File No	130650	Committee Item No4 Board Item No		
	COMMITTEE/BOAR AGENDA PACKE	D OF SUPER		
Committee:	Neighborhood Services &	Safety Date	July 17, 2014	
Board of Supervisors Meeting		Date	)	
Cmte Boa	Motion Resolution Ordinance Legislative Digest Budget and Legislative A Legislative Analyst Report Youth Commission Report Introduction Form (for he Department/Agency Cove) MOU Grant Information Form Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Command Award Letter Application	ort ort earings) er Letter and/or R	eport	
	Public Correspondence			
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Completed by: Derek Evans Date 7/11/14				

Completed by:\_

Date\_

[Administrative Code - Home Detention and Electronic Monitoring Program]

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Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorizing the Sheriff to implement an Electronic Monitoring Program to pretrial detainees being held in lieu of bail.

NOTE:

Additions are <u>single-underline italics Times New Roman</u>; deletions are <u>strike through italics Times New Roman</u>. Board amendment additions are <u>double-underlined</u>; Board amendment deletions are <u>strikethrough normal</u>.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

As of 2008, approximately 2.3 million people were behind bars in the United States, equivalent to about one in every 100 adults. This ratio represents a 300 percent increase in the prison population from 1980, when half a million Americans were behind bars. With lower-level offenders accounting for a significant portion of this growth, California spends 10 percent of its general revenue on prisons compared to 7 percent on its higher education system. The social cost to minority communities, a large percentage of whose young men are now locked up, is staggering. According to the Pew Research Center on the States, incarceration negatively impacts the economic mobility of former inmates. For example, "serving time reduces hourly wages for men by approximately 11%, annual employment by 9 weeks, and annual earnings by 40%." Since minority populations disproportionately account for a high percentage of the prison population, high incarceration rates negatively impact minority communities. Worse, the impacts of incarcerated parents on children are lasting. "Children with fathers who have been incarcerated are significantly more likely than other children to be expelled or suspended from school and family income averaged over the years a father is

incarcerated is 22 percent lower than family income was the year before a father is incarcerated."

By removing low-level offenders from jails and prisons and putting them under house arrest, local, state and federal governments could dramatically reduce their spending on incarceration. At the same time it would allow families to remain intact, and allow offenders to obtain treatment and employment, pay restitution, support their communities as a whole and reduce their likelihood of reoffending.

In April 2011, Governor Brown signed AB109, which made fundamental changes to the costly, ineffective and unsafe "revolving door" incarceration of low level offenders. AB 109 added California Penal Code Section 1203.018, which permits the Board of Supervisors to authorize the "correctional administrator", defined in that statute as the Sheriff, Probation Officer, or Director of the Department of Corrections, in those counties having such a department, to allow inmates being held in county jail in lieu of bail to be released on electronic monitoring after 30 days for those awaiting trial on misdemeanor charges and 60 days for those facing felony charges. The Board of Supervisors, after consulting with the Sheriff and the District Attorney, may prescribe reasonable rules and regulations under which an electronic monitoring program authorized by Penal Code Section 1203.018 may operate.

Currently there are over 500 low-level offenders in San Francisco County Jails awaiting trial or disposition. Many of these offenders have the capability to work and support their families; others are in need of rehabilitation for substance abuse or mental health issues, which can better be addressed in noncustodial settings – increasing the likelihood of a successful reentry, lowering the incidence of recidivism, and improving public safety in our communities.

Section 2. The Administrative Code is hereby amended by revising Section 13.63, and adding section 13.64, to read as follows:

#### SEC. 13.63. HOME DETENTION PROGRAM FOR SENTENCED INMATES.

(a) The Sheriff is authorized to <u>offerimplement</u> a Home Detention Program as specified in Section 1203.016 of the California Penal Code, in which <u>minimum security prisoners and low-risk offenders inmates</u> committed to the County Jail or other County correctional facility or inmates participating in a Work Furlough program may voluntarily participate <u>or involuntarily be placed</u> in a Home Detention Program during their sentence in lieu of confinement in <u>the a</u> County Jail or other County correctional facility.

