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ELECTRONIC MONITORING PROGRAM (EMP)

AUTHORITY

California Code Section(s):

Penal Code Sections 1203.016, 1203.017, 1203.018, 1210.7 through 1210.16,
1230.1(d), 3450(b)(8)(C), 3454(b), 4019, and 4532

Related Probation Officer Procedures:

Section E Probation Enforcement Procedures
Section F Use of Force, Arming and Officer Safety
Section G General Supervision Procedures
Section H Adult Supervision Procedures

Related Probation PRIORS Manual:

A4 PRIORS Instructions for Electronic Monitoring and Home
Supervision Programs

INTRODUCTION / BACKGROUND

Section 1210.7 PC authorizes the Chief Probation Officer to utilize continuous electronic monitoring to electronically monitor the whereabouts of persons on probation under specified conditions included in the law. Further, Section 1203.016 PC provides authority to the County Board of Supervisors to designate a Correctional Administrator (which may be the Chief Probation Officer) who may offer a program for offenders to “voluntarily” or “involuntarily” participate in a home detention program during their sentence in lieu of confinement in the county jail. Section 1203.017 PC also authorizes the Correctional Administrator to determine if jail conditions necessitate the release of sentenced offenders with misdemeanor convictions to home detention with electronic monitoring.

On October 1, 2011, the Public Safety Realignment Act, also referred to as AB 109, became operative and authorized the use of electronic monitoring for other offender groups. Section 1203.018 PC provides authority to the Correctional Administrator and Jail Administrator to release detainees to electronic monitoring in lieu of bail under certain circumstances. Section 3454(b) PC authorizes the use of continuous electronic monitoring of an offender under Post Release Community Supervision (PRCS) in the same manner as described in Section 1210.7 PC, and Section 3450(b)(8)(C) PC authorizes EMP as a “community based punishment” for PRCS offenders. In addition, Section 1203.016(b) PC was amended to allow the Correctional Administrator to involuntarily place felony offenders serving a commitment in jail or county prison on electronic monitoring. Lastly, Section 1230.1(d) PC provides the use of electronic monitoring for any local needs deemed appropriate by the Community Corrections Partnership (CCP) and the County Board of Supervisors.

Commencing with FY 2006/2007, the El Dorado County Board of Supervisors designated the Chief Probation Officer as the “Correctional Administrator” per Section 1203.016 PC with authority to operate a home detention program. The Probation Department initiated the program, the “Electronic Monitoring Program” (EMP) on August 1, 2006. The Board of Supervisors’

enumerated resolution authorizing/approving the Chief Probation Officer to administer the Electronic Monitoring Program is number 251-2006.

Sections 1203.016(d)(1) PC, 1203.017(d)(1) PC, and 1203.018(e) PC require that the rules and regulations and administrative policy of the Electronic Monitoring Program shall be written and reviewed on an annual basis by the County Board of Supervisors and the Chief Probation Officer, as the Correctional Administrator for the program. (To meet the annual review requirement, it shall be the responsibility of the Department EMP Manager to assure annual review of the program, as required above, is initiated in May to be accomplished by July first of each year.)

PROGRAM PURPOSE / MISSION

Sections 1203.016(j) PC, 1203.017(i) PC, and 1203.018(n) PC include it is the intent of the legislature that the home detention program (EMP) shall maintain the highest public confidence, credibility, and public safety. The Probation Department, on behalf of the Board of Supervisors, and in partnership with the Superior Court and Sheriff's Department, will meet this intent by providing professional EMP services pursuant to the following mission and goals:

- The Probation Department operates the EMP to enhance community safety by providing a supervised alternative to incarceration for local adult inmates. This alternative to incarceration will assist the Sheriff's Department in safely managing the jail inmate population and overcrowding issues in the jail facilities county-wide. The EMP emphasizes public safety while relieving jail overcrowding and costs associated with inmate housing and medical needs, while achieving accountability, rehabilitation and victim support by providing qualified offenders the opportunity to be contributing community members as they complete sentences within our community.
- The EMP provides supervision for both voluntary and involuntary participants pursuant to applicable law, with community safety being paramount. Community safety, rehabilitation, and jail population management are primary goals of the EMP.
- The Chief Probation Officer, as the EMP Correctional Administrator, has the sole responsibility and authority regarding the acceptance of sentenced offenders voluntarily admitted to the program; the Sheriff has sole authority in regard to offenders placed on Involuntary EMP.
- Staffing of the EMP will address needs throughout the county, with Deputy Probation Officers providing EMP assessments and services on the West Slope and in South Lake Tahoe.

