

SENATE BILL No. 1140

May 23, 2012, Introduced by Senators PROOS, GREEN, MARLEAU, ROBERTSON, EMMONS, PAPPAGEORGE, HANSEN, BRANDENBURG and HILDENBRAND and referred to the Committee on Appropriations.

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. 48. THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
"PAROLE SWIFT AND SURE SANCTIONS ACT".

SEC. 48A. AS USED IN THIS CHAPTER:

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

(B) "GRADUATED SANCTION" MEANS ANY OF A WIDE RANGE OF
NONPRISON OFFENDER ACCOUNTABILITY MEASURES AND PROGRAMS, INCLUDING,
BUT NOT LIMITED TO, ELECTRONIC SUPERVISION TOOLS, DRUG AND ALCOHOL
TESTING OR MONITORING, DAY OR EVENING REPORTING CENTERS,

1 RESTITUTION CENTERS, FORFEITURE OF EARNED COMPLIANCE CREDITS,
2 REHABILITATIVE INTERVENTIONS SUCH AS SUBSTANCE ABUSE OR MENTAL
3 HEALTH TREATMENT, REPORTING REQUIREMENTS TO SUPERVISION OFFICERS,
4 COMMUNITY SERVICE OR WORK CREWS, SECURE OR UNSECURE RESIDENTIAL
5 TREATMENT FACILITIES OR HALFWAY HOUSES, AND SHORT-TERM OR
6 INTERMITTENT INCARCERATION.

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

14 (D) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS PLACED
15 ON PAROLE SUBJECT TO SWIFT AND SURE SUPERVISION UNDER THIS CHAPTER.

16 (E) "SUPERVISING AGENT" MEANS THE PAROLE AGENT ASSIGNED TO
17 DIRECTLY SUPERVISE AN INDIVIDUAL ON SWIFT AND SURE SUPERVISION.

18 (F) "SWIFT AND SURE SUPERVISION" MEANS BEING PLACED ON PAROLE
19 SUBJECT TO CONDITIONS AND SANCTIONS AS SET FORTH IN THIS CHAPTER.

20 SEC. 48B. (1) BY JANUARY 1, 2013, THE DEPARTMENT SHALL ADOPT A
21 SYSTEM OF GRADUATED SANCTIONS FOR VIOLATIONS OF CONDITIONS OF SWIFT
22 AND SURE SUPERVISION. TO THE EXTENT POSSIBLE, THE SYSTEM OF
23 GRADUATED SANCTIONS SHALL BE UNIFORM THROUGHOUT THE STATE FOR ALL
24 PAROLEES SUBJECT TO SWIFT AND SURE SUPERVISION. THE DEPARTMENT
25 SHALL ALSO COORDINATE ITS EFFORTS WITH THE STATE COURT
26 ADMINISTRATIVE OFFICE TO ENSURE THAT SANCTIONS IMPOSED ON
27 INDIVIDUALS WHILE ON SWIFT AND SURE SUPERVISION UNDER THE

1 JURISDICTION OF EITHER THE DEPARTMENT OR THE COURT ARE, TO THE
2 EXTENT POSSIBLE, UNIFORM BASED UPON THE OFFENSE AND OFFENDER
3 CHARACTERISTICS OF THE INDIVIDUAL WHO IS PLACED ON SWIFT AND SURE
4 SUPERVISION AND THE NATURE OF ANY VIOLATION COMMITTED BY THAT
5 INDIVIDUAL WHILE HE OR SHE IS ON SWIFT AND SURE SUPERVISION.

6 (2) THE DEPARTMENT SHALL DETERMINE WHICH OFFENDERS SHALL BE
7 PLACED IN THE COMMUNITY ON SWIFT AND SURE SUPERVISION UNDER THIS
8 CHAPTER.

