

ELECTRONIC MONITORING PROGRAM (ADULT SERVICES) EMP

AUTHORITY:

California Penal Code Section(s) 1203.016 and 1210.7 through 1210.16

Related Probation Department Policies / Procedures:

- SECTION E: Probation Enforcement and Procedures
- SECTION F: Use of Force, Arming and Officer Safety
- SECTION G: General Supervision Procedures
- SECTION H: Adult Supervision Procedures
- K3.1 Vehicles

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 under which “minimum security inmates” and “low risk offenders” committed to county jail may “voluntarily” participate in a home detention program during their sentence in lieu of confinement in the county jail.

Commencing with FY 2006/2007, The El Dorado County Board of Supervisors designated the Chief Probation Officer as the “Correctional Administrator” per 1203.016 PC with authority to operate a home detention program. The Probation Department initiated the program, named “Electronic Monitoring Program” (EMP) August 1, 2006. The Board of Supervisor’s enumerated resolution authorizing / approving the Chief Probation Officer to administer the Electronic Monitoring Program is:

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Section 1203.016(d)(1) PC requires 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 Placerville Office Supervising Deputy Probation Officer assigned to supervise the EMP program, in cooperation with the Adult Unit Supervising Deputy Probation Officer in South Lake Tahoe, to assure annual review of the program as required above, is initiated in May to be accomplished by July 1st each year.)

PROGRAM PURPOSE / MISSION:

Section 1203.016(j) PC lists 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 Electronic Monitoring Program to enhance community safety by providing a supervised alternative to incarceration for adult inmates under the supervision of the Superior Court. This alternative to incarceration will assist the Sheriff's Department in safely managing the jail inmate populations and overcrowding issues in the jail facilities county-wide. The EMP program 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 Court sentences within our community.

The program is voluntary, involving offenders assessed to be both legally eligible and suitable pursuant to the provisions of section 1203.016 PC, with community safety being paramount. Community safety, rehabilitation, jail population management and victim support and restitution collection are primary goals of the EMP program.

The Chief Probation Officer, as the EMP program Correctional Administrator, has the sole responsibility and authority regarding the acceptance of sentenced offenders admitted to the program.

Staffing of the EMP program will address needs throughout the County, with three (3) armed Deputy Probation Officers providing EMP assessments and services, two (2) assigned to the West Slope and one (1) assigned to South Lake Tahoe. The three (3) armed officers will assist the Courts and Sheriff's Department by supervising a caseload of up to sixty (60) offenders county-wide. Supervision will be enhanced with the use of electronic monitoring equipment in each case.

ELIGIBILITY AND SELECTION CRITERIA:

The Probation Department retains the sole authority for admitting offenders to the EMP program. Resources are limited; therefore, in order for admittance of an offender to EMP, there must be an available slot and available electronic surveillance equipment for the applicant. Offender "slots" are currently based upon forty (40) slots on the West Slope and twenty (20) slots in South Lake Tahoe.

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

Electronic monitoring equipment will be used in all approved cases; therefore, all applicants must have a residence with acceptable and accessible phone service. Phone service may not have call forward / call waiting service and may be interrupted at times by the electronic supervision equipment. All residents within the home must agree to the phone use for electronic surveillance, as well as all other EMP terms and conditions.

All applicants must be sentenced and have no pending charges or warrant/holds.

All applicants must reside within El Dorado County as EMP services will only be provided within the County. Additionally, all applicants must have been sentenced by the El Dorado County Superior Court. Neither courtesy cases from other jurisdictions nor out-of-state cases will be served.

Applicants must have a minimum of thirty (30) days and not more than one hundred eighty (180) days of commitment remaining to apply for and be admitted to the EMP program. Rare exceptions to the “30 day / 180 day” rule may be authorized by the assigned EMP Deputy Probation Officer with supervisor approval, to meet special needs of the Courts or Sheriff’s Department. Documentation for such exception shall be retained in the EMP participant’s file.

Section 1203.016 PC requires offenders be minimum security inmates and/or low risk offenders in order to be placed in the EMP program. Evaluation of this criteria will be completed by EMP program Deputy Probation Officers, utilizing application information, Court and jail records, probation records, and by the completion of a risk assessment (see Risk Assessment section to follow). All applicants assessed to be inappropriate for EMP services will be excluded from the program, subject to appeal rights / procedures (to follow).