GENERAL PROVISIONS

All offenders must be under the jurisdiction of the El Dorado County Superior Court, Probation Department or Sheriff's Department. Neither cases from other jurisdictions nor out-of-state cases will be served. Offenders living in California out of county that are sentenced or awaiting sentencing in El Dorado County Superior Courts may be considered for the EMP on a case by case basis and based on availability of the equipment and the unique circumstances of the offender.

Offenders who fail to follow program requirements, rules, and/or fail to appear as directed by the Court or a probation officer for appointments may be determined ineligible for the EMP by the Probation Department.

All offenders supervised on EMP shall follow all rules and regulations of the program established by the Correctional Administrator with program approval by the Board of Supervisors. The rules shall include, but are not limited to:

- Remaining in the interior of the residence as directed,
- Allow program and law enforcement staff access to the residence to assure program compliance, and
- Submit to use of the electronic monitoring equipment.

To assure program compliance, as EMP is a custody program in lieu of jail, offenders shall submit to warrantless search and seizure conditions and alcohol/drug testing conditions during the term of EMP to assure neither unlawful use of drugs nor any use of alcohol while under EMP supervision.

The County of El Dorado, the Probation Department, and the Sheriff's Department shall not be held liable for any expense resulting from any injury or illness incurred by an offender while on any program of EMP.

TYPES OF EMP

There are four (4) types of electronic monitoring programs, which will be discussed below:

1. Voluntary EMP, pursuant to Section 1203.016 PC
2. Involuntary EMP, pursuant to Section 1203.016 PC and Section 1203.17 PC
3. In Lieu of Bail EMP, pursuant to Section 1203.18 PC
4. Pre-Trial Offenders ordered by the Superior Court

1. Voluntary EMP (1203.016 PC)

This procedure requires Voluntary EMP offenders to be minimum security inmates and/or low risk offenders in order to be placed in the EMP. All Voluntary EMP offenders must reside within El Dorado County. Evaluation of this criteria will be completed by an EMP Deputy Probation Officer, utilizing application information, Court and jail records, probation records, and by the completion of the Probation Department's approved risk assessment tool. Offenders with records of poor conduct in the jail facilities and/or poor performance under community supervision may be excluded from the program as ineligible, as determined by the Probation Department. All applicants assessed to be inappropriate for EMP services will be excluded from the program, subject to appeal, which is discussed in the "Appeals" section below.

No EMP applicant shall be admitted to Voluntary EMP without completing the appropriate COMPAS assessment unless the assessment is waived by Court order. All applicants with a COMPAS "Supervision Recommendation" of medium or high are disqualified from Voluntary EMP services. Applicants with a COMPAS "Supervision Recommendation" of "Administrative Override" shall be handled in the same manner as specified in Probation Officer Procedures Section H14, for offenders under the supervision of the Probation Officer.

The Superior Court may exclude by Court order certain offenders from the Voluntary EMP program. Any offender with an order from the Court excluding EMP access is disqualified from Voluntary EMP.

Electronic monitoring equipment will be used in all approved cases; therefore, all offenders must have a residence and all residents within the home must agree to and/or understand the offender's EMP terms and conditions (form #404M, as indicated below).

Screening by Clerical Staff

Pursuant to the direction of the Superior Court, the Probation Department provides Alternative Sentencing Pre-Application review for all offenders referred by the Court. Those offenders the Court determines may be considered for alternative sentencing, which may include both EMP supervision and the Sheriff's Work Program, are provided a Superior Court Referral to Probation Department for Alternative Sentencing Evaluation form (#414) and are directed to report to the Probation Department following the Court hearing. Upon reporting, the defendant is screened by reception staff for appropriateness for EMP and/or Work Program and referred appropriately, by utilizing forms #416, 418, and 421M (VOL). Following the screening, reception staff completes then provides a letter, form #417M (VOL), to the referring Court confirming the status of the offender's alternative sentencing application.

Application Procedure

Those offenders who meet the criteria and provisions of the Voluntary EMP pursuant to Section 1203.016 PC will be considered upon timely receipt by the Probation Department of a complete and signed application packet and required application fee payment.

