

**Marshall Hopper**  
Chief Probation Officer

**Auburn Justice Center**  
2929 Richardson Drive, Suite B  
Auburn, CA 95603  
(530) 889-7900  
(530) 889-7950 (fax)



**Santucci Justice Center**  
10810 Justice Center Dr.  
Suite 170, Roseville, CA 95678  
(916) 543-7400  
(916) 543-7472 (fax)

**Juvenile Detention Facility**  
11260 "B" Avenue  
Auburn, CA 95603  
(530) 886-4850  
(530) 886-4888 (fax)

**COUNTY OF PLACER**

**PROBATION DEPARTMENT**

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**MEMORANDUM  
PROBATION DEPARTMENT  
COUNTY OF PLACER**

**TO:** Honorable Board of Supervisors

**FROM:** Marshall Hopper, Chief Probation Officer 

**DATE:** August 7, 2012

**SUBJECT:** Review and approve Probation's Electronic Monitoring Program policy, rules and regulations in accordance with Penal Code 1203.016 (d) (1) and Penal Code 1203.017 (d) (1).

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**ACTION REQUESTED**

Review and approve Probation's Electronic Monitoring Program policy, rules and regulations (incorporated herein by reference) in accordance with Penal Code 1203.016 (d) (1) and Penal Code 1203.017 (d) (1).

**BACKGROUND**

Per the requirements pursuant to 1203.016/1203.017 (d) (1) PC which states: "The rules and regulations and administrative policy of the program shall be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator," the Chief Probation Officer is submitting the Probation Department's Alternative Sentencing Rules (Attachment A) and Probation's EMP Intake Packet (Attachment B) for your review and approval.

Placer County's Electronic Monitoring Program was developed to provide offenders the ability to serve their custody time in the community in lieu of our local facilities. The program provides cost effective alternatives to incarceration, holds offenders accountable through intensive G. P. S. supervision services and allows offenders to continue their employment and or education while making payments toward their court ordered restitution.

On August 7, 2008, the Placer County Board of Supervisors approved program expansion to include a mandatory alternative sentencing program specifically designed to hold offenders accountable and decrease a long term jail overcrowding concern. This approach to managing criminal justice sentences has reduced early releases and decreased the jail population. Further, electronic monitoring programs provide relief to the impacts of AB 109 while enhancing evidence based practices among the offender population.

**FISCAL IMPACT**

None.

Attachments: A (Probation Department's Alternative Sentencing Rules)  
B (Probation's EMP Intake Packet)

# ATTACHMENT A

<b>COUNTY OF PLACER</b>	<b>No. 81.100 Page <u>1</u> of <u>1</u></b>  <b>SUBJECT: <u>ALTERNATIVE SENTENCING</u> <u>MISSION STATEMENT</u></b>  <b>EFFECTIVE:</b> <b>REVISED: April 4, 2012</b>
<b>PROBATION DEPARTMENT</b>	
<b><i>ALTERNATIVE SENTENCING</i></b>	
	<b><u>Index</u></b>

The purpose of the voluntary and involuntary alternative sentencing programs is to reduce the jail inmate population and overcrowding by offering an alternative to traditional methods of incarceration to all eligible and suitable offenders. On a case-by-case basis, electronic monitoring of defendants is also available to the Courts and to Custody Facility Administrators to serve short-term needs such as bail or emergency passes.

The alternative sentencing program staff is committed to ensuring the safety of the community by working with offenders to maintain their compliance with the terms and conditions of their probation while affording them the opportunity to maintain employment, outpatient treatment opportunities, and community ties.

<b>COUNTY OF PLACER</b>	No. 81.200 Page <u>1</u> of <u>4</u>
PROBATION DEPARTMENT	<b>SUBJECT: <u>ALTERNATIVE SENTENCING ELIGIBILITY</u></b>
<i>ALTERNATIVE SENTENCING</i>	<b>EFFECTIVE: REVISED: June 27, 2012</b>
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A standardized risk assessment in conjunction with Department approved criteria is used for determining a defendant's eligibility and suitability for alternative sentencing programs.

