION TOOLS, DRUG AND ALCOHOL TESTING OR
12 MONITORING, DAY OR EVENING REPORTING CENTERS, RESTITUTION CENTERS,
13 FORFEITURE OF EARNED COMPLIANCE CREDITS, REHABILITATIVE
14 INTERVENTIONS SUCH AS SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT,
15 REPORTING REQUIREMENTS TO SUPERVISION OFFICERS, COMMUNITY SERVICE
16 OR WORK CREWS, SECURE OR UNSECURE RESIDENTIAL TREATMENT FACILITIES
17 OR HALFWAY HOUSES, AND SHORT-TERM OR INTERMITTENT INCARCERATION.

18 (F) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS PLACED
19 ON PAROLE SUBJECT TO PAROLE SANCTION CERTAINTY SUPERVISION UNDER
20 THIS CHAPTER.

21 (G) "SUPERVISING AGENT" MEANS THE PAROLE AGENT ASSIGNED TO
22 DIRECTLY SUPERVISE AN INDIVIDUAL ON PAROLE SANCTION CERTAINTY
23 SUPERVISION.

24 SEC. 58B. (1) BY JANUARY 1, 2017, THE DEPARTMENT SHALL ADOPT A
25 SYSTEM OF SANCTIONS FOR VIOLATIONS OF CONDITIONS OF PAROLE SANCTION
26 CERTAINTY SUPERVISION. TO THE EXTENT POSSIBLE, THE SYSTEM OF
27 SANCTIONS SHALL BE UNIFORM THROUGHOUT THE STATE FOR ALL PAROLEES

1 SUBJECT TO PAROLE SANCTION CERTAINTY SUPERVISION.

2 (2) SUBJECT TO SUBSECTION (3), THE DEPARTMENT SHALL DETERMINE
3 WHICH OFFENDERS SHALL BE PLACED IN THE COMMUNITY ON PAROLE SANCTION
4 CERTAINTY SUPERVISION UNDER THIS CHAPTER.

5 (3) THE DEPARTMENT SHALL IMPLEMENT THE PAROLE SANCTION
6 CERTAINTY SYSTEM CREATED IN THIS CHAPTER IN THE 5 COUNTIES IN THIS
7 STATE IN WHICH THE GREATEST NUMBER OF INDIVIDUALS CONVICTED OF
8 CRIMINAL VIOLATIONS ARE SENTENCED TO INCARCERATION UNDER THE
9 JURISDICTION OF THE DEPARTMENT, AS DETERMINED BY THE DEPARTMENT'S
10 ANNUAL STATISTICAL REPORT.

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

17 SEC. 58C. (1) SUBJECT TO SUBSECTION (3), THE SYSTEM OF PAROLE
18 SANCTION CERTAINTY SUPERVISION DESCRIBED IN SECTION 58B SHALL SET
19 FORTH A LIST OF PRESUMPTIVE SANCTIONS FOR THE MOST COMMON TYPES OF
20 SUPERVISION VIOLATIONS, INCLUDING, BUT NOT LIMITED TO, FAILING TO
21 REPORT, FAILING TO PARTICIPATE IN A REQUIRED PROGRAM OR SERVICE,
22 FAILING TO COMPLETE COMMUNITY SERVICE, VIOLATING A PROTECTIVE OR
23 NO-CONTACT ORDER, OR FAILING TO REFRAIN FROM THE USE OF ALCOHOL OR
24 A CONTROLLED SUBSTANCE. THE SYSTEM OF SANCTIONS SHALL TAKE INTO
25 ACCOUNT FACTORS SUCH AS THE SEVERITY OF THE VIOLATION, THE
26 SUPERVISED INDIVIDUAL'S PREVIOUS CRIMINAL RECORD, THE NUMBER AND
27 SEVERITY OF ANY PREVIOUS SUPERVISION VIOLATIONS, THE SUPERVISED

1 INDIVIDUAL'S ASSESSED RISK LEVEL, AND THE EXTENT TO WHICH SANCTIONS
2 WERE IMPOSED FOR PREVIOUS VIOLATIONS. THE SYSTEM ALSO SHALL DEFINE
3 POSITIVE REINFORCEMENTS THAT SUPERVISED INDIVIDUALS WILL RECEIVE
4 FOR COMPLYING WITH THEIR CONDITIONS OF SUPERVISION.