An application packet consists of the following forms:

- Application Packet Checklist, #401M (VOL)
- Applicant Handout, #402M (VOL)
- Application, #403 (VOL)
- Resident Verification, #404M (VOL)
- Employment Agreement, #405M (VOL)
- Drug Use Information / Agreement, #406M (VOL)

Application packets are available at the Probation Department website, at each Probation Office and both jail facilities (for in-custody offenders). Applications completed and submitted in-custody will be forwarded by jail staff to the Probation Department.

Applications must be completed and all attachments included in order to be accepted for processing by the Probation Department. Applications may be mailed or personally delivered to the Probation Office in Shingle Springs or South Lake Tahoe. Each application must include payment of a non-refundable \$25.00 application fee, payable to the El Dorado County Probation Department. Non-payment of the application fee will result in disqualification from Voluntary EMP. Clerical staff shall send the offender the "Return Application for Fee Letter," form #400 (VOL).

The Superior Court, when not prohibiting Voluntary EMP for an offender, will generally grant applicants not less than thirty (30) days to arrange for EMP services prior to the mandatory report to jail date. The Superior Court has directed that when applicants are granted time to apply for EMP services, the offender shall report to the Probation Department within five (5) calendar days of sentencing to apply for EMP. The completed application packet is due to Probation five (5) days thereafter. For out-of custody applicants pending a jail commitment, applications must be received by the Probation Department twenty (20) calendar days prior to the

required reporting date to jail. Every effort will be made by the Probation Department to process applications in a timely manner. **However, the offender shall report to jail as required by the Court not later than the final jail reporting date unless the defendant receives written acceptance into the EMP by the Probation Department.**

Once an application and payment from an applicant is received by clerical staff, a case is opened in PRIORS and an EMP file is made and submitted directly to the EMP DPO.

EMP DPO Assessment

All applications are reviewed by the EMP DPO for eligibility for Voluntary EMP services. Because EMP is voluntary and involves certain rights of the offender and waiver of rights, the application and required forms must be signed by the applicant.

The EMP DPO shall:

- Review EMP eligibility criteria as it applies to the applicant's case
- Review Superior Court sentencing order for eligibility
- Assure no Court ordered exclusion from EMP
- Assure El Dorado County residency
- Review jail and probation file, when applicable
- Review CII, FBI, and DMV records
- Assure no warrants and/or pending charges
- Assure no prohibitive convictions (serious or violent felonies, domestic violence, sexual offenses, felony DUI)
- Assure no prohibitive jail conduct
- Assure other adults in household have signed and agreed to EMP requirements
- Verify reported employment
- Contact victim(s), correctional staff, former assigned DPO, as appropriate

All offenders with the following convictions are ineligible for Voluntary EMP:

- Current or prior felony listed in Section 667.5 or Section 1192.7(c) PC (serious and violent felonies)
- Current convictions of Section 273.5 PC or Section 243(e)(1) PC, felony or misdemeanor
- Sexual offense convictions (except Section 261.5 PC)
- Current conviction is a felony DUI

The El Dorado County Jail's classification of inmates includes:

- Medium risk: Medium risk classifications are eligible for EMP assessment as long as no other disqualifying factor is determined.
- Maximum risk: All maximum risk inmates are excluded from EMP eligibility.
- Administrative segregation and protective custody: Administrative segregation and protective custody inmates, with supervisory approval, may be reviewed on a case by case basis for EMP eligibility, depending on the reasons for such a classification.

Assessment Interview

If, upon review, it appears the applicant is eligible for Voluntary EMP, the EMP DPO shall contact the applicant for an assessment interview. During the assessment interview appointment, all aspects of the program are discussed with the applicant, including terms and conditions, fees,

commitment length, suitability of applicant's residence, etc. The EMP DPO will also complete the COMPAS El Dorado Primary Risk/Needs Assessment. Further, the applicant shall submit to a urine test for drug/alcohol use. When the applicant leaves the interview, he/she knows if he/she will be accepted for Voluntary EMP, depending on the results of urine sample, or denied, depending on case by case factors revealed during the interview. Failure to report as directed for the interview appointment is grounds for EMP denial.

(Note: Applicants shall not be excluded from Voluntary EMP when determined by the Probation Department that he/she is not able to pay program supervision fees.)

