

STATE OF ALASKA DEPARTMENT OF CORRECTIONS  POLICIES & PROCEDURES	SECTION: Institutions		PAGE: 1 of 9
	CHAPTER: 818	NUMBER: 818.10	P&P TYPE: Public
	TITLE: Sentenced Electronic Monitoring		
	APPROVED BY:  Nancy A. Dahlstrom, Commissioner		DATE: 07/09/2020
ATTACHMENTS / FORMS: A. EM Information Form B. EM Terms and Conditions C. EM Permission to Enter and Search Form D. EM Checklist E. EM Denial Form F. EM Appeal Form G. EM Indigent Form H. EM Weekly Report Form I. EM Weekly Schedule J. EM Employment Verification Form K. EM One-Time Schedule Form L. EM Movement Log M. EM Driving Authorization Form N. EM Application Form for First Time DUI/Refusals O. EM Terms and Conditions for First Time DUI/Refusals (Regular EM) P. EM Terms and Conditions for First Time DUI/Refusals (Home Confinement)		AUTHORITY / REFERENCES: AS 12.55.015 AS 28.35.030 AS 28.35.032 AS 33.30.011 AS 33.30.061 AS 33.30.065 22 AAC 05.155 22 AAC 05.212 22 AAC 05.620	

POLICY:

- I. It is the policy of the Department of Corrections (DOC) to utilize electronic monitoring (EM) as a tool to effectively manage offenders for their successful re-entry and transition to the community.
- II. It is the policy of the DOC to screen all offenders to determine their eligibility and appropriateness for placement on EM. DOC staff shall process all offender eligibility forms received and those who are accepted will be supervised in a manner to ensure their compliance with the terms and conditions of the program.
- III. It is the policy of the DOC to have in place procedures for the review and approval of private contractors for EM services.

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APPLICATION:

This policy and procedure will apply to all DOC employees, all sentenced offenders, and private contractors providing electronic monitoring services for offenders sentenced for a first-time DUI/Refusal.

DEFINITIONS:

As used in this policy the following definitions will apply:

Electronic Monitoring (EM):

A type of monitoring that allows sentenced offenders who meet certain requirements to serve time at an approved residence or other DOC approved location(s) to be monitored via electronic monitoring equipment.

Electronic Monitoring (EM) Officer:

A Probation Officer (PO) assigned to perform probation and parole duties under the electronic monitoring program.

Escape:

Has the meaning given under AS 11.56.300 (escape in the first degree), AS 11.56.310 (escape in the second degree), and AS 11.56.320 (escape in the third degree).

First-Time DUI/Refusal:

A first-time conviction for driving while under the influence under AS 28.35.030 or operating under the influence under Anchorage Municipal Code (AMC) 9.28.020, or a first-time conviction for refusal to submit to chemical tests under AS 28.35.032 or AMC 9.28.022.

Home Confinement:

An offender serving their sentence at an approved residence with or without electronic monitoring equipment, dependent on their geographic location. Home confinement applies only to an offender sentenced for a first-time DUI/Refusal on or after January 1, 2017 and the offense occurred prior to July 9, 2019.

Private EM Provider:

A private contractor that has been approved by the DOC to provide EM services and equipment for offenders sentenced for a first-time DUI/Refusal.

PROCEDURES:

- I. Standard/Regular Electronic Monitoring (EM) with Equipment:
 - A. An offender is not eligible for the sentenced EM program if one (1) or more of the following exists:
 1. The offender is not sentenced on all active cases;

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2. The current or related charge is for a crime involving domestic violence as defined under AS 18.66.990 [see AS 33.30.061(c)];
3. The offender has an active warrant in the State of Alaska or an active detainer from another state;
4. The offender has more than three (3) years remaining to serve;
5. The offender is classified as close custody;
6. The offender has a current sex offense conviction and scores high/max on their respective risk-needs assessment; or
7. The offender has been convicted of escape in the first degree under AS 11.56.300.

