

BOARD OF SUPERVISORS
ORANGE COUNTY, CALIFORNIA

MINUTES

March 28, 1989

RESOLUTION NO. 89-425. SUPERVISED ELECTRONIC CONFINEMENT PROGRAM:
Probation Department requests the Board of Supervisors designate the Chief Probation Officer to act as the County Correctional Administrator for the purpose of administering the County Supervised Electronic (Home) Confinement Program.

MOTION: On motion by Supervisor Riley, seconded by Supervisor Vasquez, the Board adopted Resolution No. 89-425 to: 1. Designate the County Probation Officer as the County Correctional Administrator for the purpose of administering the Supervised Electronic Confinement (SEC) Program pursuant to Section 1203.016 of the California Penal Code. 2. Adopt rules and regulations governing the Supervised Electronic Confinement Program as provided for in California Penal Code Section 1203.016. Supervisor Wieder was absent. **MOTION CARRIED.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

March 28, 1989

On motion of Supervisor Riley, duly seconded and carried, the following Resolution was adopted:

WHEREAS, the Chief Probation Officer has requested that he be designated to act as the County Correctional Administrator for the purpose of administering the County Supervised Electronic (Home) Confinement Program pursuant to Section 1203.016 of the California Penal Code and to adopt rules and regulations governing the Program;

NOW, THEREFORE, THIS BOARD DOES HEREBY:

1. Designate the County Probation Officer as the County Correctional Administrator for the purpose of administering the Supervised Electronic Confinement (SEC) Program pursuant to Section 1203.016 of the California Penal Code.

2. Adopt rules and regulations governing the SEC Program as provided for in California Penal Code Section 1203.016.

/

Resolution No. 89-425
Supervised Electronic Confinement Program
ICB:ep

1.

COUNTY COUNSEL
ORANGE COUNTY

F0192-210 (5/77)

AGENDA ITEM TRANSMITTAL



CONSENT YES
 NO

MAR 17 12 29 PM '89

AGENCY/DEPT

CLERK USE ONLY

CAO REVIEW

PROCESSED BY:

- Concur
- Do Not Concur
- Exempt

[Handwritten signature]

TO: BOARD OF SUPERVISORS COUNTY OF ORANGE

FROM: PROBATION DEPARTMENT

CONTACT FOR INFORMATION

Mary K. Luedke
 or Al Garcia

490-5179
 569-2275

MEETING DATE March 28, 1989	SUBJECT SUPERVISED ELECTRONIC CONFINEMENT PROGRAM	SUPV. DIST. <i>LL</i>
--------------------------------	--	--------------------------

SUMMARY OF REQUEST (Description for agenda)
 To request that the Board of Supervisors designate the Chief Probation Officer to act as the County Correctional Administrator for the purpose of administering the County Supervised Electronic (Home) Confinement Program pursuant to Section 1203.016 of the California Penal Code and to adopt rules and regulations governing the program.

ADDITIONAL DATA: Effective January 1, 1989, AB3686 was enacted into law. This legislation was supported by the County Supervisors Association of California (CSAC), numerous counties, the State Sheriff's Association, the State Police Chief's Association and the Chief Probation Officers of California (CPOC), among others. This enabling legislation added Section 1203.016 to the California Penal Code for the purpose of ensuring, on a statewide basis, the uniform administration and consistent safe and responsible operation of home confinement programs that utilize electronic equipment to monitor adult offenders. In Orange County, on September 30, 1986, your honorable board initially approved an electronic supervised surveillance pilot program with a follow-up six-month progress report - filed on May 12, 1987. On December 15, 1987 the Board authorized continued funding and expanded the program to include juvenile offenders. On July 5, 1988 a final six-month progress report was submitted to the Chairman of the Board with copies to the other board offices and the County Administrative Office. The above
(PLEASE SEE REVERSE SIDE FOR CONTINUATION)

PREVIOUS RELEVANT BOARD ACTIONS ON THIS SPECIFIC ITEM:
 See ADDITIONAL DATA Section above.