Intake / Acceptance

If the applicant provided a urine sample testing negative for drug or alcohol usage and is accepted for Voluntary EMP, the EMP DPO shall schedule an intake appointment for the offender to begin EMP. This appointment may take place in the office or in the offender's home. The EMP DPO will ensure the applicant signs the completed EMP Terms and Conditions, form #411 (VOL), discussing all EMP rules and the EMP fees requirement, as well as the EMP Commitment Schedule, form #412. The EMP DPO shall refer to the "EMP Intake / Initial Home Visit" section of this procedure when completing the intake/acceptance process.

An applicant accepted for EMP services shall receive written confirmation; said confirmation shall be copied to the Superior Court, Jail, District Attorney's Office, and Counsel for the offender, form #407 (VOL). Additionally, the offender shall receive written reporting instructions for EMP services (form #408).

Once all requirements are satisfied, an applicant may be placed under supervision of the Voluntary EMP. If detained in jail at the time of acceptance, the EMP DPO will submit the "Memorandum to the Jail Regarding Release," form #410 (VOL), to the jail directing the release of the offender to the EMP.

The EMP DPO shall complete all necessary entries in PRIORS, as stated in Probation PRIORS Manual section A4, PRIORS Instructions for Electronic Monitoring and Home Supervision Programs.

Denial of EMP

If denied for Voluntary EMP, the applicant shall be noticed by the EMP DPO as soon as possible by mail, and by mail and telephone if the determination is less than seven (7) calendar days from the applicant's report to jail date for any sentence(s) stayed pending EMP approval. The EMP DPO shall send the notice of denial (Acceptance/Denial Letter), form #407 (VOL), and shall inform the offender why he/she is denied, in the "reason" section of form #407 (VOL). Form #407 (VOL) shall be copied to the Court, Jail, District Attorney's Office and Counsel for the offender.

Incomplete applications may be returned by the EMP DPO to the defendant by mail along with notice of denial (Acceptance/Denial Letter), form #407 (VOL). If the denial is solely due to the application packet being incomplete, the offender may re-submit a correctly completed application without going through the appeal process, subject to the mandatory application submission dates included/required within the EMP guidelines; the EMP DPO shall inform the offender of this in the "reason" section of form #407 (VOL).

For an offender who applies and is denied Voluntary EMP because he/she does not reside in El Dorado County, the EMP DPO shall return the application to the offender via mail as well as form #420 (VOL), which provides information on private providers who might provide electronic monitoring.

Fees

Section 1203.016(g) PC authorizes the Board of Supervisors to prescribe an EMP services program administrative fee, subject to the participant's ability to pay. No applicant shall be excluded from Voluntary EMP based solely upon the inability to pay supervision fees. If the EMP DPO determines an offender is unable to pay, the EMP DPO shall make a "General Case Note" entry in PRIORS.

In addition to the EMP application fee (\$25.00) collected at the time of application for EMP, each Voluntary EMP participant shall also be required to reimburse the Probation Department for a portion of EMP supervision costs in the amount of \$10.00 per day, including the first and last day of supervision when EMP equipment is installed and returned.

Pursuant to Sections 1203.016 PC, 1210.15 PC, 1203.1b PC, and 1208.2 PC, the Probation Department will collect the EMP supervision fee after each offender has first satisfied all other outstanding restitution orders, base fines, state and local penalties, and restitution fines. Although collected following the successful payment of other financial requirements, the supervision fee will be charged upon delivery of services by the Probation Department.

The assigned EMP DPO shall notice the designated Fiscal Division staff member of the requirement to collect the application fee (when applicable) and supervision fees related to EMP services. Additionally, the designated Fiscal Division staff member shall be noticed of the intake date and release date of each participant from EMP for the purpose of determining the amount of supervision fees due; the EMP DPO will complete the EMP Commitment Schedule, form #412 (VOL), which must be signed by the offender at the intake/acceptance appointment when signing all required documentation, and submit to the designated Fiscal Division staff member.

Appeals

All appeals for Voluntary EMP will be reviewed by the Supervising Deputy Probation Officer assigned supervision of the EMP on either the West Slope or in and South Lake Tahoe. Appeals by denied applicants shall be submitted to the Probation Department in writing for consideration, and may be submitted up to ten (10) days following the notice of denial, form #407 (VOL). The Probation Department retains all jurisdiction regarding enrollment on the EMP.