9 SEC. 48C. (1) THE SYSTEM OF SWIFT AND SURE SUPERVISION
10 DESCRIBED IN SECTION 48B SHALL SET FORTH A LIST OF PRESUMPTIVE
11 SANCTIONS FOR THE MOST COMMON TYPES OF SUPERVISION VIOLATIONS,
12 INCLUDING, BUT NOT LIMITED TO, FAILING TO REPORT, FAILING TO PAY
13 FINES, FEES, OR VICTIM RESTITUTION, FAILING TO PARTICIPATE IN A
14 REQUIRED PROGRAM OR SERVICE, FAILING TO COMPLETE COMMUNITY SERVICE,
15 VIOLATING A PROTECTIVE OR NO-CONTACT ORDER, OR FAILING TO REFRAIN
16 FROM THE USE OF ALCOHOL OR A CONTROLLED SUBSTANCE. THE SYSTEM OF
17 SANCTIONS SHALL TAKE INTO ACCOUNT FACTORS SUCH AS THE SEVERITY OF
18 THE VIOLATION, THE SUPERVISED INDIVIDUAL'S PREVIOUS CRIMINAL
19 RECORD, THE NUMBER AND SEVERITY OF ANY PREVIOUS SUPERVISION
20 VIOLATIONS, THE SUPERVISED INDIVIDUAL'S ASSESSED RISK LEVEL, AND
21 THE EXTENT TO WHICH GRADUATED SANCTIONS WERE IMPOSED FOR PREVIOUS
22 VIOLATIONS. THE SYSTEM ALSO SHALL DEFINE POSITIVE REINFORCEMENTS
23 THAT SUPERVISED INDIVIDUALS WILL RECEIVE FOR COMPLYING WITH THEIR
24 CONDITIONS OF SUPERVISION.

25 (2) THE DEPARTMENT SHALL ESTABLISH A PROCESS TO REVIEW AND TO
26 APPROVE OR REJECT, BEFORE IMPOSITION, GRADUATED SANCTIONS THAT
27 DEVIATE FROM THOSE THAT ARE OTHERWISE PRESCRIBED UNDER SUBSECTION

1 (1) .

2 SEC. 48D. A SUPERVISED INDIVIDUAL SHALL BE SUBJECT TO 1 OF THE
3 FOLLOWING FOR VIOLATING ANY CONDITION OF HIS OR HER SWIFT AND SURE
4 SUPERVISION:

5 (A) SANCTIONS OTHER THAN PAROLE REVOCATION AND INCARCERATION
6 AS APPROPRIATE TO THE SEVERITY OF THE VIOLATION BEHAVIOR, THE RISK
7 OF FUTURE CRIMINAL BEHAVIOR BY THE OFFENDER, AND THE NEED FOR, AND
8 AVAILABILITY OF, INTERVENTIONS THAT MAY ASSIST THE OFFENDER TO
9 REMAIN COMPLIANT WITH HIS OR HER CONDITIONS OF RELEASE AND TO BE
10 CRIME-FREE IN THE COMMUNITY.

11 (B) PAROLE REVOCATION PROCEEDINGS UNDER SECTION 40A AND
12 POSSIBLE INCARCERATION FOR FAILURE TO COMPLY WITH THE CONDITION OF
13 SUPERVISION WHEN THAT FAILURE CONSTITUTES A SIGNIFICANT RISK TO
14 PRIOR VICTIMS OF THE SUPERVISED INDIVIDUAL OR THE COMMUNITY AT
15 LARGE AND THE RISK CANNOT BE APPROPRIATELY MANAGED IN THE
16 COMMUNITY.

17 SEC. 48E. BEFORE BEING PLACED ON SWIFT AND SURE SUPERVISION
18 SUBJECT TO GRADUATED SANCTIONS, THE SUPERVISED INDIVIDUAL SHALL BE
19 INFORMED IN PERSON OF THE CONDITIONS OF THAT SWIFT AND SURE
20 SUPERVISION. THE SUPERVISED INDIVIDUAL SHALL ALSO SIGN A WRITTEN
21 AGREEMENT TO ABIDE BY THOSE CONDITIONS OR TO BE IMMEDIATELY SUBJECT
22 TO GRADUATED SANCTIONS WITHOUT A HEARING OR TO PAROLE REVOCATION
23 UNDER SECTION 40A, WHICHEVER IS DETERMINED BY THE DEPARTMENT TO BE
24 APPROPRIATE.

25 SEC. 48F. (1) THE DEPARTMENT MAY DO EITHER OF THE FOLLOWING IF
26 AN INDIVIDUAL VIOLATES ANY CONDITION OF SWIFT AND SURE SUPERVISION:

27 (A) MODIFY THE CONDITIONS OF SWIFT AND SURE SUPERVISION FOR

1 THE LIMITED PURPOSE OF IMPOSING GRADUATED SANCTIONS.

2 (B) PLACE THE INDIVIDUAL IN A STATE OR LOCAL CORRECTIONAL OR
3 DETENTION FACILITY OR RESIDENTIAL CENTER FOR A PERIOD SPECIFIED IN
4 THE LIST OF PRESUMPTIVE SANCTIONS OR AS OTHERWISE PROVIDED UNDER
5 SECTION 48C(2).