(b) The Sheriff may administer the Home Detention Program authorized in subsection (a) pursuant to written contracts with one or more appropriate public or private agencies or entities, subject to the requirements for contracting out these services set forth in Penal Code Section 1203.016 and in accordance with the County laws and policies governing procurement of personal services.

#### SEC. 13.64. ELECTRONIC MONITORING PROGRAM IN LIEU OF BAIL.

(a) The Sheriff is authorized to offer an Electronic Monitoring Program as specified in Section

1203.018 of the California Penal Code, to inmates being held in lieu of bail in a County Jail or other

County correctional facility.

(b) The Sheriff may administer the Electronic Monitoring Program authorized in subsection (a) pursuant to written contracts with one or more appropriate public or private agencies or entities, subject to the requirements for contracting out these services set forth in Penal Code Sections 1203.018 and in accordance with the County laws and policies governing procurement of personal services.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By: IANA CLARK

**Deputy City Attorney** 

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#### **LEGISLATIVE DIGEST**

[Administrative Code - Home Detention and Electronic Monitoring Program]

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorizing the Sheriff to offer an Electronic Monitoring Program to pretrial detainees being held in lieu of bail.

#### Existing Law

Local law authorizes the Sheriff to operate a "Home Detention Program" for inmates sentenced to county jail or participating in the Work Furlough program as specified in California Penal Code Section 1203.016, subject to the inmate's consent to the program's conditions. Participation is limited to minimum security and low risk offenders. Section 1203.016 requires that all inmates participating must submit to electronic monitoring.

#### Amendments to Current Law

For sentenced inmates and those on work furlough, the ordinance would remove the consent requirement and the requirement that participants be minimum security and low risk offenders.

For pretrial detainees being held in lieu of bail, the ordinance would authorize the Sheriff to operate an "Electronic Monitoring Program," as permitted under Penal Code Section 1203.018, for release of such detainees. To participate, detainees would need to consent to the program's conditions.

#### **Background Information**

With approval from the Board of Supervisors, state law permits the Sheriff to release inmates on electronic monitoring in lieu of holding them in jail. Until recently, state law limited participation in this "Home Detention Program" to sentenced inmates who consented to participate and who were "minimum security and low risk offenders." In the event of jail overcrowding state law permitted eligibility to be expanded to any misdemeanor inmate, whether participating voluntarily or not.

Effective October 2011, "Realignment" legislation (1) removed these limitations on participation for inmates serving time in jail or in the Work Furlough Program and (2) provided that with Board of Supervisors approval, Sheriffs can release pretrial detainees being held in lieu of bail if they consent to participate in an Electronic Monitoring Program. <sup>1</sup>

<sup>&</sup>lt;sup>1</sup> State law authorizes these programs for sentenced inmates and pretrial detainees in separate statutes. The program for sentenced inmates is referred to as a "Home Detention Program" with electronic monitoring being one of the mandated conditions. California Penal

FILE NO. 130650

State law requires participants in either program to: (1) remain inside their residence during the hours designated by the Sheriff; (2) allow persons designated by the Sheriff into the residence to verify compliance; and (3) submit to electronic monitoring. If participants violate the conditions or the electronic monitoring equipment malfunctions, the Sheriff may immediately take them back into custody.

In addition, to be released on electronic monitoring in lieu of bail, a pretrial detainee must (1) have no holds or outstanding warrants and (2) either (a) have been in custody for 30 days since arraignment on misdemeanor charges, or 60 days since arraignment on felony charges, or (b) have been determined by the Sheriff to be appropriate for the program because the detainee's participation would be consistent with public safety. The Sheriff is not required to place any inmate in the program who has not satisfactorily complied with rules and regulations while in custody.

In addition to state law requirements for participation, the Board of Supervisors may adopt reasonable rules and regulations for operation of the programs, and may prescribe an administrative fee for participation. The Sheriff may also adopt administrative rules for program participation.

With Board approval, the Sheriff may administer the programs pursuant to written contracts with appropriate public or private agencies.