- A. Court Eligibility: Per section 1203.016(e) PC, the Court may recommend or refer a person to the Correctional Administrator for placement on alternative sentencing. The recommendation or referral of the Court shall be given **great weight** in the determination of acceptance or denial. The Court may also exercise its authority to exclude a defendant from participation in alternative sentencing.
- B. Sex Offenders, Domestic Violence Felonies, Serious and Violent Felonies, and Third DUI Cases: Registered sex offenders pursuant to 290 PC, or any defendant whose crime is sexual in nature, shall be initially deemed unsuitable for alternative sentencing. A defendant whose current case involves a felony conviction for violating Section 273.5 PC, or a conviction for a serious or violent felony specified in Sections PC 667.5(c), or 1192.7(c) PC is ineligible for alternative sentencing. Additionally, a defendant with two or more prior DUI convictions (pled and proven pursuant to Section 23546 VC or 23550 VC) is ineligible for any alternative sentencing program for their entire commitment on the third or subsequent DUI case.
- C. Custody Behavior: A person may not be allowed to participate on alternative sentencing if it appears from jail records that the person has not satisfactorily complied with rules and regulations while in custody.
- D. Prior Performance on Probation/Parole: Prior poor probation performance may cause the defendant to be ineligible for alternative sentencing.
- E. Pending Charges: Applicants with pending charges, warrants, "holds", or jail commitments in any jurisdiction shall be ineligible for alternative sentencing.
- F. Minimum/Maximum Sentence: For EMP, defendants must have a minimum 10 days jail sentence to be served. Exceptions to this requirement will be determined by the Supervisor and or Division Manager on a case-by-case basis. There is no maximum number of days for EMP. For AWR, there is no minimum number of days, and there is a maximum of 45 days.

- G. Processing Time: Courts generally grant applicants six to eight weeks to apply for an alternative sentencing program. Lacking good cause, applicants who reside outside of Placer County and who fail to apply for EMP within thirty (30) days of their jail turn-in date, forfeit their eligibility for EMP and must report to jail. Placer County residents may apply for EMP or AWR at any time prior to their jail turn-in date; however, enrollment will be subject to the availability of staff and/or EMP equipment. When deemed necessary, a new jail turn-in date may be issued at the discretion of the alternative sentencing officer (on form PPD:389). In general, stays will be issued when additional time is required to process an application due to systematic or operational needs; not because the defendant has, without good cause, delayed the process.
- A. Residency Requirements: EMP applicants must reside at a verifiable, legal address within Placer County, except as noted in Section "I" (Non-residents) below. Defendants who live in neighborhoods just outside the county border may be considered for EMP on a case-by-case basis as will Sacramento County residents. In such cases the law enforcement agency in the defendant's jurisdiction will be notified. All adult co-residents must agree to the terms and conditions of EMP. AWR applicants who reside in Placer County, or in any county which is contiguous to Placer County, will be required to work at one of the regular work sites in Placer County. AWR applicants who reside in counties which are non-contiguous with Placer County will be granted the option of serving their sentence at a non-profit organization in their county of residence.
- B. Non-Residents (EMP): Defendants who live outside the county and are found eligible and suitable for EMP by the Probation Department may request a transfer to an EMP program in their home county. EMP/ Home Detention Programs **administered and operated by a law enforcement agency** will be utilized where they exist. Out-of-county applicants who have been found eligible and suitable for EMP transfer shall be given written instructions for how to apply in their county of residence. If the applicant's county of residence does not administer an Electronic Monitoring Program of its own, or if Placer County does not maintain a transfer agreement with the applicant's county of residence, the applicant shall be permitted to apply with an approved private monitoring company, and shall be given a list of such companies.
- C. Early Release: Inmates identified to be released from the Placer County Jail for population control purposes before serving their entire sentence can be placed on the involuntary Electronic Monitoring Program pursuant to Sections 1203.016 PC and 1203.017 PC, unless the court has deemed the defendant ineligible for alternative sentencing per court order. The offender will be supervised on the program for the remainder of the sentenced term. For the purposes of this subsection, the provisions of Sections 81.200 (B) through (F) shall not apply. Offenders will only be considered for program placement if they are Placer County or contiguous county residents.

K. Denial of Application: All persons who are denied participation or removed from alternative sentencing shall be notified in writing of the specific reasons. The notice of denial (PPD:360) or removal (PPD:362) shall include an advisement that the applicant has the right to appeal the denial or removal. The following procedures will be used by the officer who denies the application:

- In lieu of the formal denial process, staff may wish to consult with a Supervisor prior to making a decision to deny the application.
- Complete the denial of application form (PPD:360) . Inform the applicant of reason for denial and provide a copy to the applicant.
- Scan the denial form into the case management system.
- Update the case management system and indicate the date of the denial with a brief notation of the reason for the denial.
- Staff may issue a new surrender date to allow the applicant to appeal the decision.
- Upon receipt of the written appeal, the Supervisor may hear the appeal immediately following the denial if all parties agree.

L. Appeals: Defendants who have been denied or removed from alternative sentencing may appeal the decision. Appeals must be submitted, in writing, to the Alternative Sentencing Unit Supervisor as directed. Pursuant to Sections 1203.016(d)(2) PC and 4024.2(d) PC, the Correctional Administrator, or his or her designee, shall have the sole discretionary authority to permit program participation.

The denied applicant can appeal in writing directly to the Alternative Sentencing Supervisor. The Supervisor shall review all materials available, including the applicant's basis for the appeal. The applicant shall have the right to personally appear before the Supervisor to present any materials in support of the appeal.

The Supervisor will render a decision, in writing, within ten (10) days from the receipt of the written appeal. Such decision will be mailed to the applicant's last known address. The decision of the Manager or Supervisor is final and is not subject to further administrative review.

The appeal hearing will be documented on the WORK RELEASE DIVISION APPEAL INVESTIGATIONS AND DECISION: (PPD: 363). In certain cases the Supervisor may refer the appellant's case to the Manager for further review.

M. Credits: Voluntary participants on the Electronic Monitoring Program and Adult Work Release Program will receive actual credits for participation pursuant to Section 2900.5 PC and Section 4024.2 PC.

Involuntary participants on the Electronic Monitoring Program and Adult Work Release Program will receive actual credits for participation pursuant to Section 2900.5 PC and conduct credits pursuant to Sections 4019 PC, 4024.3 PC, 1203.016 PC, and/or 1203.017 PC.

<b>COUNTY OF PLACER</b>	No. 81.300 Page <u>1</u> of <u>1</u>
PROBATION DEPARTMENT	<b>SUBJECT: <u>ALTERNATIVE SENTENCING PROGRAM FEES</u></b>
<i>ALTERNATIVE SENTENCING</i>	<b>EFFECTIVE: REVISED: April 4, 2012</b>
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### Program Fees

- A. Program Fees: Program fees, authorized by Sections 1208.2 and 4024.3(f) of the Penal Code, are set by the Board of Supervisors. Currently program fees are **\$20 per day**. Upon application, a non-refundable \$25 application processing fee is collected.
- B. Payment Due Dates: Revenue Services will set payment due dates for program fees.
- C. Payments: All fees must be paid by personal appearance at Revenue Service. Defendants directed to pay fees will be provided with a completed REQUEST FOR FEE COLLECTION SERVICE form (PPD:601) and be directed to Revenue Services.
- D. Inability to Pay: Pursuant to Section 1208.2(g) PC, no person shall be denied consideration for or be removed from participation on EMP because of an inability to pay all or a portion of the program fees. At any time during a person's sentence, the participant may request a suspension of fees on the grounds of a change in circumstances with regard to the person's ability to pay. Pursuant to Section 4024.2(e) PC, Work Release Program fees are to be paid by each person according to his or her ability to pay.
- E. Non-Payment of EMP Fees: Participants with the ability to pay fees who fail to do so are subject to program removal pursuant to 1203.016(b)(4) of the Penal Code. The participant's Probation Officer will complete and mail a NOTICE OF INTENT TO REMOVE FROM PROGRAM form (PPD:420) prior to program removal.
- F. Court Fee Waivers: Courts may determine the applicant does not have the ability to pay. Courts may waive or reduce fees. Such indications will be found on the applicant's Court orders.
- G. Fee Refunds: Participants who have made overpayments may request a fee refund or have their refund transferred to their fine account. The Probation Officer will complete a NOTICE OF REDUCTION IN ALTERNATIVE SENTENCING FEES DUE (PPD:855RS). This form will then be forwarded to the Supervising Probation Officer for approval. The Supervising Probation Officer then forwards the requests to the department bookkeeper for processing.

# ATTACHMENT B

**THIS SECTION WILL BE REVIEWED AND COMPLETED DURING  
THE INTAKE WITH A PROBATION OFFICER**

**Placer County Probation Department Electronic Monitoring  
Program**

Defendant:

CASE NO.

I, \_\_\_\_\_, having been accepted to participate in the Electronic Monitoring Program, understand I must comply with the following terms and conditions. I also understand a violation of any of these Conditions of Agreement may cause my removal from the program without notice. In addition, I understand that the program rules will be enforced for the duration of the program in conjunction to any other terms and conditions of my probation grant(s).