6 (2) A SUPERVISING AGENT INTENDING TO MODIFY THE CONDITIONS OF
7 SWIFT AND SURE SUPERVISION BY IMPOSING A GRADUATED SANCTION SHALL
8 ISSUE TO THE SUPERVISED INDIVIDUAL A NOTICE OF THIS INTENDED
9 SANCTION. THE NOTICE SHALL INFORM THE SUPERVISED INDIVIDUAL OF EACH
10 VIOLATION ALLEGED, THE DATE OF EACH VIOLATION, AND THE GRADUATED
11 SANCTION TO BE IMPOSED.

12 (3) THE IMPOSITION OF A GRADUATED SANCTION BY A SUPERVISING
13 AGENT SHALL COMPORT WITH THE SYSTEM OF GRADUATED SANCTIONS ADOPTED
14 BY THE DEPARTMENT UNDER SECTION 48B. THE FAILURE OF THE SUPERVISED
15 INDIVIDUAL TO COMPLY WITH A SANCTION CONSTITUTES A VIOLATION OF
16 PAROLE. SANCTIONS SPECIFIED SHALL BECOME IMMEDIATELY EFFECTIVE.

17 (4) IF A GRADUATED SANCTION INVOLVES CONFINEMENT IN A
18 CORRECTIONAL OR DETENTION FACILITY, CONFINEMENT IS SUBJECT TO
19 APPROVAL BY THE CHIEF SUPERVISING AGENT, BUT THE SUPERVISED
20 INDIVIDUAL MAY BE TAKEN INTO CUSTODY FOR A PERIOD NOT TO EXCEED 4
21 HOURS WHILE THE APPROVAL IS SOUGHT. IF THE SUPERVISED INDIVIDUAL IS
22 EMPLOYED, THE SUPERVISING AGENT SHALL, TO THE EXTENT FEASIBLE,
23 IMPOSE THE SANCTION FOR WEEKEND DAYS OR OTHER DAYS OR TIMES WHEN
24 THE SUPERVISED INDIVIDUAL IS NOT WORKING.

25 (5) A GRADUATED SANCTION SHALL NOT BE IMPOSED FOR ANY
26 VIOLATION OF PAROLE THAT COULD WARRANT AN ADDITIONAL, SEPARATE
27 FELONY CHARGE. HOWEVER, A GRADUATED SANCTION MAY BE IMPOSED IF THE

1 VIOLATION IS ONLY BASED UPON THE INDIVIDUAL'S TESTING POSITIVE FOR
2 A CONTROLLED SUBSTANCE.

3 (6) IF AN INDIVIDUAL SUCCESSFULLY COMPLETES CONDITIONS IMPOSED
4 UNDER A GRADUATED SANCTION, THE DEPARTMENT SHALL NOT REVOKE THE
5 ASSIGNED TERM OF SWIFT AND SURE SUPERVISION OR IMPOSE ADDITIONAL
6 SANCTIONS FOR THE SAME VIOLATION.

7 (7) IF A SUPERVISING AGENT MODIFIES THE CONDITIONS OF SWIFT
8 AND SURE SUPERVISION BY IMPOSING A GRADUATED SANCTION, THE
9 SUPERVISING AGENT SHALL DO ALL OF THE FOLLOWING:

10 (A) DELIVER A COPY OF THE MODIFIED CONDITIONS TO THE
11 SUPERVISED INDIVIDUAL.

12 (B) FILE A COPY OF THE MODIFIED CONDITIONS WITH THE
13 DEPARTMENT.

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

16 SEC. 48G. THE CHIEF SUPERVISING AGENT SHALL REVIEW CONFINEMENT
17 SANCTIONS RECOMMENDED BY SUPERVISING AGENTS ON A QUARTERLY BASIS TO
18 ASSESS ANY DISPARITIES THAT MAY EXIST AMONG AGENTS, EVALUATE THE
19 EFFECTIVENESS OF THE SANCTION AS MEASURED BY THE SUPERVISED
20 INDIVIDUALS' SUBSEQUENT CONDUCT, AND MONITOR THE IMPACT ON THE
21 AGENCY'S NUMBER AND TYPE OF REVOCATIONS FOR VIOLATIONS OF THE
22 CONDITIONS OF SUPERVISION.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 1141

25 of the 96th Legislature is enacted into law.