B. If at any time the DOC Chief Medical Officer or Chief Mental Health Officer determines that an inmate is severely medically or cognitively disabled enough to require substantial ongoing medical care or end of life treatment, they shall notify the Deputy Commissioner over Institutions of the circumstances and request a review for placement on electronic monitoring.

C. Upon receipt of a completed EM application, EM or IPO staff shall:

1. Complete victim notification in accordance with DOC P&P 1000.01; and
2. Prepare a packet with the following documents:
 - a. EM Information Form (Attachment A);
 - b. EM Terms and Conditions (Attachment B);
 - c. EM Permission to Enter and Search Form (Attachment C); and
 - d. The following documents, if available:
 - i. Court order or judgment;
 - ii. Pre-sentence report (PSR) or police report;
 - iii. Current classification or re-classification;
 - iv. Time Accounting Record (TAR) sheet;
 - v. Treatment/programming documentation; and
 - vi. Summary/Recommendation from the Institutional Probation Officer (IPO).

D. An EM PO shall review the EM packet and:

1. Using the EM Checklist (Attachment D) complete a summary of the offender's application.
 - a. For short-term placements (366 days or less), a final determination shall be made by a probation supervisor.

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- b. For long-term placements (367 days or more), a final determination shall be made by the Superintendent or Chief Classification Officer.

E. Denial of EM:

1. If an offender is denied for EM placement, they shall be notified in writing via the EM Denial Form (Attachment E), by telephone, e-mail, or via the IPO.
2. The offender may appeal the denial to the Chief Probation Officer or their designee within five (5) business days of being notified of the determination.
 - a. The offender shall submit their appeal to the office that initially processed their eligibility form on an EM Appeal Form (Attachment F). The offender may also include collateral documentation supporting their request to be placed on EM.
 - b. The appeal shall be forwarded to the Chief Probation Officer or their designee within five (5) days of receipt.
3. Within ten (10) business days of receipt of the appeal, the Chief Probation Officer or designee may affirm, reverse, or modify the decision.
 - a. Any decision rendered by the Chief Probation Officer or their designee is final.
 - b. If no response is received after this time period, the original findings stand.

F. Approval of EM Placement and Release:

1. If an offender is provided with conditional approval of placement on EM, they shall be advised that a favorable residence inspection must be completed prior to the offender's placement on EM.
2. Offenders with sentences of 10 days or less are not required to have a pre-inspection of their residence unless deemed necessary by an EM Officer.
3. An EM Officer shall arrange a residence inspection within five (5) business days of a conditional approval.

G. Fees/Costs:

1. Offenders are required to pay costs incurred by their placement on electronic monitoring:
 - a. Offenders who have been designated to serve a term of imprisonment or period of temporary confinement, or a part of the term or period, by EM will be assessed a fee of \$12 per day to pay the costs of the monitoring.
 - b. Offenders who are required to use an alcohol breath monitor as a component of electronic monitoring will be assessed a fee of \$14 per day to pay the costs of monitoring.
 - c. Offenders shall pay EM fees on a weekly basis.

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- d. Offenders may be charged for any damaged or lost EM equipment, depending on the circumstances of the damage or loss.
- e. If an offender falls into arrears with their EM payments, they may be returned to custody.
- f. Offenders must contractually agree that any accrued EM payments that remain unpaid at the time of the offender's re-entry into a DOC facility may be deducted from their Offender Trust Account, subject to the provisions of AS 33.30.201.
- g. An indigent offender may request lowered fees, or fees waived based on financial need.
 - i. The offender shall provide information on income, bills, child support, etc.
 - ii. The EM officer shall examine the financial record, complete the EM Indigent Form (Attachment G) and make a recommendation for or against indigent status and forward to the EM Supervisor who will endorse, or reverse said recommendation and forward to the supervising probation officer.
 - iii. An offender who has been approved for a reduction must continue to provide justification by way of documentation when requested.

H. Release from EM:

Offenders shall be released in accordance with DOC P&P 818.01 (Offender Reentry Program) and DOC P&P 818.06 (Release Procedures).

II. Supervision of Offenders on EM:

- A. All offenders participating in the DOC EM program for more than seven (7) days shall report to the supervising EM office weekly, or as directed by the PO.
- B. All offenders shall complete an EM Weekly Report Form (Attachment H) and submit to their supervising EM Officer.
- C. The offender and EM staff shall establish an EM Weekly Schedule (Attachment I).
 - 1. An EM Employment Verification Form (Attachment J) that must be completed by the offender's employer and be returned to the supervising EM office within seven (7) working days;
 - 2. The offender shall maintain an EM Movement Log (Attachment L), which shall be reviewed by EM staff during their office visits.
 - 3. Contacts shall be made by a PO at the approved residence, work, treatment, or other locations and occur on an irregular and unscheduled basis.
 - 4. Approved residence contacts shall be conducted with no less than two (2) officers. If another PO is not available, officers shall request the assistance of a local law enforcement official or an Alaska State Trooper.

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- a. When an offender contact is scheduled to be made outside of an office, the PO planning the contact should notify their supervisor in advance of the planned contact.
5. Offenders are subject to urinalysis testing and re-testing in compliance with DOC P&P 808.14, (Substance Abuse Testing):
6. Weekly office contacts, field contacts, and violations will be recorded in the DOC offender management system.
7. Driving may be authorized on a case-by-case basis. Offenders who are approved to drive shall be provided with an approved EM Driving Authorization Form (Attachment M).
8. Offenders serving a sentence of 3 days or less shall be required to remain in their approved residence for the duration of their sentence.

III. Violations of EM Conditions:

- A. Violations of the conditions of the EM program will be addressed in a timely fashion by the EM Officer. Violations of any kind shall be added to the DOC offender management system. Modifications to the placement may be made and/or the offender may be terminated from the program and returned to custody. EM staff will determine and choose the appropriate response to issue to an offender based on the violation that was committed.
- B. EM violations will be handled in accordance with the guidelines set out in DOC P&P 809.04 (Disciplinary Committee, Hearing Officers, and Basic Operation).
- C. If an offender has committed a violation, an incident report shall be completed in accordance with DOC P&P 104.01 (Special Incident Reporting) and forwarded to the receiving institution. An offender that is terminated as a result of a violation, may be eligible to reapply for EM placement at the discretion of the EM PO.
- D. If an offender is terminated from the EM program, they have a right to appeal the termination to the Chief Probation Officer, or their designee.
 1. An offender may not appeal an EM termination if:
 - a. The offender has been charged with a new crime; or
 - b. The offender's housing is no longer viable, and they have no other options for residency.
 2. The offender must submit the EM Appeal Form (Attachment F) within five (5) business days of being notified of the termination.
 3. The appeal form shall be submitted to the office that processed the termination of the EM placement. The supervisor shall forward the appeal to the Chief Probation Officer or their designee within five (5) days of receipt of the appeal.

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4. The Chief Probation Officer or designee will have ten (10) business days to respond to the appeal. The Chief Probation Officer or designee may affirm, reverse or modify the decision.
 - a. Any decision rendered by the Chief Probation Officer or their designee is final.
 - b. If no response is received after this time period, the original findings stand.

E. Escape:

If an offender's conduct meets the definition of escape, procedures under DOC P&P 1208.16 (Institutional Emergency Plan) shall be followed. The EM Officer will confirm that there is an unauthorized absence by physically checking the residence or unauthorized location. The offender's status shall be updated in the DOC offender management system and in the electronic monitoring database. If the offender returns to his/her residence prior to the issuance of a warrant, the EM Officer shall contact the offender and may transfer them to the nearest correctional institution.

IV. First Time DUI/Refusals

A. Eligibility:

An offender sentenced for a first-time DUI/Refusal may be eligible to complete their sentence on DOC EM or with a DOC-approved private EM provider. These convictions must stand alone and shall not be combined with any other convictions.

B. First-Time DUI/Refusal Application Requirements:

1. All DOC EM applications shall include a copy of the court order or judgment, Electronic Monitoring Information Form for First-Time DUI/Refusals (Attachment O), and Electronic Monitoring Terms and Conditions for First-Time DUI/Refusals (Regular EM – Attachment P).
 - a. Offenders who are in a rural area and who were sentenced for a first-time DUI/Refusal on or after 01/01/2017 and the offense occurred prior to 07/09/2019, must complete Electronic Monitoring Terms and Conditions for First Time DUI/Refusals (Home Confinement – Attachment Q).

NOTE: Private EM provider applications must follow the same requirements and will be sent directly to the provider.

C. Processing of First Time DUI/Refusal Cases:

DOC staff will prepare cases for placement on EM upon receipt of judgments received directly from the court and/or notification from defendants and attorneys.

D. EM Placement and Release:

1. Residence inspections and victim notification are not required.
2. The EM Officer shall determine placement on either EM or Home Confinement.

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3. All offenders must report to their supervising EM office the day of transfer or remand, as directed by the court and/or PO. Any exceptions to the reporting dates must be approved in advance by the supervisor.
4. The court will be notified daily of all new EM intakes via e-mail and/or fax by DOC staff.
5. Offenders are to be released in accordance with DOC P&P 818.06 (Release Procedures).
6. Private EM providers will provide DOC with proof of service - booking and release documentation

E. Costs:

1. Offenders who were sentenced on or after 01/01/2017 and the offense occurred prior to 07/08/2019, will be assessed incarceration fees by the Alaska Court System to account for their time on EM. Offenders are required to pay those fees directly to the Alaska Court System. EM Officers are not responsible for the collection of said fees.
2. Offenders whose offenses occurred on or after 07/09/2019 will be assessed fees which will be collected by a DOC EM Office.

F. EM Equipment:

Each office will determine the appropriate equipment for each offender and process them accordingly.

G. Supervision of First-Time DUI/Refusal Cases:

Offenders serving a sentence of three (3) days or less shall be required to remain in their approved residence for the duration of their sentence.

H. Violations of EM Conditions:

Should an offender serving a sentence under SB91 (Chapter 36 SLA 16) criteria violate the conditions while on EM, the violations shall be reported within 24 hours to the District Attorney's Office.

For all other Private EM placement violations, the private EM provider shall notify the closest DOC Electronic Monitoring Office.

I. Escape:

If an offender's conduct meets the definition of escape, procedures under DOC P&P 1208.16 (Institutional Emergency Plan) shall be followed. The EM Officer will confirm there is an unauthorized absence by physically checking the residence or unauthorized location. The offender's status shall be updated in the DOC offender management system and in the electronic monitoring database.

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V. Approving Private EM Providers:

A. Private EM Provider General Requirements:

1. Must have a current Alaska Business License;
2. Must be able to provide offender supervision 24/7; and
3. Must comply with all requirements on DOC EM provider application checklist.

B. The approval process involves the following steps:

1. A review of the application;
2. An on-site visit and meeting;
3. A review of personnel records, supervision record systems, and other pertinent documents;
4. A review of EM equipment and related technology; and
5. The issuance by the DOC of a formal decision letter which indicates Approval, Development Needed, or Rejection.

C. The content of the application submitted by the private EM provider must include:

1. A copy of a current business license and business insurance;
2. A copy of dispute resolution procedures for clients;
3. Personnel records which verify the personnel requirements as outlined above;
4. An outline of ability to comply with all aspects of the EM Services Criteria;
5. An outline of ability to comply with all aspects of the Supervision Requirements;
6. Documentation of ability to comply with Equipment Specifications;
7. A written statement to comply with the Conflicts of Interest standard and a copy of the professional conduct policy;
8. A written statement to comply with requirements for reporting violations and tampering of EM devices; and
9. A written statement of agreement to comply with all aspects of this policy.

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