

SENATE BILL No. 1141

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 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding chapter XIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIA

SEC. 1. THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
"PROBATION SWIFT AND SURE SANCTIONS ACT".

SEC. 2. AS USED IN THIS CHAPTER:

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

(B) "FELONY" MEANS A CRIME SPECIFICALLY DESIGNATED TO BE A
FELONY OR THAT IS PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.

(C) "GRADUATED SANCTION" MEANS ANY OF A WIDE RANGE OF NONJAIL
OFFENDER ACCOUNTABILITY MEASURES AND PROGRAMS, INCLUDING, BUT NOT

1 LIMITED TO, ELECTRONIC SUPERVISION TOOLS, DRUG AND ALCOHOL TESTING
2 OR MONITORING, DAY OR EVENING REPORTING CENTERS, RESTITUTION
3 CENTERS, FORFEITURE OF EARNED COMPLIANCE CREDITS, REHABILITATIVE
4 INTERVENTIONS SUCH AS SUBSTANCE ABUSE OR MENTAL HEALTH TREATMENT,
5 REPORTING REQUIREMENTS TO SUPERVISING AGENTS, COMMUNITY SERVICE OR
6 WORK CREWS, SECURE OR UNSECURE RESIDENTIAL TREATMENT FACILITIES OR
7 HALFWAY HOUSES, AND SHORT-TERM OR INTERMITTENT INCARCERATION.

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

15 (E) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS PLACED
16 ON PROBATION BY THE COURT SUBJECT TO SWIFT AND SURE SUPERVISION
17 UNDER THIS CHAPTER.

18 (F) "SUPERVISING AGENT" MEANS THE PROBATION AGENT ASSIGNED TO
19 DIRECTLY SUPERVISE AN INDIVIDUAL ON SWIFT AND SURE SUPERVISION.

20 (G) "SWIFT AND SURE SUPERVISION" MEANS BEING PLACED ON
21 PROBATION BY THE COURT FOR THE COMMISSION OF A FELONY SUBJECT TO
22 CONDITIONS AND SANCTIONS AS SET FORTH IN THIS CHAPTER.

23 SEC. 3. (1) BY JANUARY 1, 2013, THE STATE COURT ADMINISTRATIVE
24 OFFICE SHALL ADOPT A SYSTEM OF GRADUATED SANCTIONS FOR VIOLATIONS
25 OF CONDITIONS OF SWIFT AND SURE SUPERVISION. TO THE EXTENT
26 POSSIBLE, THE SYSTEM OF GRADUATED SANCTIONS SHALL BE UNIFORM
27 THROUGHOUT THE STATE FOR ALL PROBATIONERS SUBJECT TO SWIFT AND SURE

1 SUPERVISION. THE STATE COURT ADMINISTRATIVE OFFICE SHALL ALSO
2 COORDINATE ITS EFFORTS WITH THE DEPARTMENT OF CORRECTIONS TO ENSURE
3 THAT SANCTIONS IMPOSED ON INDIVIDUALS WHILE ON SWIFT AND SURE
4 SUPERVISION UNDER THE JURISDICTION OF EITHER THE COURT OR THE
5 DEPARTMENT ARE, TO THE EXTENT POSSIBLE, UNIFORM BASED UPON THE
6 OFFENSE AND OFFENDER CHARACTERISTICS OF THE INDIVIDUAL WHO IS
7 PLACED ON SWIFT AND SURE SUPERVISION AND THE NATURE OF ANY
8 VIOLATION COMMITTED BY THAT INDIVIDUAL WHILE HE OR SHE IS ON SWIFT
9 AND SURE SUPERVISION.

10 (2) THE STATE COURT ADMINISTRATIVE OFFICE SHALL CONSULT WITH
11 THE STATE COMMUNITY CORRECTIONS BOARD WHEN ESTABLISHING INITIAL
12 PROGRAMMING AND ELIGIBILITY REQUIREMENTS UNDER THIS CHAPTER.

