

SENATE BILL No. 16

January 18, 2017, Introduced by Senators PROOS, O'BRIEN, COLBECK,
KNOLLENBERG, JONES, BOOHER, HORN, BRANDENBURG, SCHUITMAKER,
HANSEN, KOWALL, GREGORY, JOHNSON and WARREN 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) "CONFINEMENT SANCTION" MEANS A VIOLATION SANCTION
RESULTING IN CONFINEMENT IN A DEPARTMENTAL FACILITY OR LOCAL COUNTY
JAIL FOR NOT MORE THAN 30 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) "NONCONFINEMENT SANCTION" MEANS A VIOLATION SANCTION THAT
4 DOES NOT RESULT IN IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OR
5 THE COUNTY JAIL, INCLUDING, BUT NOT LIMITED TO, ANY OF THE
6 FOLLOWING:

7 (i) EXTENSION OF THE PERIOD OF SUPERVISION WITH THE TIME
8 PERIOD PROVIDED BY LAW.

9 (ii) ADDITIONAL REPORTING AND COMPLIANCE REQUIREMENTS.

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

11 (iv) COUNSELING OR TREATMENT FOR BEHAVIORAL HEALTH PROBLEMS,
12 INCLUDING SUBSTANCE ABUSE.

13 (E) "PAROLE SANCTION CERTAINTY PROGRAM" MEANS THE PROGRAM
14 CREATED UNDER THIS CHAPTER THAT UTILIZES A SET OF ESTABLISHED
15 SANCTIONS TO SUPERVISE ELIGIBLE OFFENDERS THAT HAVE BEEN PLACED ON
16 PAROLE.

17 (F) "PAROLE SANCTION CERTAINTY SUPERVISION" MEANS BEING PLACED
18 ON PAROLE SUBJECT TO CONDITIONS AND SANCTIONS AS SET FORTH IN THE
19 PAROLE SANCTION CERTAINTY PROGRAM CREATED UNDER THIS CHAPTER.

20 (G) "SANCTION" MEANS ANY OF A WIDE RANGE OF NONPRISON OFFENDER
21 ACCOUNTABILITY MEASURES AND PROGRAMS, INCLUDING, BUT NOT LIMITED
22 TO, ELECTRONIC SUPERVISION TOOLS, DRUG AND ALCOHOL TESTING OR
23 MONITORING, DAY OR EVENING REPORTING CENTERS, RESTITUTION CENTERS,
24 FORFEITURE OF EARNED COMPLIANCE CREDITS, REHABILITATIVE
25 INTERVENTIONS SUCH AS SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT,
26 COUNSELING, REPORTING REQUIREMENTS TO SUPERVISION OFFICERS,
27 COMMUNITY SERVICE OR WORK CREWS, SECURE AND UNSECURE RESIDENTIAL

1 TREATMENT FACILITIES OR HALFWAY HOUSES, AND SHORT-TERM OR
2 INTERMITTENT INCARCERATION.

3 (H) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS PLACED
4 ON PAROLE SUBJECT TO PAROLE SANCTION CERTAINTY SUPERVISION UNDER
5 THIS CHAPTER.

6 (I) "SUPERVISING AGENT" MEANS THE PAROLE AGENT ASSIGNED TO
7 DIRECTLY SUPERVISE AN INDIVIDUAL ON PAROLE SANCTION CERTAINTY
8 SUPERVISION.

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

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

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

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

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

13 SEC. 58C. (1) SUBJECT TO SUBSECTION (3), THE PAROLE SANCTION
14 CERTAINTY PROGRAM DESCRIBED IN SECTION 58B MUST SET FORTH A LIST OF
15 PRESUMPTIVE SANCTIONS FOR THE MOST COMMON TYPES OF SUPERVISION
16 VIOLATIONS, INCLUDING, BUT NOT LIMITED TO, FAILING TO REPORT,
17 FAILING TO PARTICIPATE IN A REQUIRED PROGRAM OR SERVICE, FAILING TO
18 COMPLETE COMMUNITY SERVICE, OR FAILING TO REFRAIN FROM THE USE OF
19 ALCOHOL OR A CONTROLLED SUBSTANCE. THE SYSTEM OF SANCTIONS MUST
20 TAKE INTO ACCOUNT FACTORS SUCH AS THE SEVERITY OF THE VIOLATION,
21 THE IMPACT OF THE VIOLATION ON THE SAFETY OR WELL-BEING OF THE
22 CRIME VICTIM, IF APPLICABLE, THE SUPERVISED INDIVIDUAL'S PREVIOUS
23 CRIMINAL RECORD, THE NUMBER AND SEVERITY OF ANY PREVIOUS
24 SUPERVISION VIOLATIONS, THE SUPERVISED INDIVIDUAL'S ASSESSED RISK
25 LEVEL, THE SUPERVISED INDIVIDUAL'S NEEDS AS ESTABLISHED BY A
26 VALIDATED RISK AND NEEDS ASSESSMENT, AND THE EXTENT TO WHICH
27 SANCTIONS WERE IMPOSED FOR PREVIOUS VIOLATIONS. THE SYSTEM MUST