All offenders with the following convictions are ineligible for EMP:

- Current or prior felony convictions listed in sections 667.5 PC or 1192.7 (c) PC
- Felony and Misdemeanor convictions of 273.5 PC
- All sexual offense convictions
- Convictions for felony Driving Under the Influence (Felony DUI)

Applicants / offenders with records of poor conduct in the jail facilities and/or poor performance under probation supervision may be excluded from the program as ineligible, as determined by the Probation Department.

EMP is a voluntary program for adult offenders committed to jail within El Dorado County. Those candidates who meet the criteria and provisions of the program will be considered upon timely receipt by the Probation Department of a complete, properly filled out and signed application packet and required application fee payment (see application procedures to follow).

Section 1203.016 PC requires that participants must agree to all rules of the program that include, but are not limited to, remaining within the interior of the home as directed, allowing program and law enforcement staff access to the residence, allowing the use of electronic surveillance equipment, and agreement to return to custody to complete jail term for any authorized reason **without further order of the Court.**

All applicants shall agree to submit to urinalysis testing for drug and alcohol use as directed by EMP staff in order to qualify for EMP services. Illegal drug use and alcohol use / consumption during an EMP commitment is prohibited.

Applicants who fail to follow program requirements / rules, and/or fail to appear as directed by the Courts or probation officials for appointments may be determined ineligible for the EMP program by the Probation Department.

APPLICATION PROCEDURE:

Application packets for the EMP program will be available at the Probation Department Field Services offices, both jail facilities, and from the Superior Court Clerk.

Applications must be completed and all attachments included in order to be accepted for processing by the Probation Department. Applications may be mailed to or personally delivered to the Probation Field Offices located in Placerville and South Lake Tahoe (addresses included on application). Each application must include payment of a \$25.00 application fee, payable to the El Dorado County Probation Department. Non-payment of the application fee will result in disqualification from EMP services.

The Superior Court, when not prohibiting EMP for a defendant, 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 defendant 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 defendant 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 program by the Probation Department.**

In-custody applicants may submit an application at any time subject to the requirement of not less than thirty (30) days of commitment nor more than one hundred eighty (180) days of commitment remaining. Applications completed and submitted in-custody will be forwarded by jail staff to the Probation Department EMP program.

Jail officials, in certain cases, may contact the Probation EMP unit to request evaluation of an applicant for EMP services based upon the need for release from jail related to a medical circumstance. Upon receipt of such a request, an EMP DPO shall be assigned to investigate and determine eligibility for EMP release. (see requirements below)

REVIEW OF APPLICATION / ASSESSMENT / SELECTION and/or DENIAL:

All applications upon receipt shall be assigned to an EMP Deputy Probation Officer for review and processing. Incomplete applications will be returned to the defendant by mail along with notice of disqualification. If the disqualification is solely due to the application packet being incomplete, the defendant 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 program guidelines.

The assigned EMP DPO shall review the application packet for eligibility for EMP services. As the EMP program is voluntary and involves certain rights of the defendant and waiver of rights, the application and required forms must be signed by the applicant.

Additional eligibility review is required as follows:

- 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
- Assure original or remaining length of jail commitment is 30 to 180 days
- Review Jail and probation file, when applicable
- Review CII, FBI, 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, correctional staff, former DPO as appropriate

Upon completion of eligibility review, the applicant shall be noticed as soon as possible if disqualified from the EMP program, by mail, and by mail and telephone if the determination is less than seven calendar days from the applicant's report to jail date for sentences stayed pending EMP approval.

Not all applicants who meet the criteria for EMP will be suitable candidates for EMP services. In cases where the EMP DPO determines other factors, such as victim input, community safety and other non-listed factors, disqualify the applicant for EMP, such a disqualification may be made, with the applicant's right to appeal the decision under the EMP appeal procedure.

Special Medical Requests:

For medical related requests for EMP release by jail officials, all eligibility criteria will apply. Suitable candidates may be authorized for EMP release. Medical candidates, who initially do not qualify, may be staffed with the Sentencing Court, on behalf of the jail, with supervisor approval. If the Probation Department determines it appropriate to seek judicial approval and if the Sentencing Court authorizes EMP, the defendant may be processed onto the EMP program. The defendant must agree to transfer to EMP and agree to all EMP rules and regulations.

Assessment Interview:

If upon review, it appears the applicant is eligible for the EMP program, the EMP DPO shall contact the applicant for an assessment interview. During the assessment interview appointment, the applicant shall submit to a urine test for drug/alcohol use. Failure to report as directed for the interview appointment is grounds for EMP disqualification.

During the interview, the EMP DPO will assess the suitability of the applicant's home / residence and reported phone system considering phone system requirements for EMP. Residential factors and/or lack of available phone service are EMP disqualification factors.

RISK ASSESSMENT:

Section 1203.016 PC requires the EMP program is for sentenced offenders determined to be "minimum security inmates" or "low risk offenders."

Minimum Security:

The El Dorado County Jail's classification of inmates includes: medium risk, maximum risk, administrative segregation and protective custody.

All maximum risk inmates are excluded from EMP eligibility. Medium risk classifications are eligible for EMP assessment as long as no other disqualifying factor is determined. Admin. Seg. 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.

Low Risk Offender:

During the assessment interview, the EMP DPO shall complete the offender risk assessment with each EMP applicant.

Low Risk offender means a probationer, as defined by the National Institute of Corrections model probation system. The Chief Probation Officer, as the EMP Correctional Administrator, has authorized the use of the Placer County Probation

Department (with approval) Adult NIC Risk Assessment, for assessing offender risk level. For EMP assessment, a score of twenty-four (24) points or less indicates low risk.

No EMP applicant shall be admitted to the EMP program without completing the Adult NIC Risk Assessment process. All applicants with a risk assessment score of twenty-five (25) points or more are disqualified from EMP services.

Review of EMP Contract / Program Rules / Required Fees:

During the assessment interview, if it is determined an applicant qualifies for EMP services, the EMP DPO shall review with the applicant the completed EMP Contract, EMP program rules, and EMP program fees requirements.

The applicant shall agree to all rules, requirements and fees, and sign all required documentation for enrollment in the EMP program. (Note: applicants shall not be excluded from EMP services when determined by the Probation Department not able to pay program supervision fees.)

Section 1203.016(b) PC requires the applicant shall give their consent in writing to participate in EMP and shall agree in writing to comply with all rules and regulations of the EMP program.

The applicant must also agree in writing to be financially responsible for the loss, theft or damage to any and all issued EMP surveillance equipment issued and is financially responsible for all personal medical costs incurred during EMP supervision.

The County of El Dorado (nor the Probation Department / Sheriff's Department) shall not be held liable for any expense resulting from any injury or illness incurred by an inmate while serving on the Electronic Monitoring Program.

Program Acceptance:

Once complete eligibility review, assessment and contract requirements are satisfied, an applicant may be placed under supervision of the EMP program. The defendant shall be provided with written reporting instructions regarding EMP home confinement and hook-up of EMP equipment. If detained in jail at the time of acceptance, the EMP DPO will submit the EMP release slip to the jail directing the release of the inmate to the EMP Program.

NOTIFICATIONS:

Denial:

All applicants denied enrollment to the EMP program will receive written notice of the denial and reasons for the denial decision. The notice of denial shall be copied to the Court, Jail, District Attorney and Counsel for the defendant. Defendants shall be noticed

of their appeal rights and instructions for appeals, which may be filed up to ten (10) days following the notice of denial.

Appeals:

All appeals will be reviewed by the Supervising Deputy Probation Officer assigned supervision of the EMP program (Placerville and South Lake Tahoe). Appeals by denied applicants shall be submitted to the Probation Department in writing for consideration. The Probation Department retains all jurisdiction regarding enrollment on the EMP program as provided within section 1203.016(d)(2) PC.

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 defendant have any right to Court review.

Acceptance:

Applicants accepted for EMP services shall receive written confirmation; said confirmation shall be copied to the Superior Court, Jail, District Attorney, and Counsel for the defendant. Additionally, the defendant shall receive written reporting instructions for EMP services.

EMP Failures:

The Superior Court, Jail, District Attorney and Counsel for the defendant shall receive written notice of any defendant who fails and/or absconds from EMP. (See EMP Enforcement Section to follow)

EMP INTAKE / INITIAL HOME VISIT / EQUIPMENT INSTALLATION:

The intake process for EMP services shall be completed at the defendant's residence at a time designated by the Probation Department. EMP equipment will be used in all cases and shall be installed not later than the end of the duty day of the EMP intake process. For in-custody transfers from jail to EMP, the intake and EMP equipment installation shall be completed 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 program, assuring no weapons, drugs / alcohol, nor other prohibited items.

Equipment Installation and Removal:

Instructions for the installation and removal of EMP equipment are covered in procedure item section J3.7 through J3.9 of this manual.

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

Time Credits / Date of Release:

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

In determining the date of release from the EMP commitment, conduct credits per 4019 PC are authorized and shall be determined. The Presiding Judge of the Superior Court has authorized the allowance of conduct credits for defendants under EMP supervision.

EMP PROGRAM SUPERVISION AND ENFORCEMENT:

Defendants detained at home on EMP are in custody serving Court ordered sentences. They shall not be allowed outside of the interior premises of their residence for any unauthorized reason (1203.016(b)(1) PC).

Section 1203.016(f) PC allows that the EMP program may allow offenders 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 EMP staff to authorize home departures shall be consistent with the law and be made in the interest of community safety.

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.

Failure of a defendant to stay within the home as required is subject to escape charges per 4532 PC and/or violation procedures and return to custody for remainder of commitment. Other than documented emergency departures for life safety and/or medical emergencies,

defendants shall not leave the residence without prior approval of the EMP DPO. Defendants shall immediately notify the EMP DPO of any such emergency circumstance.

Home / Phone / Field Contacts:

Staff shall supervise offenders on EMP, ensuring compliance to program rules and regulations. Each offender on EMP shall receive a minimum of two random home visits each calendar week during their EMP commitment. Additional random phone contacts shall occur (a minimum of four per week). All contacts shall be documented in the defendant's EMP file. Weekly Random drug testing shall also be administered to assure no drug / alcohol use.

For defendants who are authorized to leave the residence during EMP for work, counseling, etc. random field contacts and contacts with the employer shall occur to assure EMP program compliance.

Incidents / Violations / Documentation:

All reported violations of EMP shall be investigated within one business day and enforcement action taken as determined appropriate, to include arrest for determined violations. Documentation (notes and Incident Reports) regarding incidents and / or violations shall be completed and retained in the EMP file not later than the end of the following business day.

As EMP is custody in lieu of a jail commitment, 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 (1203.016 (b)(4) and (c) PC) to serve the remainder of original sentence. Alternative sanctions in place of arrest for minor violations of the EMP program shall be approved by a supervisor and shall be the rare exception considering community safety and the interests of the Superior Court.

EMP DPO staff shall follow all laws and Probation Department policies and procedures when arresting and transporting EMP violators to jail. Upon booking offenders back into the jail, officers shall notify jail staff the booking involves a "return to custody as EMP failure" as the jail will have transferred the defendant's case to "interrupted sentence." The defendant shall serve the remainder of the original sentence, with credit for time served and conduct credit. Any change to the original sentence or time credits shall be noticed to jail staff in writing by the EMP officer upon re-booking of the defendant.

Upon re-arrest of the defendant, the Superior Court, District Attorney and Counsel of the defendant shall receive written notice.

If a defendant absconds from EMP, with whereabouts unknown, the Superior Court, Jail, District Attorney and Counsel for the defendant shall receive written notification as soon as possible but not later than the end of the business day.

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

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 defendant has absconded from EMP, whereabouts unknown. An Incident Report shall be completed not later than the end of the next business day and retained in all cases when a defendant absconds from EMP as the EMP DPO will need to be prepared to testify at future violation proceedings as required by the Court.

EMP PROGRAM 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 / participant shall be excluded from EMP based solely upon their inability to pay supervision fees.

In addition to the EMP application fee (\$25.00) collected at the time of application for EMP, each 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 defendant 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 department.

Each EMP participant determined with the ability to make payments shall be directed to immediately begin making victim restitution payments while serving on the EMP program. Willful failure to pay restitution and fees as required, when able to pay, upon prior written notification from the Probation Department of said willful failure to pay, may be grounds for removal from EMP and return to jail. (1203.016(b)(4) PC)

The assigned EMP DPO shall notice the accounting division, by completing the Information to Bookkeeper (PO#H) of the requirement to collect the application fee and supervision fees related to EMP services. Additionally, the accounting division shall be noticed of the intake date and release date of each EMP participant from the EMP program for the purpose of determining amount of supervision fees due.

EMP PROGRAM STATISTICS:

Staff members assigned to the EMP program are required to collect, report and retain daily, monthly and quarterly statistics regarding the delivery of EMP services.

For each EMP participant, the assigned EMP DPO shall update the EMP Statistics Log (PO#) with the following information: date of intake, date of release, reason for release (to include success, failure, and abscond) and length of EMP supervision upon release / termination.

The accounting staff member assigned to EMP services shall utilize the reported statistics to complete the following monthly and quarterly statistics: number of program participants, percentage of EMP cases with successful completion, average length of EMP term of supervision per client, and number of adult jail bed days saved by use of EMP.

The quarterly EMP statistics shall be forwarded by the accounting division to the Assistant Chief Probation Officer within fifteen (15) calendar days following the end of each quarterly reporting period.