13 SEC. 4. (1) THE SYSTEM OF SWIFT AND SURE SUPERVISION SHALL SET
14 FORTH A LIST OF PRESUMPTIVE SANCTIONS FOR THE MOST COMMON TYPES OF
15 SUPERVISION VIOLATIONS, INCLUDING, BUT NOT LIMITED TO, FAILING TO
16 REPORT, FAILING TO PAY FINES, FEES, OR VICTIM RESTITUTION, FAILING
17 TO PARTICIPATE IN A REQUIRED PROGRAM OR SERVICE, FAILING TO
18 COMPLETE COMMUNITY SERVICE, VIOLATING A PROTECTIVE OR NO-CONTACT
19 ORDER, OR FAILING TO REFRAIN FROM THE USE OF ALCOHOL OR A
20 CONTROLLED SUBSTANCE. THE SYSTEM OF SANCTIONS SHALL TAKE INTO
21 ACCOUNT FACTORS SUCH AS THE SEVERITY OF THE VIOLATION, THE
22 SUPERVISED INDIVIDUAL'S PREVIOUS CRIMINAL RECORD, THE NUMBER AND
23 SEVERITY OF ANY PREVIOUS SUPERVISION VIOLATIONS, THE SUPERVISED
24 INDIVIDUAL'S ASSESSED RISK LEVEL, AND THE EXTENT TO WHICH GRADUATED
25 SANCTIONS WERE IMPOSED FOR PREVIOUS VIOLATIONS. THE SYSTEM ALSO
26 SHALL DEFINE POSITIVE REINFORCEMENTS THAT SUPERVISED INDIVIDUALS
27 WILL RECEIVE FOR COMPLYING WITH THEIR CONDITIONS OF SUPERVISION.

1 (2) THE STATE COURT ADMINISTRATIVE OFFICE SHALL ESTABLISH A
2 PROCESS TO REVIEW AND TO APPROVE OR REJECT, BEFORE IMPOSITION,
3 GRADUATED SANCTIONS THAT DEVIATE FROM THOSE THAT ARE OTHERWISE
4 PRESCRIBED UNDER SUBSECTION (1).

5 SEC. 5. A SUPERVISED INDIVIDUAL SHALL BE SUBJECT TO 1 OF THE
6 FOLLOWING FOR VIOLATING ANY CONDITION OF HIS OR HER SWIFT AND SURE
7 SUPERVISION:

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

14 (B) PROBATION REVOCATION PROCEEDINGS AND POSSIBLE
15 INCARCERATION FOR FAILURE TO COMPLY WITH THE CONDITION OF
16 SUPERVISION WHEN THAT FAILURE CONSTITUTES A SIGNIFICANT RISK TO
17 PRIOR VICTIMS OF THE SUPERVISED INDIVIDUAL OR THE COMMUNITY AT
18 LARGE AND THE RISK CANNOT BE APPROPRIATELY MANAGED IN THE
19 COMMUNITY.

20 SEC. 6. (1) THE JUDGE OF THE COURT HAVING JURISDICTION OF THE
21 CASE SHALL DETERMINE THE CONDITIONS OF SWIFT AND SURE SUPERVISION
22 AND MAY IMPOSE AS A CONDITION OF SWIFT AND SURE SUPERVISION THAT
23 THE PERSON OR AGENCY SUPERVISING THE INDIVIDUAL MAY, IN ACCORDANCE
24 WITH SECTION 7 OF THIS CHAPTER, IMPOSE GRADUATED SANCTIONS ADOPTED
25 BY THE COURT FOR VIOLATIONS OF THE CONDITIONS OF SWIFT AND SURE
26 SUPERVISION.

27 (2) BEFORE BEING PLACED ON SWIFT AND SURE SUPERVISION SUBJECT

1 TO GRADUATED SANCTIONS, THE SUPERVISED INDIVIDUAL SHALL BE INFORMED
2 IN PERSON OF THE CONDITIONS OF THAT SWIFT AND SURE SUPERVISION. THE
3 SUPERVISED INDIVIDUAL SHALL ALSO SIGN A WRITTEN AGREEMENT TO ABIDE
4 BY THOSE CONDITIONS OR TO BE IMMEDIATELY SUBJECT TO GRADUATED
5 SANCTIONS WITHOUT A HEARING OR TO PROBATION REVOCATION, WHICHEVER
6 IS DETERMINED BY THE COURT TO BE APPROPRIATE.

7 SEC. 7. (1) THE COURT MAY DO EITHER OF THE FOLLOWING IF AN
8 INDIVIDUAL VIOLATES ANY CONDITION OF SWIFT AND SURE SUPERVISION:

9 (A) MODIFY THE CONDITIONS OF SWIFT AND SURE SUPERVISION FOR
10 THE LIMITED PURPOSE OF IMPOSING GRADUATED SANCTIONS.