Upon receipt of written appeal, the assigned SDPO shall review the appeal, rule on the appeal and notice the applicant in writing of the decision on the appeal within five (5) judicial days. All decisions by the Probation Department under the appeal process are final. EMP appeals do not require review by the Court, nor does the offender have any right to Court review.

2. Involuntary EMP (1203.016 PC, 1203.017 PC and 1230.1(d) PC)

Section 1203.016 PC and Section 1203.017 PC provides for a program of involuntary EMP supervision for adult felony and misdemeanor offenders serving commitments in jail. Both PC Sections also provides the Correctional Administrator with the authority to determine the selection criteria for Involuntary EMP supervision; the Sheriff and the Correctional

Administrator will work in cooperation to minimize the risks to the community by releasing misdemeanor offenders to Involuntary EMP pursuant to Section 1203.017 PC, and lower risk felony offenders pursuant to Section 1203.016 PC, prior to executing involuntary electronic monitoring for higher risk populations serving a commitment in county jail or county prison.

Further, as a result of the Public Safety Realignment Act, when necessary, the Sheriff of El Dorado County, or his/her designee, may establish a list of inmates who have been sentenced in the county jail or county prison to be released to a program of electronic monitoring to relieve the population of the jail facilities. The Sheriff shall have sole discretion for the determination of jail population impacts, the generation of the list, and to establish the minimum number of inmates to be released to Involuntary EMP. Mandatory selection criteria includes, but is not limited to, sentenced felony and misdemeanor offenders who need to be released from jail prior to completion of their sentence to manage the jail population.

The Correctional Administrator, upon the notification by the Sheriff of the lack of available jail bed space, shall authorize the EMP SDPO to transfer sentenced felony or misdemeanor offenders from jail to EMP in order to manage the jail population. The EMP DPO shall coordinate with jail classification staff to determine the need for such transfers as directed.

The Sheriff shall prepare a list of inmates for release, and notify the EMP SDPO, or his/her designee. The SDPO shall provide the list of inmates to the EMP DPO, and discuss a plan for immediate release, depending on the number of inmates. Prior to release, the EMP DPO shall contact the inmate at the jail, in order to secure the electronic monitor on the inmate and complete the Background Information form (#403M INVOL-ILOB). The EMP DPO will schedule an appointment either in the office or at the inmate's residence as soon as feasibly possible in order to complete the remaining paperwork as listed below. The EMP DPO will submit the Release To Electronic Monitoring form (#415) to the jail directing the release of the offender to the EMP. The inmate will then be released upon authorization by the EMP DPO.

Once the EMP DPO returns to the Probation Office, the Background Information form shall be submitted to clerical staff in order to create a case in PRIORS.

Enrollment / Paperwork

Offenders on Involuntary EMP, under the authority of the Correctional Administrator and the Sheriff, are not applicants as the program is mandated by law. Therefore, neither application, nor any application fee is necessary. Instead, at the scheduled appointment after release from jail, an offender on Involuntary EMP will be provided an Enrollment Packet to complete, consisting of the following forms:

- Enrollment Packet Checklist, #401 (INVOL-ILOB)
- Participant Handout, #402M (INVOL-ILOB)
- Drug Use Information, #406M (INVOL-ILOB)

An offender on Involuntary EMP will be provided written rules, guidelines and EMP conditions; the offender shall be informed in writing that he/she shall comply with the rules and regulations of the program. Therefore, the offender must indicate that he/she understands the rules and guidelines by signing form #411 (INVOL-ILOB), Terms and Conditions.

PRCS offenders assigned to EMP as a “community based punishment” are being assigned Involuntary EMP and are also exempt from an EMP application or fee.

Once an Enrollment Packet is completed and Terms and Conditions are signed, an offender may be placed under supervision of Involuntary EMP.

Board of State and Community Corrections (BSCC) Reports

Section 1203.017(h)(1) PC requires that the Correctional Administrator report specified information regarding Involuntary EMP participants to the BSCC. The assigned EMP DPO shall complete the mandatory BSCC reporting Involuntary Home Detention (IHD) Form for submission to BSCC on a quarterly basis. In completing the BSCC reporting form, each offender will be entered once on the form, on the date that he/she completes EMP, regardless of success or failure. At the end of each quarter, the IHD Form will be submitted to the supervisor of the EMP DPO for approval, then returned to the EMP DPO for retention and submission to BSCC. Additional instructions are included by BSCC on the IHD Form for review and compliance.

