

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 authorize the Sheriff to implement 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 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 placement and the program’s conditions. The ordinance would require that the Sheriff notify the District Attorney prior to any placement of pretrial detainees, and, if the District Attorney objected, require that the Sheriff request a hearing in Superior Court regarding the placement.

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

AMENDED IN COMMITTEE

7/17/14

FILE NO. 130650

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.¹

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.

The ordinance was first introduced on or about June 7, 2013. A substitute ordinance was introduced on or about January 7, 2014. At the February 6, 2014 hearing before the Board of Supervisors' Neighborhood Services and Safety Committee, the Committee requested amendments to the ordinance to require that placement of sentenced inmates on electronic monitoring be limited to those that consent. In addition, the Committee requested that electronic monitoring in lieu of bail be offered only to inmates charged with low level offenses. Finally, the Committee requested that the ordinance require that the Superior Court approve placement of inmates on electronic monitoring in lieu of bail if the District Attorney objected to any placement. On July 17, 2014, the Committee further amended the ordinance to require the Sheriff to submit annual reports to the Board of Supervisors regarding the Home Detection and Electronic Monitoring programs.

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¹ 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. Penal Code § 1203.016. The program for pretrial detainees is referred to as an "Electronic Monitoring Program". Penal Code § 1203.018