

Act No. 1  
Public Acts of 2017  
Approved by the Governor  
March 30, 2017  
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March 31, 2017  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

**Introduced by Senators Proos, O'Brien, Colbeck, Knollenberg, Jones, Booher, Horn, Brandenburg, Schuitmaker, Hansen, Kowall, Gregory, Johnson and Warren**

# **ENROLLED SENATE BILL No. 16**

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," (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 guide and inform efficient and effective correctional services that have been shown to reduce recidivism.

(d) “Graduated sanction” means any of a wide range of offender accountability measures and programs, including, but not limited to, electronic supervision tools, drug and alcohol testing and monitoring, day or evening reporting centers, community service or work crew, rehabilitative interventions such as substance abuse or mental health treatment, reporting requirements, residential treatment, counseling, confinement, and incarceration.

(e) “Nonconfinement sanction” means a violation sanction that does not result in imprisonment in the custody of the department or the county jail, including, but not limited to, any of the following:

(i) Extension of the period of supervision with the time period provided by law.

(ii) Additional reporting and compliance requirements.

(iii) Testing for the use of controlled substances or alcohol.

(iv) Counseling or treatment for behavioral health problems, including substance abuse.

(f) “Parole sanction certainty program” means the program created under this chapter that utilizes a set of established graduated sanctions to supervise eligible offenders that have been placed on parole sanction certainty supervision.

(g) “Parole sanction certainty supervision” means being placed on parole subject to conditions and sanctions as set forth in the parole sanction certainty program created under this chapter.

(h) “Supervised individual” means an individual who is placed on parole subject to parole sanction certainty supervision under this chapter.

(i) “Supervising agent” means the parole agent assigned to directly supervise an individual on parole sanction certainty supervision.

(j) “Validated risk and needs assessment” means a tool or tools adopted by the department that have been validated as to the effectiveness of the tool in determining a supervised individual’s likely risk of reoffense, violent reoffense, or both, as well as the offender’s criminogenic needs.

Sec. 58b. (1) The parole sanction certainty program is established within the department. By January 1, 2018, the department shall adopt a system of graduated sanctions for violations of conditions of parole for offenders supervised under the parole sanction certainty program. The graduated sanctions adopted under this section must utilize evidence-based practices that have been demonstrated to reduce recidivism and increase compliance with the conditions of parole based on the identified risk and needs of the supervised individual as determined by a validated risk and needs assessment. To the extent possible, the system of graduated sanctions must be uniform throughout the state for all parolees subject to parole sanction certainty supervision.

(2) Subject to subsection (3), the department shall, in consultation with the parole board, determine which offenders shall be placed in the community on parole under the parole sanction certainty program.

(3) The department shall implement the parole sanction certainty program created in subsection (1) in at least the 5 counties in this state in which the greatest number of individuals convicted of criminal violations are sentenced to incarceration under the jurisdiction of the department, as determined by the department’s annual statistical report. The department may implement the parole sanction certainty program in additional counties in this state.

(4) The department shall consult with and seek recommendations from local law enforcement agencies in the counties where the parole sanction certainty program is implemented, including the sheriff’s departments, circuit courts, county prosecutor’s offices, and community corrections programs in developing a plan for implementing the parole sanction certainty program in the county.

Sec. 58c. (1) Subject to subsection (3), the parole sanction certainty program described in section 58b must set forth a list of presumptive graduated sanctions for the most common types of supervision violations, including, but not limited to, failing to report, failing to participate in a required program or service, failing to complete community service, failing to refrain from the use of alcohol or a controlled substance, failing to pay fines, fees, or victim restitution, violating a protective or no-contact order, refusing to complete a drug test, possessing a firearm, or being involved in felony-related activity. The system of graduated sanctions must take into account factors such as the severity of the violation, the impact of the violation on the safety or well-being of the crime victim, if applicable, the supervised individual’s previous criminal record, the number and severity of any previous supervision violations, the supervised individual’s assessed risk level, the supervised individual’s needs as established by a validated risk and needs assessment, and the extent to which graduated sanctions were imposed for previous violations. The system must also define positive reinforcements that supervised individuals will receive for complying with their conditions of supervision.