3. In Lieu of Bail EMP (1203.018 PC)

Section 1203.018 PC states inmates pending disposition of charges may be released from the jail to EMP supervision in lieu of bail if the inmate meets specific criteria; specifically, the offender shall:

- not have any outstanding warrants or holds, and
- have been in custody for minimum of thirty (30) days from the date of arraignment for a misdemeanor offense, or
- have been in custody pending disposition for a minimum of sixty (60) days for a felony offense from the date of arraignment.

The Correctional Administrator, upon notification by the Sheriff or his/her designee, shall authorize the EMP SDPO, or his/her designee, to release offenders in lieu of bail. When the EMP DPO is directed to release a detainee under this circumstance, the EMP DPO shall ensure the detainee is placed on electronic monitoring equipment at the time the detainee is released.

A detainee on In Lieu of Bail EMP is not an applicant; therefore, neither an application nor any application fee is necessary. A detainee on In Lieu of Bail EMP will be provided an Enrollment Packet to complete, and will be provided written rules, guidelines and Terms and Conditions; a detainee on In Lieu of Bail EMP shall complete the same forms and in the same manner described above, for Involuntary EMP. The EMP DPO will submit the Release To Electronic Monitoring form (#415) to the jail directing the release of the detainee to the EMP.

4. Pre-Trial Offenders ordered by the Superior Court

The Superior Court may order pre-trial offenders to participate in EMP supervision provided by the Probation Department, pursuant to conditions imposed by Court order pending trial or further hearing. As Pre-Trial EMP is provided under Court ordered authority, no assessment, application or application fee is required. A Pre-Trial Offender on EMP will be provided an Enrollment Packet to complete, and will be provided written rules, guidelines and Terms and Conditions; a Pre-Trial Offender shall complete the same forms and in the same manner described above, for Involuntary EMP. The EMP DPO will submit the Release To Electronic Monitoring form (#415) to the jail directing the release of the offender to the EMP.

EMP INTAKE / INITIAL HOME VISIT

The intake process for EMP services shall be completed at the defendant's residence at a time designated by the EMP DPO. EMP equipment will be used in all cases and shall be installed no later than the end of the business day of the EMP intake process. For in-custody transfers from jail to Voluntary EMP, the intake and EMP equipment installation shall be completed on the same day as the release authorization of the defendant from jail to EMP.

During the initial home visit/intake process, the EMP DPO shall conduct a search of the residence to assure a safe and secure location for supervision under the EMP, assuring no weapons, drugs, alcohol, or other prohibited items.

Instructions for the installation and removal of EMP equipment are provided by the EMP equipment contractors and through contractor provided training.

Upon verified successful installation of the EMP equipment, the EMP DPO shall assure all scheduled authorizations for any authorized departures from the residence are addressed with documentation and are reported to the EMP equipment service.

The offender shall be noticed of any required office visits with the EMP DPO.

Any offender who does not reside in El Dorado County and is released to Involuntary or In Lieu of Bail EMP shall be reviewed with the supervisor to determine an appropriate supervision plan.

DATE OF RELEASE / TIME CREDITS

The EMP DPO shall document the date of intake, install, and length of commitment to EMP, noting the date of release under a program of full compliance. The offender shall be noticed of the planned authorized date of release and release instructions. Upon release, the EMP DPO shall report to the residence and remove the EMP equipment, unless other arrangements are directed by the EMP DPO.

In determining the date of release from the EMP commitment, conduct sentencing credits per Section 4019 PC are addressed as follows:

Voluntary EMP

Voluntary EMP participants are not entitled to conduct sentencing credits pursuant to findings by the Court of Appeal, Third District, California (People v. Silva 114 Cal. App. 4th 122, 7 Cal. Rptr. 3d 473; 2003). Therefore, no conduct credits will be awarded and participants will serve the entire length of their sentences, minus any actual time previously served in jail and any credits previously awarded by the jail.

Involuntary EMP

Involuntary EMP participants are entitled to conduct sentencing credits pursuant to Section 1203.017(a) PC. Therefore, in involuntary cases, the EMP DPO shall determine and award conduct credits as if the participant was actually serving his/her term in jail.