11 (B) PLACE THE INDIVIDUAL IN A JAIL OR DETENTION FACILITY OR
12 RESIDENTIAL CENTER FOR A PERIOD SPECIFIED IN THE LIST OF
13 PRESUMPTIVE SANCTIONS OR AS OTHERWISE PROVIDED UNDER SECTION 4(2)
14 OF THIS CHAPTER.

15 (2) A SUPERVISING AGENT INTENDING TO MODIFY THE CONDITIONS OF
16 SWIFT AND SURE SUPERVISION BY IMPOSING A GRADUATED SANCTION SHALL
17 ISSUE TO THE SUPERVISED INDIVIDUAL A NOTICE OF THIS INTENDED
18 SANCTION. THE NOTICE SHALL INFORM THE SUPERVISED INDIVIDUAL OF EACH
19 VIOLATION ALLEGED, THE DATE OF EACH VIOLATION, AND THE GRADUATED
20 SANCTION TO BE IMPOSED.

21 (3) THE IMPOSITION OF A GRADUATED SANCTION BY A SUPERVISING
22 AGENT SHALL COMPORT WITH THE SYSTEM OF GRADUATED SANCTIONS ADOPTED
23 BY THE SUPERVISING AUTHORITY UNDER SECTION 3 OF THIS CHAPTER. THE
24 FAILURE OF THE SUPERVISED INDIVIDUAL TO COMPLY WITH A SANCTION
25 CONSTITUTES A VIOLATION OF PROBATION. SANCTIONS SPECIFIED SHALL
26 BECOME IMMEDIATELY EFFECTIVE.

27 (4) IF A GRADUATED SANCTION INVOLVES CONFINEMENT IN A JAIL OR

1 DETENTION FACILITY, CONFINEMENT IS SUBJECT TO APPROVAL BY THE CHIEF
2 SUPERVISING AGENT, BUT THE SUPERVISED INDIVIDUAL MAY BE TAKEN INTO
3 CUSTODY FOR A PERIOD NOT TO EXCEED 4 HOURS WHILE THE APPROVAL IS
4 SOUGHT. IF THE SUPERVISED INDIVIDUAL IS EMPLOYED, THE SUPERVISING
5 AGENT SHALL, TO THE EXTENT FEASIBLE, IMPOSE THE SANCTION FOR
6 WEEKEND DAYS OR OTHER DAYS OR TIMES WHEN THE SUPERVISED INDIVIDUAL
7 IS NOT WORKING.

8 (5) A GRADUATED SANCTION SHALL NOT BE IMPOSED FOR ANY
9 VIOLATION OF PROBATION THAT COULD WARRANT AN ADDITIONAL, SEPARATE
10 FELONY CHARGE. HOWEVER, A GRADUATED SANCTION MAY BE IMPOSED IF THE
11 VIOLATION IS ONLY BASED UPON THE INDIVIDUAL'S TESTING POSITIVE FOR
12 A CONTROLLED SUBSTANCE.

13 (6) IF AN INDIVIDUAL SUCCESSFULLY COMPLETES CONDITIONS IMPOSED
14 UNDER A GRADUATED SANCTION, THE COURT SHALL NOT REVOKE THE ASSIGNED
15 TERM OF SWIFT AND SURE SUPERVISION OR IMPOSE ADDITIONAL SANCTIONS
16 FOR THE SAME VIOLATION.

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

20 (A) DELIVER A COPY OF THE MODIFIED CONDITIONS TO THE
21 SUPERVISED INDIVIDUAL.

22 (B) FILE A COPY OF THE MODIFIED CONDITIONS WITH THE COURT.

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

25 SEC. 8. THE CHIEF SUPERVISING AGENT SHALL REVIEW CONFINEMENT
26 SANCTIONS RECOMMENDED BY SUPERVISING AGENTS ON A QUARTERLY BASIS TO
27 ASSESS ANY DISPARITIES THAT MAY EXIST AMONG AGENTS, EVALUATE THE

1 EFFECTIVENESS OF THE SANCTION AS MEASURED BY THE SUPERVISED
2 INDIVIDUALS' SUBSEQUENT CONDUCT, AND MONITOR THE IMPACT ON THE
3 AGENCY'S NUMBER AND TYPE OF REVOCATIONS FOR VIOLATIONS OF THE
4 CONDITIONS OF SUPERVISION.

5 Enacting section 1. This amendatory act does not take effect
6 unless all of the following bills of the 96th Legislature are
7 enacted into law:

8 (a) Senate Bill No.____ or House Bill No.____ (request no.
9 05717'12 a).

10 (b) Senate Bill No. 1140.

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