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

9 (3) A SUPERVISED INDIVIDUAL WHO VIOLATES THE TERMS OF HIS OR
10 HER PAROLE SANCTION CERTAINTY SUPERVISION UNDER THIS CHAPTER, BUT
11 WHOSE PAROLE IS NOT GOING TO BE REVOKED UNDER SECTION 40A AS A
12 RESULT OF THE VIOLATION, MAY BE SANCTIONED WITH CONFINEMENT IN A
13 CORRECTIONAL OR DETENTION FACILITY FOR NOT MORE THAN 30 DAYS. AFTER
14 A SUPERVISED INDIVIDUAL COMPLETES HIS OR HER CONFINEMENT UNDER THIS
15 SUBSECTION, HE OR SHE MAY BE RETURNED TO PAROLE SANCTION CERTAINTY
16 SUPERVISION UNDER THE SAME TERMS OF SUPERVISION UNDER WHICH HE OR
17 SHE WAS PREVIOUSLY SUPERVISED, OR UNDER NEW PAROLE SANCTION
18 CERTAINTY SUPERVISION TERMS AT THE DISCRETION OF THE DEPARTMENT.

19 SEC. 58D. A SUPERVISED INDIVIDUAL SHALL BE SUBJECT TO 1 OF THE
20 FOLLOWING FOR VIOLATING ANY CONDITION OF HIS OR HER PAROLE SANCTION
21 CERTAINTY SUPERVISION:

22 (A) SANCTIONS OTHER THAN PAROLE REVOCATION AND INCARCERATION
23 AS APPROPRIATE TO THE SEVERITY OF THE VIOLATION BEHAVIOR, THE RISK
24 OF FUTURE CRIMINAL BEHAVIOR BY THE OFFENDER, AND THE NEED FOR AND
25 AVAILABILITY OF INTERVENTIONS THAT MAY ASSIST THE OFFENDER TO
26 REMAIN COMPLIANT WITH HIS OR HER CONDITIONS OF RELEASE AND TO BE
27 CRIME-FREE IN THE COMMUNITY.

1 (B) PAROLE REVOCATION PROCEEDINGS UNDER SECTION 40A AND
2 POSSIBLE INCARCERATION FOR FAILURE TO COMPLY WITH THE CONDITION OF
3 SUPERVISION IF THAT FAILURE CONSTITUTES A SIGNIFICANT RISK TO PRIOR
4 VICTIMS OF THE SUPERVISED INDIVIDUAL OR THE COMMUNITY AT LARGE AND
5 THE RISK CANNOT BE APPROPRIATELY MANAGED IN THE COMMUNITY.

6 SEC. 58E. BEFORE BEING PLACED ON PAROLE SANCTION CERTAINTY
7 SUPERVISION SUBJECT TO SANCTIONS, THE SUPERVISED INDIVIDUAL SHALL
8 BE INFORMED IN PERSON OF THE CONDITIONS OF THAT PAROLE SANCTION
9 CERTAINTY SUPERVISION. THE SUPERVISED INDIVIDUAL SHALL ALSO SIGN A
10 WRITTEN AGREEMENT TO ABIDE BY THOSE CONDITIONS OR TO BE IMMEDIATELY
11 SUBJECT TO SANCTIONS OR TO PAROLE REVOCATION UNDER SECTION 40A,
12 WHICHEVER IS DETERMINED BY THE DEPARTMENT TO BE APPROPRIATE.

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

16 (A) MODIFY THE CONDITIONS OF PAROLE SANCTION CERTAINTY
17 SUPERVISION FOR THE LIMITED PURPOSE OF IMPOSING 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 SANCTIONS OR AS OTHERWISE PROVIDED UNDER
21 SECTION 58C(2) AND (3). IF AN INDIVIDUAL IS TO BE PLACED IN A LOCAL
22 CORRECTIONAL OR DETENTION FACILITY, HE OR SHE SHALL ONLY BE PLACED
23 IN A FACILITY WITH WHOM THE DEPARTMENT HAS AN EXISTING
24 REIMBURSEMENT AGREEMENT.

25 (2) A SUPERVISING AGENT INTENDING TO MODIFY THE CONDITIONS OF
26 PAROLE SANCTION CERTAINTY SUPERVISION BY IMPOSING A SANCTION SHALL
27 ISSUE TO THE SUPERVISED INDIVIDUAL A NOTICE OF THIS INTENDED

1 SANCTION. THE NOTICE SHALL INFORM THE SUPERVISED INDIVIDUAL OF EACH
2 VIOLATION ALLEGED, THE DATE OF EACH VIOLATION, AND THE SANCTION TO
3 BE IMPOSED.