In Lieu of Bail EMP and Pre-Trial Offenders ordered by the Superior Court

Conduct credits for participants on In Lieu of Bail EMP and Pre-Trial Offenders ordered by the Superior Court will be determined by the Court at the time of sentencing as legislation was silent on this issue and no case law has yet been established addressing this issue.

EMP PARTICIPANT RULES

Offenders detained at home on EMP are serving Court ordered sentences. They shall not be allowed outside of the interior premises of their residences for any unauthorized reason (Sections 1203.016(b)(1) PC, 1203.017(b)(1) PC, and 1203.018(d)(1) PC).

Sections 1203.016(f) PC, 1203.017(f) PC, and 1203.018(h) PC authorize that on EMP offenders may be allowed to exit the residence to attend authorized activities limited as follows:

- Seek and maintain employment
- Attend approved counseling, education, and vocational training
- Seek medical and dental care as authorized

Decisions by the EMP DPO to authorize home departures shall be consistent with the law and be made in the interest of community safety.

Failure of an offender to stay within the home as required is subject to escape charges per Section 4532 PC and/or violation procedures and return to custody for the remainder of his/her commitment. Other than documented emergency departures for life safety and/or medical emergencies, an offender shall not leave the residence without prior approval of the EMP DPO. Offenders shall immediately notify the EMP DPO of any such emergency circumstances.

EMP participants, upon their request, shall be allowed to attend one (1) religious service/meeting each week during the term of EMP supervision (Title 15, Article 6, Section 1072 CCR). The EMP DPO shall verify the location and authenticity of the religious service/meeting prior to attendance.

EMP participants with other adults residing within the home will not be allowed authorized home departures for the purpose of purchasing groceries. The other adults will need to make these purchases for the EMP participant. In cases where the EMP participant resides alone, grocery shopping is allowed under very restricted pre-authorized conditions determined by the EMP DPO.

EMP SUPERVISION

The assigned DPO shall supervise offenders on EMP, ensuring compliance to program rules and regulations. Each offender on EMP shall receive random home visits and additional random telephone contacts. For an offender who is authorized to leave the residence during EMP for work, counseling, etc., random field contacts and contacts with the employer shall occur to assure EMP compliance. Although random, an offender will be contacted at a minimum of once per week. During face to face contacts, the assigned DPO shall check EMP equipment to ensure it is working properly and has not been tampered with. Random drug testing as determined by the EMP DPO shall be administered to assure no drug/alcohol use. All contacts and urine samples taken shall be documented in PRIORS.

The EMP DPO shall check the monitoring company's automated reports (i.e. internet based applications, e-mails, text messages, etc.) for problem issues or violations on a daily basis. If a problem issue or violation is received, the EMP DPO shall take appropriate action. Documentation of all problem issues or violations and appropriate actions shall be documented in PRIORS prior to the end of the business day. In addition, the EMP DPO shall document in PRIORS that the check of the automated reports occurred, even when there are no violations reported.

EMP VIOLATIONS

Pursuant to Section 1203.016(c) PC, 1203.017(c) PC, and Sections 1203.018(d)(4) PC/1203.018(f) PC, the Correctional Administrator in charge of the county correctional facility where the detainee/offender was released or peace officer supervising the detainee/offender may, without further order of the Court, remove a detainee/offender from EMP and place him/her in custody for non-compliance of any condition of the EMP or if the electronic devices are unable to function properly in the designated place of home detention. All detainees/offenders removed from EMP under these circumstances shall receive written notification detailing the reason for removal.

All reported violations of EMP shall be investigated within one (1) business day and enforcement action taken as determined appropriate, to include arrest for determined violations. Documentation (PRIORS entries and Incident Reports) regarding incidents and/or violations shall be completed and retained in the detainee's/offender's file and documented in PRIORS no later than the end of the following business day.

As EMP is custody in lieu of a jail commitment or bail, and for Pre-Trial Offenders ordered by the Superior Court, determined violations shall result in return to jail custody. EMP Officers are authorized to arrest and return violators of EMP to jail without warrant and without further hearing of the Court (Sections 1203.016 (b)(4) and (c) PC, 1203.017 (b)(4) and (c) PC, and 1203.018(f) PC) to serve the remainder of the original sentence or until further order of the Court if released on EMP in lieu of bail or if a Pre-Trial Offender. Alternative sanctions in place of arrest for minor violations of the EMP shall be approved by a supervisor and shall be the rare exception considering community safety and the interests of the Superior Court.