FUNDING SOURCE(S) N/A	CURRENT YEAR COST N/A	ANNUAL COST N/A	BUDGETED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
--------------------------	--------------------------	--------------------	---

WILL PROPOSAL REQUIRE ADDITIONAL PERSONNEL?
 NO IF YES, STATE NUMBER _____ PERMANENT _____ LIMITED TERM

CONSISTENT WITH BOARD POLICY?
 YES NEW ITEM OR EXCEPTION

- RECOMMENDED ACTION**
- To designate the County Probation Officer as the County Correctional Administrator for the purpose of administering the Supervised Electronic Confinement (SEC) Program pursuant to Section 1203.016 of the California Penal Code.
 - Adopt rules and regulations governing the SEC Program as provided for in California Penal Code Section 1203.016.

CONCURRENCES (If applicable)

ATTACHMENTS ATTACHMENT A: AB3686-enacted into law adding Section 1203.016 to the California Penal Code, effective January 1, 1989.
(PLEASE SEE REVERSE SIDE FOR CONTINUATION)

March 10, 1988

[Signature]
 Chief Probation Officer, Michael A. Schumacher

(025) (11-10) F030-109 4 (11-1/84)

ADDITIONAL DATA (continued):

reports describe in detail the Probation Department's Supervised Electronic Confinement (SEC) Program.

The proposed Rules and Regulations of SEC (ATTACHMENT B) and the Terms and Conditions for SEC (ATTACHMENT C) have been reviewed and approved by County Counsel.

ATTACHMENTS (continued):

ATTACHMENT B: Proposed Rules and Regulations of SEC Program.

ATTACHMENT C: Terms and Conditions for SEC Program.

ATTACHMENT A

BILL NUMBER: AB 3686

BILL TEXT

CHAPTER	1603
APPROVED BY GOVERNOR	SEPTEMBER 30, 1988
FILED WITH SECRETARY OF STATE	SEPTEMBER 30, 1988
PASSED THE ASSEMBLY	AUGUST 26, 1988
PASSED THE SENATE	AUGUST 23, 1988
AMENDED IN SENATE	AUGUST 22, 1988
AMENDED IN ASSEMBLY	MAY 17, 1988
AMENDED IN ASSEMBLY	APRIL 20, 1988

INTRODUCED BY Assembly Member Mojonnier
(Principal Co-Author: Senator Ayala)

FEBRUARY 17, 1988

An act to add and repeal Section 1203.016 of the Penal Code,
relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 3686, Mojonnier. Home detention program.

Existing law authorizes the board of supervisors of any county to offer a voluntary public work program to county inmates in lieu of confinements in a county correctional facility. Existing law also authorizes the conduct of a 3-year, limited pilot project whereby a judge in a participating county may sentence a person convicted of a misdemeanor to home detention in lieu of sentencing the person to county jail.

This bill makes various legislative findings relative to the need to provide electronic home detention programs and would authorize the board of supervisors of any county to allow the sheriff, probation officer, or other official in charge of county correctional facilities or work furlough programs, all to be known as the correctional administrator, to offer a program whereby minimum security inmates and low-risk offenders, as defined, committed to a county correctional facility and certain inmates participating in a work furlough program may voluntarily participate in a home detention program, involving monitoring or supervising devices, during their sentence in lieu of confinement in the county correctional facility. At the time of sentencing or at any time that the court deems it necessary, however, the court could restrict or deny a defendant's participation in the home detention program.

The bill would require each inmate participating in the program to give his or her written consent to comply with rules and regulations, including certain specified rules. The bill would provide that a person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets specified criteria for release. The bill would further authorize the board of supervisors to a certain fee to be paid by each home detention participant according to the participant's ability to pay.

BILL NUMBER: AB 3686

BILL TEXT

The bill would require the Board of Corrections to monitor home detention programs operated pursuant to this bill and to report to the Legislature on or before January 1, 1992, regarding its effectiveness.

The bill would provide that its provisions shall remain operative only until January 1, 1993, and as of that date are repealed.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the Mojonnier-Ayala Electronic Home Detention Act of 1988.

SEC. 2. The Legislature hereby finds and declares that jail overcrowding continues to pose critical fiscal, operational, and safety issues for counties in the state. The Legislature further finds that there are few short-term solutions to this chronic overcrowding, and that assistance through major construction projects is a long-term process. In recognition of this problem, there is a need to provide for safe, alternative, confinement options for low-risk inmates. Electronic home detention programs can offer one safe and effective alternative. Under Section 1203.015 of the Penal Code, several jurisdictions have adopted home detention programs. The Legislature hereby recognizes that changes in current law are required to ensure the uniformly consistent, safe, and responsible operation of these programs.

It is the intent of the Legislature in enacting this act to establish new provisions of law which will authorize, guide, and encourage the establishment of electronic home detention programs to be administered and operated by counties which will provide necessary protections to local communities, maintain judicial confidence, and result in successful and cost-effective participation by offenders.

SEC. 3. Section 1203.016 is added to the Penal Code, to read:

1203.016. (a) Notwithstanding any other provision of the law, the board of supervisors of any county may authorize the correctional administrator, as

BILL NUMBER: AB 3686

BILL TEXT

defined in subdivision (h), to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or inmates participating in a work furlough program may voluntarily participate in a home detention program during their sentence in lieu of confinement in the county jail or other county correctional facility.

(b) The board of supervisors may prescribe reasonable rules and regulations under which a home detention program may operate. As a condition of participation in the home detention program, the inmate shall give his or her consent in writing to participate in the home detention program and shall in

writing agree to comply with the rules and regulations of the program, including, but not limited to, the following rules:

(1) The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

(2) The participant shall admit any person or agent designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

(3) The participant shall agree to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

(4) The participant shall agree that the correctional administrator in charge of the county correctional facility from which the participant was

released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention or if the person fails to remain within the place of home detention as stipulated in the agreement or for any other reason no longer meets the established criteria for release under this section. A copy of the agreement shall be delivered to the participant and a copy retained by the correctional administrator.

(c) Whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator, and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

(d) Nothing in this section shall be construed to require the correctional administrator to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody. A person shall be eligible

BILL NUMBER: AB 2686

BILL TEXT

for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this section.

(e) The correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance.

(f) At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

(g) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of the electronic monitoring or supervising device and the cost of administration of the program, to be paid by each home detention participant according to his or her ability to pay. Inability to

pay shall not preclude participation in the program.

(h) As used in this section, the following words used in this section have the following meanings:

(1) 'Correctional administrator' means the sheriff, probation officer, or other official in charge of a county correctional facility or work furlough program.

(2) 'Minimum security inmate' means an inmate who, by established local classification criteria, would be eligible for placement in a Type IV local detention facility, as described in Title 15 of the California Code of Regulations, or for placement into the community for work or school activities, or who is determined to be a minimum security risk under a classification plan developed pursuant to Section 1050 of Title 15 of the California Code of Regulations.

(3) 'Low-risk offender' means a probationer, as defined by the National Institute of Corrections model probation system.

(i) The Board of Corrections shall monitor home detention programs operated pursuant to this section and shall report to the Legislature on or before

January 1, 1992, regarding their effectiveness. The report shall include an evaluation of the costs of the programs, the impact upon jail overcrowding, and the effect upon the safety of the public.

(j) This section shall remain operative only until January 1, 1993, and as of that date is repealed.

ATTACHMENT B

RULES AND REGULATIONS OF SUPERVISED
ELECTRONIC CONFINEMENT PROGRAM

1. The correctional administrator Orange County is the County Probation Officer.
2. The correctional administrator is authorized to offer a program under which minimum security inmates and low-risk offenders committed to County correctional facilities may voluntarily participate in a home detention program during their sentence in lieu of confinement.
3. As condition of participation in the home detention program, an inmate must give his or her consent in writing to participate and shall agree in writing to comply with the rules and regulations of the program, including the terms and conditions of the supervised electronic confinement program, attached herewith as Addendum 1 and incorporated herein by reference.
4. A participant is required to remain within the interior premises of his or her residence during hours designated by the correctional administrator.
5. A participant shall admit any person or agent designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.
6. The participant shall agree to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the supervisor, which is to be used solely for the purposes of voice identification.
7. The participant shall agree that the correctional administrator may without further order of the court immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention, or if the person fails to remain within the place of home detention as stipulated, or fails to comply with the terms and conditions of the program or for any other reason no longer meets the established criteria for release.
8. A copy of the participant's written consent to the agreement, together with a copy of the list of the rules and regulations and the terms and conditions of the program shall be delivered to the participant and a copy retained by the correctional administrator.

9. Minimum security inmate and low risk offender has the meaning under these rules and regulations contained in Penal Code Section 1203.016(h) (2) (3).

10. A person shall be eligible for participation in the home detention program only if the correctional administrator concludes that the person meets the criteria established under Penal Code Section 1203.016.

ATTACHMENT C

TERMS AND CONDITIONS
SUPERVISED ELECTRONIC CONFINEMENT PROGRAM

1. Tampering with or removal of the Supervised Electronic Confinement Equipment is prohibited. Should it become damaged or inoperative, the Probation Officer must be informed immediately. If any damage is caused deliberately, a participant may be removed from the program, charges filed, and restitution required.
2. The participant and all occupants of an approved residence must grant admission to the residence to the Probation Officer or his agent at any hour of the day or night.
3. The residence and all persons who reside there must meet the approval of the Probation Officer prior to admission to the SEC Program.
4. A participant may not leave the residence for any reason without the prior approval of the Probation Officer, except when directed to do so by police, fire or in an emergency, medical personnel.
5. If a participant becomes ill, the Probation Officer must be notified as soon as possible and will issue instructions.
6. The telephone must be kept in good repair and the line must be kept free. Phone calls must be limited to five minutes. Call-waiting and/or call-forwarding is not permitted on telephones. No answering machines or portable telephones are permitted. The telephone bill must be paid. Interruption of telephone service may result in removal from the program.
7. The person, the property, the residence, and the vehicle of a participant must be submitted to search and seizure without warrant or probable cause at any hour of the day or night by any peace officer.
8. A participant must submit to any chemical, blood, breath, saliva, or urine testing measure designed to detect the presence of alcohol, narcotics or drugs in the human system. A participant may be required to report for a urine test at a probation office designated by a Probation Department representative.
9. A participant must enroll and participate in an approved antabuse and/or counseling program as directed by the Probation Officer.
10. A participant must not violate any law.
11. A participant may not consume or possess any alcoholic beverage, illegal drugs or narcotics.

- _____ 12. A participant may not possess or have in his or her residence or vehicle any deadly or dangerous weapon, including but not limited to firearms, martial arts weapons or explosives.
- _____ 13. Incidents occurring at the residence where police, fire or medical personnel respond must be reported to the Probation Officer as soon as possible.
- _____ 14. The participant and every resident of the household must agree to the following:
 - a. No alcohol is permitted in the residence.
 - b. No illegal drugs or narcotics are permitted in the residence.
 - c. No deadly or dangerous weapons are permitted in the residence.
 - d. No individuals may join the household unless specifically approved in advance by the Probation Officer.
 - e. No visitors are allowed other than immediate family members. Any exceptions will require prior approval of the Probation Officer.
- _____ 15. No telephonic or other communication is permitted with any other participants on the program or with any current correctional facility inmates.
- _____ 16. Pets must be confined to allow free access to the residence by the Probation Officer.

I have reviewed, understand, and agree to abide by the above conditions of release under SUPERVISED ELECTRONIC CONFINEMENT PROGRAM. I understand that the prior conditions imposed by the Work Furlough Program remain in full force and effect. I also understand that failure to comply with any of the above conditions may result in my return to jail custody, further court action, and loss of Work Furlough status, if applicable. I consent to all of the rules and regulations and all of the above terms and conditions of the Program.

Applicant: _____
 Date: _____
 Deputy Probation Officer: _____

Home Address: _____
 City and Zip: _____
 Phone Number: _____

Occupant(s) of Household:

Assigned W/F DPO: _____