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

10 (4) A SANCTION THAT INVOLVES CONFINEMENT IN A CORRECTIONAL OR
11 DETENTION FACILITY IS SUBJECT TO SECTION 58C(3) AND APPROVAL BY THE
12 CHIEF SUPERVISING AGENT, BUT THE SUPERVISED INDIVIDUAL MAY BE TAKEN
13 INTO CUSTODY FOR A PERIOD NOT TO EXCEED 4 HOURS WHILE THE APPROVAL
14 IS SOUGHT. IF THE SUPERVISED INDIVIDUAL IS EMPLOYED, THE
15 SUPERVISING AGENT SHALL, TO THE EXTENT FEASIBLE, IMPOSE THE
16 SANCTION FOR WEEKEND DAYS OR OTHER DAYS OR TIMES WHEN THE
17 SUPERVISED INDIVIDUAL IS NOT WORKING.

18 (5) A SANCTION SHALL NOT BE IMPOSED FOR ANY VIOLATION OF
19 PAROLE THAT MAY WARRANT AN ADDITIONAL, SEPARATE FELONY CHARGE.
20 HOWEVER, A SANCTION MAY BE IMPOSED IF THE VIOLATION IS ONLY BASED
21 UPON THE INDIVIDUAL'S TESTING POSITIVE FOR A CONTROLLED SUBSTANCE.

22 (6) IF AN INDIVIDUAL SUCCESSFULLY COMPLETES CONDITIONS IMPOSED
23 UNDER A SANCTION, THE DEPARTMENT SHALL NOT REVOKE THE ASSIGNED TERM
24 OF PAROLE SANCTION CERTAINTY SUPERVISION OR IMPOSE ADDITIONAL
25 SANCTIONS FOR THE SAME VIOLATION.

26 (7) IF A SUPERVISING AGENT MODIFIES THE CONDITIONS OF PAROLE
27 SANCTION CERTAINTY SUPERVISION BY IMPOSING A SANCTION, THE

1 SUPERVISING AGENT SHALL DO ALL OF THE FOLLOWING:

2 (A) DELIVER A COPY OF THE MODIFIED CONDITIONS TO THE
3 SUPERVISED INDIVIDUAL.

4 (B) FILE A COPY OF THE MODIFIED CONDITIONS WITH THE
5 DEPARTMENT.

6 (C) NOTE THE DATE OF DELIVERY OF THE COPY IN THE SUPERVISED
7 INDIVIDUAL'S FILE.

8 SEC. 58G. (1) THE CHIEF SUPERVISING AGENT SHALL REVIEW
9 CONFINEMENT SANCTIONS RECOMMENDED BY SUPERVISING AGENTS IN THE 5
10 COUNTIES WHERE PAROLE SANCTION CERTAINTY SUPERVISION IS IMPLEMENTED
11 ON A QUARTERLY BASIS TO ASSESS ANY DISPARITIES THAT MAY EXIST AMONG
12 AGENTS, EVALUATE THE EFFECTIVENESS OF THE SANCTION AS MEASURED BY
13 THE SUPERVISED INDIVIDUALS' SUBSEQUENT CONDUCT, AND MONITOR THE
14 IMPACT ON THE AGENCY'S NUMBER AND TYPE OF REVOCATIONS FOR
15 VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

16 (2) THE CHIEF SUPERVISING AGENT OF EACH JUDICIAL CIRCUIT SHALL
17 REPORT ALL OF THE FOLLOWING ON A QUARTERLY BASIS TO THE HOUSE AND
18 SENATE COMMITTEES CONCERNED WITH CORRECTIONS ISSUES:

19 (A) THE NUMBER OF SUPERVISED INDIVIDUALS COMPLETING PAROLE
20 SUPERVISION AND BEING DISCHARGED FROM PAROLE.

21 (B) THE NUMBER OF AND TYPE OF PAROLE VIOLATIONS, INCLUDING
22 VIOLATIONS THAT DO OR DO NOT RESULT IN PAROLE REVOCATION.

23 (C) THE NUMBER OF PAROLE REVOCATIONS.

24 (D) THE NUMBER OF PAROLE VIOLATIONS SPECIFICALLY RELATED TO A
25 SUPERVISED INDIVIDUAL'S TESTING POSITIVE FOR CONTROLLED SUBSTANCES,
26 WITHOUT A PHYSICIAN'S PRESCRIPTION, OR ALCOHOL IN VIOLATION OF A
27 PAROLE ORDER, AS APPLICABLE.

1 (E) THE NUMBER OF PAROLE VIOLATIONS SPECIFICALLY RELATED TO A
2 SUPERVISED INDIVIDUAL'S FAILURE TO APPEAR AT A SCHEDULED MEETING
3 WITH HIS OR HER SUPERVISING AGENT.

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