The EMP DPO shall follow all laws and Probation Department policies and procedures when arresting and transporting EMP violators to jail. Upon booking a detainee/offender into the jail, officers shall notify jail staff that the booking involves a "return to custody as EMP failure" as the jail staff will have previously transferred the detainee's/offender's case to "interrupted sentence." The detainee/offender shall serve the remainder of the original sentence, with credit for time served and any applicable conduct credit. Any change to the original sentence or time credits shall be noticed to jail staff in writing by the EMP DPO. The EMP DPO shall complete form #409 (VOL) for Voluntary EMP, form #409 (INVOL) for Involuntary EMP, or form #409 (ILOB) for In Lieu of Bail EMP, depending on the type of electronic monitoring, upon booking of the detainee/offender, which shall be received by the Superior Court, Jail, District Attorney's Office and Counsel for the detainee/offender.

If a detainee/offender absconds from EMP, with whereabouts unknown, the Superior Court, Jail, District Attorney's Office and Counsel for the defendant shall receive written notification (form #409) as soon as possible but no later than the end of the business day. An Incident Report shall

be completed no later than the end of the next business day and retained in all cases as the EMP DPO will need to be prepared to testify at future violation proceedings as required by the Court.

For cases under the supervision of the Probation Department, formal violation/revocation proceedings and request for warrant issuance shall be initiated per Probation Department procedures.

For Summary Court Probationers, the Superior Court will initiate revocation proceedings and issue a warrant of arrest upon receipt of written notice from the Probation Department that the detainee/offender has absconded from EMP, whereabouts unknown. The EMP DPO shall complete form #409 for Voluntary EMP, form #409 (Involuntary EMP) or form #409 (ILOB), depending on the type of electronic monitoring, which shall be received by the Superior Court, Jail, District Attorney's Office and Counsel for the detainee/offender.

When an offender has returned to confinement, the EMP DPO shall complete a revised version of the EMP Commitment Schedule, form #412 (VOL), and submit to the designated Fiscal Division staff member.

SUCCESSFUL COMPLETION

The Superior Court, Jail, District Attorney's Office and Counsel for the detainee/offender shall receive written notice for all sentenced detainees/offenders upon successful completion of any EMP program by completing form #409 for Voluntary EMP, form #409 (Involuntary EMP) or form #409 (ILOB), depending on the type of electronic monitoring.

DAMAGED, LOST OR STOLEN EMP EQUIPMENT

The detainee/offender must agree and/or understand, in writing, to be financially responsible for the loss, theft or damage to any issued EMP equipment. Immediately upon the discovery that EMP equipment has been damaged, lost or stolen, the following shall occur:

1. The EMP DPO will report loss or damage to the EMP equipment vendor.
2. The EMP DPO will remind the detainee/offender of his/her responsibility to pay for the equipment and that he/she will receive a bill from the Probation Department for the cost of the equipment.
3. The EMP DPO will prepare a memo or Incident Report documenting the following (an Incident Report format shall be used if a violation is going to be alleged; otherwise, a Memorandum format shall be used):
 - All relevant facts concerning the loss or damage of the equipment (date of loss, name and case number of the detainee/offender involved, circumstances of loss/damage, efforts to recover lost equipment, etc.).
 - All relevant descriptions of the equipment lost or damaged (manufacturer, description, model and serial number, etc.).
 - The vendor has been notified and the detainee/offender has been notified of the responsibility to pay.
4. After approval of the Memorandum or Incident Report by the supervisor, the supervisor will ensure copies are sent to the CPO, CFO, Division Manager, and EMP Manager.
5. The EMP DPO will make all necessary entries in PRIORS to reflect the above has been completed.
6. The assigned Fiscal Division staff member will send a bill to the offender for the cost of equipment as specified in the current contract with the EMP equipment vendor.

On the West Slope, EMP equipment vender Charles Holland Incorporated LCC (CHI) is an option for EMP participants. Damaged, lost or stolen equipment provided by CHI to EMP participants is not subject to the above process. Rather, any problems with CHI equipment shall be referred immediately to CHI.