1 ALSO DEFINE POSITIVE REINFORCEMENTS THAT SUPERVISED INDIVIDUALS
2 WILL RECEIVE FOR COMPLYING WITH THEIR CONDITIONS OF SUPERVISION.

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

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

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

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

23 (A) A NONCONFINEMENT SANCTION.

24 (B) A CONFINEMENT SANCTION.

25 (C) PAROLE REVOCATION PROCEEDINGS UNDER SECTION 40A AND
26 POSSIBLE INCARCERATION FOR FAILURE TO COMPLY WITH A CONDITION OF
27 SUPERVISION IF THAT FAILURE CONSTITUTES A SIGNIFICANT RISK TO PRIOR

1 VICTIMS OF THE SUPERVISED INDIVIDUAL OR THE COMMUNITY AT LARGE AND
2 THE RISK CANNOT BE APPROPRIATELY MANAGED IN THE COMMUNITY.

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

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

13 (A) MODIFY THE CONDITIONS OF PAROLE SANCTION CERTAINTY
14 SUPERVISION FOR THE LIMITED PURPOSE OF IMPOSING SANCTIONS.

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

23 (2) A SUPERVISING AGENT INTENDING TO MODIFY THE CONDITIONS OF
24 PAROLE SANCTION CERTAINTY SUPERVISION BY IMPOSING A SANCTION SHALL
25 ISSUE TO THE SUPERVISED INDIVIDUAL A NOTICE OF THIS INTENDED
26 SANCTION. THE NOTICE MUST INFORM THE SUPERVISED INDIVIDUAL OF EACH
27 VIOLATION ALLEGED, THE DATE OF EACH VIOLATION, AND THE SANCTION TO

1 BE IMPOSED.

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

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

13 (5) A SANCTION MUST NOT BE IMPOSED FOR ANY VIOLATION OF PAROLE
14 THAT MAY WARRANT AN ADDITIONAL, SEPARATE FELONY CHARGE. HOWEVER, A
15 SANCTION MAY BE IMPOSED IF THE VIOLATION IS ONLY BASED UPON THE
16 INDIVIDUAL'S TESTING POSITIVE FOR A CONTROLLED SUBSTANCE.

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

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

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

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

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

3 SEC. 58G. (1) THE DEPARTMENT SHALL APPOINT AN INDIVIDUAL FROM
4 WITHIN THE DEPARTMENT TO REVIEW CONFINEMENT SANCTIONS RECOMMENDED
5 BY SUPERVISING AGENTS IN THE 5 COUNTIES WHERE THE PAROLE SANCTION
6 CERTAINTY PROGRAM IS IMPLEMENTED ON A BIENNIAL BASIS TO ASSESS ANY
7 DISPARITIES THAT MAY EXIST AMONG THE AGENTS' USE OF CONFINEMENT
8 SANCTIONS, EVALUATE THE EFFECTIVENESS OF THE SANCTION AS MEASURED
9 BY THE SUPERVISED INDIVIDUALS' SUBSEQUENT CONDUCT, AND MONITOR THE
10 IMPACT ON THE AGENCY'S NUMBER AND TYPE OF REVOCATIONS FOR
11 VIOLATIONS OF THE CONDITIONS OF SUPERVISION.

12 (2) THE INDIVIDUAL APPOINTED UNDER SUBSECTION (1) SHALL REPORT
13 ALL OF THE FOLLOWING ON A BIENNIAL BASIS TO THE HOUSE AND SENATE
14 COMMITTEES CONCERNED WITH CORRECTIONS ISSUES:

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

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

19 (C) THE NUMBER OF PAROLE REVOCATIONS.

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

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

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.