**Alternative Sentencing Program Rules:**

1. I will not violate any laws. If I receive a traffic citation or have any contact with any police agency, I will report such contact as soon as possible to the Probation Officer.
2. I will comply with any and all terms and conditions of my probation, and any directives issued by my Probation Officer. Failure to abide by any of these orders may result in my immediate removal from the program and my return to custody. It may also jeopardize further eligibility for other alternative programs.
3. I will not possess, or have in my residence/vehicle, any gun, explosive, or other deadly weapon.
4. I will not possess or use any narcotic or controlled substance without a valid medical prescription. I will advise the Probation Officer of any prescription drugs I am required to take.
5. I will not consume or possess any alcoholic beverages.
6. I will submit to chemical, blood, breath, saliva, or urine testing deemed necessary by the Probation Officer.
7. I will not have any form of contact or communication with any other inmates, either in this program, or in any jail, correctional facility, or state prison. (Exceptions to be approved by the Probation Officer.)
8. I will submit my person, property, residence, or vehicle to search and seizure without a warrant or probable cause, at any hour of the day or night, by any Probation Officer or Peace Officer.
9. I will not operate a motor vehicle unless properly licensed and insured.
10. I understand that I may be directed to enroll and participate in treatment programs or counseling by the Probation Officer. If I should fail to obey these directives I may be removed from the program.
11. I will report to the Probation Officer at such times and places as directed.
12. I will notify the Probation Officer in advance of any change in my address and or phone number.
13. I understand that I am responsible for payment of all fees and costs of alternative sentencing or release programs.
14. I will not tamper with the Electronic Monitoring equipment that has been issued to me, nor will I permit tampering by any other person.
15. Loss, intentional damage, or damage sustained to the unit(s) or their components due to negligence will result in my immediate removal from the program. 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/Revenue Services.

16. Intentional damaged or lost equipment will also result in formal misdemeanor/felony charges being filed with the court.
17. 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.
18. 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.
19. I understand that I will be required to stay within the interior premises of my home, and / or within the areas determined by the EMP staff while on the program.
20. I will only leave my residence 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 the 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 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.
21. I understand that all residents of the household I live in must comply with the following conditions:
  - a. No possession or consumption of alcohol on the premises.
  - b. No possession of illegal drugs or narcotics.
  - c. No dangerous or deadly weapons.
  - d. No resident or guest shall be under the influence of any drug or alcohol.
  - e. No social gatherings will be held except with members of the immediate household, unless prior approval from the EMP staff is obtained.
  - f. No visitors will be allowed unless **pre-approved** by the EMP staff.
22. No persons may join or move into the household, unless prior permission is obtained from the Probation Officer.
23. I understand that my employer may be contacted, either in person or by telephone, to verify my continued employment and working hours.
24. I will not change my means of transportation without the prior approval of the EMP staff.
25. I will submit any schedule change request at least one week in advance, during my weekly office visit. 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.
26. Work schedules may only be changed with the approval of the Probation Officer.
27. The primary use of voice mail 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 voice mail is **NOT** 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.
28. I understand that willful failure to return to my residence within the prescribed time, or leaving this address at an invalid time, shall be deemed an escape from custody, and I can be charged and prosecuted to the fullest extent of the law. I further understand that willful failure to abide by the pre-determined schedule established by the Probation Officer may be cause for my removal from the program.
29. During the period I am allowed to leave my residence I will proceed directly to and from the designation(s) that had / have been approved by the Probation Officer.

- 30. I will be financially responsible for any medical expenses incurred while participating on the Electronic Monitoring Program.
- 31. 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 curfew. I further agree that the computer printout may be used as evidence in a Court of Law to prove said violation.
- 32. 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.
- 33. 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.
- 34. I will be responsible for charging my monitoring device a minimum of 1.5 hours in the morning and 1.5 hours in the evening. In the event the monitoring device battery runs out, I understand that I can be removed from the Electronic Monitoring Program.
- 35. I will abide by the following rules imposed by the Probation Officer:

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Participation on the Electronic Monitoring Program is a privilege and may be revoked at any time. I understand that I am in custody while participating on the Electronic Monitoring Program. I understand the above rules and regulations and a violation of any rule may result in my removal from the program. Removal may result in immediate arrest or a removal letter being sent to the last address provided. The letter will specify my surrender date to the jail and the appeal process.

**Defendant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Probation Officer:** \_\_\_\_\_

**Date:** \_\_\_\_\_