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Code § 1203.016. The program for pretrial detainees is referred to as an "Electronic Monitoring Program". Penal Code § 1203.018

Read in Commatce 2/6/14 Frent. 130650

#### CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY



George Gascón District Attorney

February 5, 2014

Honorable Ed Lee Mayor, City and County of San Francisco 1 Dr. Carlton B. Goodlett Place, Room 200 San Francisco, Ca 94102

Dear Mayor Lee:

Electronic monitoring and other alternatives to incarceration are essential to San Francisco's ongoing effort to meet and exceed the goals of realignment. When implemented properly such programs can reduce our jail population and provide significant cost savings for taxpayers. It is crucial, however, that such programs consider critical information such as an offender's risk factors in order for in-home detention to be implemented safely.

The Courts and District Attorney are currently entrusted with the decision to release pretrial detainees because we have the most information about the defendant, the victim, and the concerns of the community. We know an offender's full criminal history and we are in contact with their victims. We address the safety concerns of victims and witnesses, and provide relocation when necessary.

This information and level of insight is absolutely critical to determining who should remain in custody and who can be entrusted to be released into the community. In fact, my office is working to develop a scientifically based risk assessment tool for this very purpose. We want to find safe ways to reduce the pre-trial population. However, in light of the fact that 80% of our pretrial population is being held on felony charges, it is important that we do this with extraordinary care and diligence.

Granting the authority to release large swaths of this population without critical information pertaining to an offender's risk factors puts the public, victims and witnesses at risk. As the custodial agent the Sheriff does not have the information necessary to make these important determinations. They are not present in court during bail review and do not have access to the important arguments in support or opposition to pretrial release that are made at these hearings. As a result, they do not

have the necessary information and are not the proper agency to make determinations about pretrial release.

The Sheriff does have a role in post-conviction release. However, this proposal would grant broad release authority without requiring that information held within other criminal justice agencies be considered. The Adult Probation Department and District Attorney's Office have essential information that must be considered in making these very important determinations, but the Sheriff does not. This raises serious concerns that determinations of risk for sentenced offenders will be uninformed and made in a vacuum.

Of additional concern is the concept of placing individuals on electronic monitoring on an involuntary basis. As written, the legislation enables sentenced offenders who have indicated no intention of honoring the terms of their release to be eligible for the program. Electronic monitoring should be reserved for those who agree to the terms of their release. San Francisco would be creating a threat to public safety by releasing anyone who has not indicated their intention to comply with those terms.

I am a strong proponent of alternatives to incarceration - but not at the expense of public safety. Accurate and informed risk assessment is the hallmark of a successful electronic monitoring program, and I'm very concerned that this legislation would erode San Francisco's ability to adequately determine who is and who is not a good candidate for in-home custody programs.

Sincerely,

George Gáscón District Attorney

City and County of San Francisco

CC: Honorable David Chiu
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, Ca 94102

Honorable David Campos 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102 Honorable Eric Mar 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Norman Yee 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Mark Farrell 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Jane Kim 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Malia Cohen 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable London Breed 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Katy Tang 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable Scott Wiener 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102

Honorable John Avalos 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, Ca 94102 PROPOSAL:

Amend Administrative Code – Home Detention and Electronic Monitoring of Inmates

Delete sentence Page 2 : Lines 18-19.

Insert sentence below:

At any given time, there are numerous offenders in custody awaiting trial or disposition who would be eligible for participation in electronic monitoring under the guidelines of Penal Code Section 1203.018. Many of these offenders have the capability to work and support their families; others are in need of rehabilitation for substance abuse or mental health issues, which can be better addressed in noncustodial settings – increasing the likelihood of a successful reentry, lowering the incidence of recidivism, and improving public safety in our communities.

Rec'd in Commissee - 2/6/14 File No. 130650

#### Lamug, Joy

From:

Gorwood, Kathy

Sent:

Tuesday, December 10, 2013 11:43 AM

To:

**BOS** Legislation

Subject:

Substitute Electronic Monitoring Ordinance

Attachments:

00890102.doc; 00890153.doc

#### Good Morning,

Please see the attached electronic copies of substitute legislation for file number 130650 – which was previously submitted on June 17, 2013. The original and two copies of this legislation were hand delivered to the Clerk's Office just a few minutes ago.

If you need any additional information, please let me know.

Regards, Kathy

Chief Deputy Kathy Gorwood, #1319 SFSD - Administration 415-554-7225

#### Evans, Derek

From: Sent:

Christine.Fountain@sfgov.org Tuesday, July 09, 2013 4:23 PM

To:

Evans, Derek

Subject:

Fw. Re. Fw. Referral: Administrative Code - Home Detention Program and Electronic

Monitoring Program

Derek,

The SFPD does not have any concerns with this change unless there is a rise in Part II crimes.

Christine Fountain
San Francisco Police Department
Office of the Chief of Police
850 Bryant Street, Room 525
San Francisco CA 94103

Tel: (415) 734-3633 Fax: (415) 553-1554

Email: christine.fountain@sfgov.org

CONFIDENTIALITY NOTICE: This communication and its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws, including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

----Forwarded by Christine Fountain/SFPD/SFGOV on 07/09/2013 04:17PM -----

To: Christine Fountain/SFPD/SFGOV@SFGOV

From: Danielle Newman/SFPD/SFGOV

Date: 07/05/2013 12:07PM

Subject: Re: Fw: Referral: Administrative Code - Home Detention Program and Electronic Monitoring

Program

Hi Chris,

DC T says this will have no impact on us unless part II crimes go up.

Sgt. Danielle Newman
Office of the Chief of Staff
San Francisco Police Department
850 Bryant Street
San Francisco, CA 94103
Phone 415-553-1551

-----Christine Fountain/SFPD/SFGOV wrote: -----

To: Danielle Newman/SFPD/SFGOV From: Christine Fountain/SFPD/SFGOV

Date: 07/02/2013 04:04PM

Subject: Fw: Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

Can you ask DC T who should review this for any concrerns on our part? Thx

From: "Evans, Derek" [derek.evans@sfgov.org]

Sent: 07/02/2013 10:52 PM GMT

To: Chief Suhr

Cc: Ross Mirkarimi; Christine Fountain; John Monroe

Subject: Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

#### Good Afternoon,

Attached is a copy of legislation (File No. 130650) for your review. This legislation is being referred to your department for informational purposes.

#### File No. 130650

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorize the Sheriff to offer a voluntary Electronic Monitoring Program to pretrial detainees being held in lieu of bail.

#### Regards,

#### Derek K. Evans Assistant Committee Clerk

**Board of Supervisors** 

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244

San Francisco, CA 94102

Phone: (415) 554-7702 | Fax: (415) 554-5163 derek.evans@sfgov.org | www.sfbos.org

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below. <a href="http://www.sfbos.org/index.aspx?page=104">http://www.sfbos.org/index.aspx?page=104</a>

[attachment "130650\_referral.pdf" removed by Danielle Newman/SFPD/SFGOV]

# City and County of San Francisco

## OFFICE OF THE SHERIFF



# Ross Mirkarimi

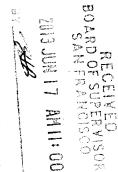
(415) 554-7225

June 17, 2013

Reference: AdminCD 2013-020

Angela Calvillo, Clerk of the Board Board of Supervisors City Hall, Room 244 San Francisco, CA 94102

Dear Ms. Calvillo,



I am submitting this request on behalf of Sheriff Ross Mirkarimi. Attached please find an original and two copies of a proposed ordinance for the Board of Supervisors approval which seeks to amend Administrative Code § 13.63. Current law, CA Penal Code § 1203.016, authorizes the sheriff to operate a home detention program for sentenced inmates; however, the inmates must be minimum and low risk offenders and must consent to the program.

As authorized by law and with the approval from the Board of Supervisors, this proposed ordinance would remove the consent and low risk offender requirement from sentenced inmates. Additionally, this ordinance will authorize the sheriff to use electronic monitoring capabilities as permitted in CA Penal Code § 1203.018.

