

IN THE SUPREME COURT OF THE STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

In the Matter of:)
ADOPTING AN APPROVAL PROCESS) Administrative Directive
FOR IMPLEMENTING) No. 2009 - 28
ELECTRONIC MONITORING)
_____)

In the First Regular Session of the Forty-ninth Legislature (2009), the legislature passed SB 1011 modifying A.R.S. §13-902(G), which was signed by the governor on July 13, 2009.

A.R.S. §13-902 (G) provides “After conviction of a dangerous crime against children as defined in §13-705, if a term of probation is imposed, the person is required to register pursuant to §13-3821 and the person is classified as a level three offender pursuant to §§13-3825 and 13-3826, the court shall require global position system or electronic monitoring for the duration of the term of probation. The court may impose a fee on the probationer to offset the cost of the monitoring device required by this subsection. The fee shall be deposited in the adult probation services fund pursuant to §12-267, subsection A, paragraph 3. This subsection does not preclude global position system or electronic monitoring of any other person who is serving a term of probation”.

Administrative Order No. 2009-86 orders the Administrative Director, the Administrative Office of the Courts (AOC), to adopt such approval process that is necessary to implement electronic monitoring and approve a plan and request from each presiding judge of the superior court that meet the established criteria.

In order to comply with legislative changes and Administrative Order No. 2009-86, the Administrative Director of the Administrative Office of the Courts (AOC) has developed an approval process that is necessary to implement electronic monitoring. Therefore, after due consideration,

IT IS DIRECTED that the above captioned approval process, attached hereto, governing the electronic monitoring, be adopted.

IT IS FURTHER DIRECTED that this approval process is effective on and after the date of signature.

Dated this 5th day of October, 2009.

David K. Byers
Administrative Director

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ELECTRONIC MONITORING APPROVAL PROCESS

A. Definitions

• **Administrative director:**

Administrative director means the administrative director of the Administrative Office of the Courts or the director's designee.

• **Computer monitoring:**

Computer monitoring means a probation department approved system that tracks the use of a computer by a probationer. The computer monitoring tracks computer activities including but not limited to internet usage. Such tracking can also consist of review of hard drives, external removable media, external hard drives or storage devices, and any other device that can be monitored based on available technology.

• **Global Position System (GPS):**

Worldwide satellite navigational system formed by 24 satellites orbiting the earth and their corresponding receivers on the earth. The GPS satellites continuously transmit digital radio signals that contain data on the satellites location and the exact time to the earth-bound receiver by using three satellites, GPS can calculate the longitude and latitude of the receiver based on where the three spheres intersect. By using four satellites, GPS can also determine altitude.

• **Electronic monitoring (EM):**

Electronic monitoring means the use of any technology approved pursuant to this process besides GPS monitoring that tracks a probationer, including but not limited to computer monitoring.

B. Applicability

A.R.S. §13-902(G) provides that: "After conviction of a dangerous crime against children as defined in §13-705, if a term of probation is imposed, the person is required to register pursuant to §13-3821 and the person is classified as a level three offender pursuant to §§13-3825 and 13-3826, the court shall require global position system or electronic monitoring for the duration of the term of probation. The court may impose a fee on the probationer to offset the cost of the monitoring device required by this subsection. The fee shall be deposited in the adult probation services fund pursuant to §12-267, subsection A, paragraph 3. This

subsection does not preclude global position system or electronic monitoring of any other person who is serving a term of probation”.

C. Purpose

If the court orders placement on EM or substitutes EM for a current GPS monitoring for probationers convicted of a dangerous crime against children, required to register pursuant to section 13-3821 and classified as level three offenders pursuant to sections 13-3825 and 13-3826, the following approval process shall be followed.

D. Approval Process

This approval process establishes statewide criteria to meet before obtaining authorization from the administrative director to implement electronic monitoring pursuant to A.R.S. §13-902(G).

1. The presiding judge of each county wishing to implement electronic monitoring shall submit a request to the administrative director that includes a description of the specific technology that is intended to be used and the anticipated supervision enhancement that it would provide.
2. Once the administrative director reviews and approves the request in writing, the presiding judge shall submit a document describing that:
 - a. A Procurement process (or documented exemption) to obtain a vendor took place,
 - b. A contract was signed with a vendor (a copy of the signed contract shall be submitted),
 - c. Operating protocols were developed with the vendor (a copy of these protocols shall be submitted), and
 - d. A training plan was developed.
3. The presiding judge shall submit policies and procedures for each kind of electronic monitoring that the probation departments intend to implement for review and approval.
4. The administrative director shall approve the use of EM by Administrative Directive prior to the implementation of the electronic monitoring by the probation department.
5. The presiding judge shall submit a document describing that trainings were provided to probation staff on the contracted electronic monitoring.