(2) Subject to subsection (3), the department shall establish a process to review and to approve or reject, before imposition, graduated sanctions that deviate from those that are otherwise prescribed under subsection (1).

(3) A supervised individual who violates the terms of his or her parole sanction certainty supervision, but whose parole will not be revoked under section 40a as a result of the violation, may be subject to a confinement sanction and

be confined in a correctional or detention facility for not more than 60 days. After a supervised individual completes his or her confinement under this subsection, he or she may be returned to parole sanction certainty supervision under the same terms of supervision under which he or she was previously supervised, or under new parole sanction certainty supervision terms at the discretion of the department.

(4) Nothing in this chapter prevents the arrest of a parolee under section 39 or the revocation of parole under section 40a.

Sec. 58d. A supervised individual is subject to 1 of the following for violating any condition of his or her parole sanction certainty supervision:

- (a) A nonconfinement sanction.
- (b) A confinement sanction.
- (c) Parole revocation proceedings under section 40a and possible incarceration for failure to comply with a condition of supervision.

Sec. 58e. During the initial orientation with his or her supervising agent, a supervised individual must be informed in person of the conditions of his or her parole sanction certainty supervision. The supervised individual shall also sign a written agreement to abide by those conditions or to be immediately subject to graduated sanctions or to parole revocation under section 40a, whichever is determined by the department to be appropriate.

Sec. 58f. (1) The department may do either of the following if an individual violates a condition of parole sanction certainty supervision:

(a) Modify the conditions of parole sanction certainty supervision for the limited purpose of imposing graduated sanctions.

(b) Place the individual in a state or local correctional or detention facility or residential center for a period specified in the list of presumptive graduated sanctions under section 58c(1) or as otherwise provided under section 58c(2) and (3). If an individual is to be placed in a local correctional or detention facility, he or she must only be placed in a facility that agrees to take the individual and with which the department has an existing reimbursement agreement.

(2) A supervising agent intending to modify the conditions of parole sanction certainty supervision by imposing a graduated sanction shall issue to the supervised individual a notice of the intended graduated sanction. The notice must inform the supervised individual of each violation alleged, the date of each violation, and the graduated sanction to be imposed.

(3) The imposition of a sanction must comport with the system of graduated sanctions adopted by the department under sections 58b and 58c. The failure of the supervised individual to comply with a graduated sanction constitutes a violation of parole. Graduated sanctions specified and imposed are immediately effective.

(4) A graduated sanction that involves confinement in a correctional or detention facility is subject to section 58c(3). If the supervised individual is employed, the department shall, to the extent feasible, impose the confinement sanction for weekend days or other days or times when the supervised individual is not working.

(5) If an individual successfully completes conditions imposed under a graduated sanction, the department shall not revoke the assigned term of parole sanction certainty supervision or impose additional graduated sanctions for the same violation.

(6) If a supervising agent modifies the conditions of parole sanction certainty supervision by imposing a graduated sanction, the supervising agent shall do all of the following:

- (a) Deliver a copy of the modified conditions to the supervised individual.
- (b) File a copy of the modified conditions with the department.
- (c) Note the date of delivery of the copy in the supervised individual's file.

Sec. 58g. (1) The department shall review the use of confinement sanctions by supervising agents in the counties where the parole sanction certainty program is implemented on a biannual basis to assess any disparities that may exist among the supervising agents' use of confinement sanctions and evaluate the effectiveness of the sanction as measured by the supervised individuals' subsequent conduct.

(2) The department shall report all of the following on a biannual basis to the house and senate committees concerned with corrections issues:

(a) The number of supervised individuals whom the department, in consultation with the parole board, has referred for supervision under the parole sanction certainty program.

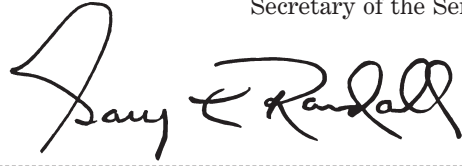
(b) The number of supervised individuals currently being supervised under the parole sanction certainty program.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor