

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 18, 2020	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
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DEPARTMENT: Probation APPROVING PARTY: Jeffrey D Bosworth PHONE NUMBER: (530) 289-3277

AGENDA ITEM: Annual renewal of probation's pretrial electronic monitoring per 1203.018 PC and post sentence electronic monitoring program per 1203.016 PC

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Electronic Monitoring Rules

BACKGROUND INFORMATION: 1203.018 & 1203.016 PC require annual approval of electronic monitoring programs

FUNDING SOURCE: AB109 & SB678
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2019- _____ Agreement 2019- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD _____	DATE _____
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Probation Department Sierra County



Jeffrey D. Bosworth
Chief Probation
Officer

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Downieville, California 95936
(530) 289-3277
FAX (530) 289-2821

Hon. Charles H. Ervin
Hon. Yvette Durant
Superior Court Judges

DATE: February 4, 2020
TO: Sierra County Board of Supervisors
FROM: Jeff Bosworth
RE: Annual Review of Electronic Monitoring Program Rules

There are several electronic monitoring (EM) programs authorized by statute, not all of which are utilized by Sierra County. Of the three that are used, only the first two listed are required to have the rules reviewed annually by the local board of supervisors. As for the third, the chief probation officer has the intrinsic authority to implement the program for those individuals subject to probation supervision.

In order to be eligible for either of the first two programs, the defendant must be approved by the court, after consultation with the district attorney and the public defender. After consulting with the sheriff, the chief probation officer will make the final decision as to which eligible individuals will participate in the program. It is extremely unlikely that anyone would be placed on either of the first two programs over the objection of the sheriff.

1203.016 PC: In lieu of jail sentence (post sentence)
Initial Approval: Board Resolution 15-010

This particular program allows for certain individuals to serve all or a portion of their jail sentence on electronic monitoring. In order to qualify for participation in Sierra County's Post Sentence Electronic Monitoring Program, the inmate must be serving a local sentence with no holds or outstanding warrants.

1203.018 PC: In lieu of bail (pretrial)
Initial approval: Board Resolution: 13 - 085

This program is targeted at individuals who cannot afford bail, but at the same time do not represent a safety risk to the community, yet for one reason or another are not an appropriate candidate for a release on their own recognizance.

1210.7 PC Persons on Probation

This portion of the program can be used on any individual who is subject to probation supervision. The program is used as an intermediate sanction between counseling and jail, as well as an aid to supervision when we feel the need to constantly monitor the individual's whereabouts.

These programs have been in place for some years now. They continue to save the county money on booking and transportation fees, without having a significant negative effect on public safety. To date, no one has ever been convicted of a new crime committed while on our EM programs.

Last year there were some statutory (SB 190) changes to the rules that removed the department's ability to charge persons age 21 or under within the criminal court who were released to home confinement per 1203.016 PC. All persons within the juvenile court were relieved of fees. That change was adopted by the board and although the law did not relieve persons 21 years old or under on pre-trial monitoring per 1203.018 PC, the board extended the same as a courtesy. We do have the ability to charge an individual over 21 within the criminal court up to \$10 a day for EM services.

This year there have not been any changes to the rules although the rules have been reorganized to make them more user friendly.

For the future, probation along with the court have been working on a new fourth program which is anticipated to be implemented soon. Like the 1210.7 PC program for probation supervision monitoring, this program does not require board authorization or annual review but probation will keep the board apprised with updates in the regular annual process for transparency. The new program falls under the courts and their statutory ability to order reasonable conditions of pre-trial release on own recognizance (OR).

1203.018 PC – Pre Trial Program

ELECTRONIC MONITORING RULES

- I. **Eligibility:** In order to qualify for participation in Sierra County's pre-trial electronic monitoring program, the inmate must be an inmate with no holds or outstanding warrants and one of the following circumstances must apply:
 1. have been held in custody for at least 30 calendar days from the date of arraignment pending disposition of only misdemeanor charges
 2. have been held in custody pending disposition of charges for at least 60 calendar days from the date of arraignment.
 3. The inmate is appropriate for the program based on a determination by the courts and chief probation officer that the inmate's participation would be consistent with the public safety interests of the community.
- II. **Basic Rules and Notices to the Defendant**
 1. I understand that any violations of these conditions may result in a return to custody without further order from the court.
 2. I will not tamper with the Electronic Monitoring equipment that has been issued to me, nor will I permit tampering by any other person.
 3. Intentionally failing to return to the place of detention on time may be punished as escape (4532 PC). Intentionally damaging the equipment may be punishable as escape by force.
 4. Intentionally damaged or lost equipment may also result in formal misdemeanor/felony charges being filed with the court.
 5. I understand that my participation in the program will be monitored by a tamper-resistant, non-removable G.P.S. ankle bracelet, which I agree to wear 24 hours a day during the entire period of the Electronic Monitoring Program
 6. I understand that willful failure to abide by the pre-determined schedule established by the Probation Officer may be cause for an arrest and return to custody without further order from the court.
 7. I understand that the loss of a receiving signal or the receipt of a tamper signal by the monitoring device shall constitute prima facie evidence that I have violated my probation/PRCS. I further agree that the computer printout may be used as evidence in a Court of Law to prove said

violation. Loss, intentional damage, or damage sustained to the unit(s) or their components due to negligence, and/or failing to follow the charging instructions will result in a return to custody without further order from the court.

8. In the event of loss or damage, I will be held financially responsible for all equipment issued to me not to exceed \$2000.00. The actual replacement and or repair cost will be determined by the contracted monitoring company. Reimbursement will be set up through the Probation Department.
9. I may be required to have a private residential phone line with basic service only. **(At the discretion of the probation officer)**. Optional services, such as call-waiting or call-forwarding, may not be allowed. Cordless phones and answering machines are not permitted while on this program. Computer internet services are not permitted unless they are on a separate line. These services must be removed within 5 days of being placed on the program.
10. I understand that it is my responsibility to advise all individuals residing in my residence of the rules and regulations of this program. All residents of the household and I will grant admittance to my home to any peace officer and or probation officer at any hour of the day or night.
11. I agree to notify the Probation Staff of any threatening or dangerous animals at my residence. Any threatening or dangerous animal at the offender's residence must be restrained or removed when any law enforcement officials are present.
12. I will keep my telephone in good repair and the line available for incoming calls. All telephone conversations will be limited to ten (10) minutes in duration or less.
13. I understand that while I am on the Sierra County Probation Department's electronic monitoring program, I will be subject to the following search clause, whether it is otherwise ordered by court or not:

Defendant shall submit his/her person, property, vehicle, and/or place of residence or any container under his/her control or in which you have an interest, to search and seizure for evidence of probation violation, or the terms of your pretrial release, at any time of the day or night, with or without a search warrant, and with or without reasonable suspicion, or probable cause, and with or without your specific presence or consent, by any probation officer or other peace officer.

Defendant shall submit to search of all information contained in his/her electronic devices and electronic media accounts, with such passwords or other access codes provided by such defendant to any probation officer or other peace officer through means of physical interaction or electronic communication with the device, pursuant to 1546.1(c)(9)&(10) PC.

14. I will not possess dangerous or deadly weapons.
15. I will not consume or possess any alcoholic beverages, illegal drugs, or narcotics. I will advise the Probation Officer of any prescription drugs I am required to take.
16. I understand that my employer may be contacted, either in person or by telephone, to verify my continued employment and working hours.
17. During any curfew period, if I am allowed to leave my residence I will proceed directly to and from the destination(s) that had/have been approved by the Probation Officer.
18. I will be financially responsible for any medical expenses incurred while participating in the Electronic Monitoring Program.
19. I will notify the Probation Officer as soon as possible of any changes in status of my employment, school studies, job training, treatment program, or other Electronic Monitoring Program component or extension.
20. I understand any expense for special adapters necessary in the installation of electronic equipment and/or the expense of phone calls incurred to monitor this equipment shall be at my own expense.
21. I understand that if I am over 21, I may be billed up to \$10 a day (depending upon ability to pay) during this program. Inability to pay will not preclude me from participating in the program.
22. Willful failure to make payments as directed may result in my termination from the program (subject to ability to pay). Program failure does not guarantee program refunds
23. If I am arrested or otherwise suddenly terminated from the electronic monitoring program, I hereby give my consent for the Sierra County Probation Department to enter my residence without further order of the court to retrieve any electronic monitoring equipment that may have been left behind during the course of my arrest or termination from the program

III. Additional Rules and Notices used on a case by case basis

I understand that I will be required to stay within the interior premises of my home, and/or within the areas determined by the courts/probation while on the program.

The primary use of voicemail for contacting the Probation Department is for emergency situations which necessitate my leaving my home at unauthorized times or to request a return call. I understand that leaving a message on **voicemail is NOT an authorization** to change my schedule or leave my home. I must obtain prior approval in person or by telephone from the Probation Officer to change my schedule

I will submit any schedule change request at least one week in advance. I will supply any documentation requested by the Probation Officer to verify my schedule. Schedule change requests will be kept to a minimum to maximize the efficiency of the program.

If released from work or any other program component earlier than usual, or if work or other program component is canceled for the day, I will immediately return to my residence and notify the Probation Officer.

My assigned curfew is:

Monday – Friday: _____ p.m. to _____ a.m.

Saturday- Sunday: _____ p.m. to _____ a.m.

Holidays: _____ p.m. to _____ a.m.

I will only leave my residence during my assigned curfew for the following reasons:

- a) To attend work as **pre-approved** by the Probation Officer.
- b) To attend and participate in a treatment program or counseling as **pre-approved** by the Probation Officer.
- c) To attend to personal affairs as **pre-approved** by the Probation Officer.
- d) When directed to do so by emergency personnel, i.e. police, fire, paramedic, etc.
- e) When an emergency situation, such as serious illness or injury, or injury to my immediate family or myself necessitates my leaving the residence.
- f) In case of (d) and (e) I will immediately, or as reasonably practical, call the Electronic Monitoring Program and advise the Probation Officer of such incidents during business hours. If the incident occurs during non-business hours, I will call the Probation Officer's voice mail and explain the nature of my emergency or incident requiring me to leave. I will provide written proof of any incident to the EMP staff the next business day or as soon as reasonably practical.

g) All other absences require the prior approval of the Probation Officer. I will be required to provide written documentation verifying these absences.

I will not enter the following exclusion zone(s):

1. _____

(reserved for additional terms)

IV. BASIC INSTRUCTIONS FOR WEARING THE EM DEVICE (tag)

1. Attach the charging device by clipping it to both sides of the tag
2. Light on front indicates contact with charger, not battery level
3. Remove the charger by gently detaching its clips from the tag
4. Charge 2 x day for 30 continuous minutes each time
5. If a 30 minute charge is skipped, charge for 60 continuous minutes
6. If you feel a low battery vibration (2 x every 10 min.) charge for 2.5 continuous hours
7. Do not charge while sleeping or driving
8. Do not submerge device in water (such as baths, pools, etc.)
9. Do not force a boot over device
10. A sock can be worn over and or under device
11. Device is hypoallergenic and cannot overheat
12. Do not tamper with the device
13. Do not expose to extreme temperature (below -4°F or above 131°F)
14. Notify probation immediately if a medical procedure requires removal of the tag
15. Do not press "status call button" on device unless specifically instructed
16. If the tag vibrates or beeps call your probation officer ASAP
17. If the light shines or blinks (when off charger) call your probation officer ASAP

1203.016 PC – Post Sentence Program

ELECTRONIC MONITORING RULES

- I. **Eligibility:** In order to qualify for participation in Sierra County's Post Sentence electronic monitoring program, the inmate must be serving a local sentence with no holds or outstanding warrants and be approved for participation by the court.

- II. **Basic Rules and Notices to the Defendant**
 1. I understand that any violations of these conditions may result in a return to custody without further order from the court.
 2. I will not tamper with the Electronic Monitoring equipment that has been issued to me, nor will I permit tampering by any other person.
 3. Intentionally failing to return to the place of detention on time may be punished as escape (4532 PC). Intentionally damaging the equipment may be punishable as escape by force.
 4. Intentionally damaged or lost equipment may also result in formal misdemeanor/felony charges being filed with the court.
 5. I understand that my participation in the program will be monitored by a tamper-resistant, non-removable G.P.S. ankle bracelet, which I agree to wear 24 hours a day during the entire period of the Electronic Monitoring Program
 6. I understand that willful failure to abide by the pre-determined schedule established by the Probation Officer may be cause for an arrest and return to custody without further order from the court.
 7. I understand that the loss of a receiving signal or the receipt of a tamper signal by the monitoring device shall constitute prima facie evidence that I have violated my probation/PRCS. I further agree that the computer printout may be used as evidence in a Court of Law to prove said violation. Loss, intentional damage, or damage sustained to the unit(s) or their components due to negligence, and/or failing to follow the charging instructions will result in a return to custody without further order from the court.
 8. In the event of loss or damage, I will be held financially responsible for all equipment issued to me not to exceed \$2000.00. The actual replacement and or repair cost will be determined by the contracted monitoring

company. Reimbursement will be set up through the Probation Department.

9. I may be required to have a private residential phone line with basic service only. **(At the discretion of the probation officer)**. Optional services, such as call-waiting or call-forwarding, may not be allowed. Cordless phones and answering machines are not permitted while on this program. Computer internet services are not permitted unless they are on a separate line. These services must be removed within 5 days of being placed on the program.
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Defendant shall submit to search of all information contained in his/her electronic devices and electronic media accounts, with such passwords or other access codes provided by such defendant to any probation officer or other peace officer through means of physical interaction or electronic communication with the device, pursuant to 1546.1(c)(9)&(10) PC.

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7. Do not charge while sleeping or driving
8. Do not submerge device in water (such as baths, pools, etc.)
9. Do not force a boot over device
10. A sock can be worn over and or under device
11. Device is hypoallergenic and cannot overheat
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