If you have any questions relative to his request, please do not hesitate to contact me at (415) 554-7223. Thank you in advance for your consideration in this matter.

Sincerely

Kathy Gorwood, #1319

Chief Deputy

EMAIL: sheriff@sfgov.org • FAX: (415) 554-7050

## **GISLATION RECEIVED CHECKL**

[ ] Legislation for Introduction (NEW) [ ] Legislation Pending in Committee (AMENDED)   Legislation Foor Board Agenda (AMENDED)   Supervisor, Mayor, and Departmental Submittals   Supervisor, Mayor, and Departmental Submittals   Grant Ordinance   [ ] Legislation: Original and 2 hard copies and 1 electronic copy in word format   [ ] Signature: Department Head, Mayor or the Mayor's designee, plus the Controller   [ ] Back-up materials: 2 full sets (see below) and 1 electronic copy in pdf format*   [ ] Cover letter   [ ] Grant budget/application   ] Grant information form, including disability checklist   [ ] Letter of Intent or grant award letter from funding agency   [ ] Contract, Leases/Agreements (ff applicable)   [ ] Ethics Form 126 (ff applicable)*Word format   [ ] E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org   Ordinance   Head, Controller, Commission Secretary)   [ ] Back-up materials: 2 full sets (see below) and 1 electronic copy in pdf format   Head, Controller, Commission Secretary)   [ ] Back-up materials: 2 full sets (see below) and 1 electronic copy in pdf format   Head, Controller, Espain)   Y E-Copy of legislation/back-up materials: Sent to BOS.Legislation@sfgov.org   Grant Resolution   [ ] Legislation: Original and 2 copies and 1 electronic copy in word format   [ ] Signature: Department Head, Mayor or the Mayor's designee, plus the Controller   [ ] Back-up materials: 2 full sets (see below) and 1 electronic copy in pdf format*   [ ] Cover letter   [ ] Grant budget/application   [ ] Grant information form, including disability checklist   ] Letter of Intent or grant award letter from funding agency   [ ] Contract, Leases/Agreements (if applicable) *Word format   [ ] E-Copy of legislation/Dack-up materials: 2 full sets (see below) and 1 electronic copy in word format   [ ] E-Copy of legislation/Dack-up materials: 2 full sets (see below) and 1 electronic copy in pdf format   [ ] Legislation: Original and 2 copies and 1 electronic copy in word format   [ ] E-Copy of legis	Date 6.17.13 File Number (if applicable)			
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KATHY GOEWOOD 554-7993 SHERLFF  Name and Telephone Number Department	KATHY GOEWOOD 554- TOOD SHERLEF  Name and Telephone Number  Department			

130650

Member, Board of Supervisors
District 9



Orig! COB, NSS Comm Clark City and County of San Francisco

#### **DAVID CAMPOS**

DATE: July 11, 2014

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor David Campos

RE: Neighborhood Services and Safety Committee
COMMITTEE REPORT

Pursuant to Board Rule 4.20, as Chair of the Neighborhood Services and Safety Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on July 22, 2014, as a Committee Report:

130650 Administrative Code - Home Detention and Electronic Monitoring Program

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorizing the Sheriff to implement an Electronic Monitoring Program to pretrial detainees being held in lieu of bail.

This matter will be heard in the Neighborhood Services and Safety Committee on July 17, 2014, at 10:00 a.m.

Savel Canfor

#### **BOARD of SUPERVISORS**



City Hall
1 Dr. Carlton B. Goodlett Place, Rm 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

## MEMORANDUM

TO:

Chief Greg Suhr, Police Department

FROM:

Derek Evans, Assistant Committee Clerk

DATE:

July 2, 2013

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors Neighborhood Services and Safety Committee has received the following legislation, which is being referred to your department for informational purposes.

#### File No. 130650

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorize the Sheriff to offer a voluntary Electronic Monitoring Program to pretrial detainees being held in lieu of bail

Please submit any comments or reports to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

CC:

Sheriff Ross Mirkarimi