

**Minimum Standards for Local Detention Facilities  
in South Carolina  
HOME DETENTION STANDARDS  
HOME DETENTION**

Pursuant to § 24-13-1530 of the Code of Laws of South Carolina, minimum standards for the development and implementation of a home detention program are hereby established.

(1) “Department”, as defined by § 24-13-1520(1), means, in the case of a juvenile inmate/offender/defendant, the Department of Juvenile Justice and, in the case of an adult inmate/offender/defendant, the Department of Probation, Parole and Pardon Services, the Department of Corrections, and any other law enforcement agency created by law. “Department” includes a local detention facility of any county, municipal, or multi-jurisdictional governmental entity.

(2) “Court”, as defined by § 24-13-1520(2), means a circuit, family, magistrate’s, or municipal court having criminal, civil, or juvenile jurisdiction to sentence an individual to incarceration for a violation of law.

(3) “Approved electronic monitoring device”, as defined by § 24-13-1520(3), means a device approved by the department which is primarily intended to record and transmit information as to the inmate’s/offender’s/defendant’s presence or no presence in the home and/or other location(s) as designated by the department. An approved electronic monitoring device may record or transmit: oral or wire communications or an auditory sound; visual images; or information regarding the inmate’s/offender’s/defendant’s activities while inside the inmate’s/offender’s/defendant’s home and/or other location(s) as may be designated by the department. These devices are subject to the required consent as set forth in § 24-13-1550. Such devices may be used for identification and supervision of the inmate/offender/defendant, to include monitoring and recording as appropriate, but not for the purpose of eavesdropping or conducting any other illegally intrusive monitoring.

(4) “Home detention”, as defined by § 24-13-1520(4), means the confinement of a person convicted of or charged with a crime, delinquency, or violation of court order to his/her place of residence and/or other location(s) as designated by the department and under the terms and conditions established by the department.

(5) “Participant”, as defined by § 24-13-1520(5), means an inmate/offender/defendant placed into an electronic monitoring program or into some other suitable program (including non-electronic home detention for properly screened and classified inmates/offenders/defendants) which provides supervision and/or monitoring in the community.

**PLACEMENT**

Section 24-13-1530 (A) of the Code of Laws of South Carolina permits the placement of certain inmates/offenders/defendants as selected by the court into a home detention program if there is a home detention program available in the jurisdiction. The applicant must meet the criteria of the department’s program. Such placement is an alternative to:

(1) pretrial or pre-adjudicatory detention;

- (2) probation (intensive supervision);
- (3) community corrections (diversion);
- (4) parole (early release);
- (5) work release or work/punishment;
- (6) institutional furlough;
- (7) jail diversion; or
- (8) shock incarceration.

Section 24-13-1530 (B) further permits local governments to establish by ordinance the same alternative to incarceration for persons who are awaiting trial and for inmates/offenders/defendants whose sentences do not place them in the custody of the Department of Corrections.

### **VOLUNTARY PROGRAMS**

Each applicant/participant, whether selected by the court and/or by the department, must sign a consent form acknowledging, but not limited to, his/her understanding of and concurrence with the following conditions:

- (1) Participation in a home detention program is voluntary in nature; and, should he/she elect to participate in the program, he/she will abide by the program's rules and regulations and will follow all written and verbal instructions of the department's staff.
- (2) He/she agrees and acknowledges that no person has a right or expectation to be enrolled in and/or to participate in the program and/or to stay in the program, and can be removed at any time at the department's discretion.
- (3) He/she agrees to pay all program fees, including any advance payment as may be required.
- (4) He/she agrees to install and maintain a telephone as may be required.
- (5) He/she agrees to obtain the consent of adult residents in the participant's home/residence, as determined by the department's coordinator.
- (6) He/she acknowledges that, in accordance with § 24-13-1570, a violation of the order for home detention subjects the participant to prosecution for the crime of escape; that being arrested or charged with another crime revokes the order for home detention; and that, if there is a violation of the order or commission of another crime, the court will sentence him/her to imprisonment.

(7) He/she acknowledges that he/she agrees to abide by all conditions as set forth by the department, and that failure to comply with any such condition, including the non-payment of fees, will result in the participant's removal from the program without appeal and return to the custody of the local detention facility, exclusive of any criminal charges that may be filed. Since program participation is voluntary in nature for both the department as well as the participant, a participant can be removed from the program at any time for any or no reason without appeal, including a department's decision to terminate or abolish the program. In the event that the participant is a pre-trial inmate/offender/defendant and he/she is enrolled in the program as a condition of bond, the participant is still subject to all the program's rules and regulations. Violations of any of these conditions will result in his/her removal from the program in the same manner as any other participant. However, should such removal occur, the person in charge of the program must, as soon as possible, notify the court of jurisdiction of the participant's removal from the program. After acceptance into the program, the participant must remain incarcerated or in secure custody until all paperwork has been completed and until the electric monitoring device has been attached to the inmate.

### **ADMINISTRATIVE FEES**

The governing body of the county, municipality, or other multi-jurisdictional governmental entity may, if it deems it to be necessary and desirable, impose a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each person in the program. Documentation of all such fees imposed, collected, and disbursed will be maintained by the county's, municipality's, or the other multi-jurisdictional governmental entity's treasurer and must be available for inspection and audit at all times. These funds are to be used at the discretion of the department's administrator. Failure to pay such fees will be sufficient grounds for an individual's removal from the program.

### **PROMULGATION OF REGULATIONS**

Pursuant to § 24-13-1540, the department must promulgate regulations that prescribe reasonable guidelines under which a home detention program may operate.

### **VERIFICATION**

In accordance with § 24-13-1550:

The participant must admit a person or agent designated by the department into his/her residence at any time for purposes of verifying the participant's compliance with the conditions of his/her home detention. The participant must make the necessary arrangements to allow for a person designated by the department to visit the participant's place of education or employment at any time, subject to the approval of the educational institution or employer, for the purpose of verifying compliance.

Failure to grant or receive such approval will be reason for the denial of an individual to participate in the home detention program.

## **USE OF ELECTRONIC MONITORING DEVICE**

If so instructed by the department, the participant must use an approved electronic monitoring device at all times to verify compliance with the conditions of detention and must maintain a monitoring device in his/her home, at some other approved location, or on his/her person in accordance with § 24-13-1560.

## **CRITERIA FOR PLACEMENT**

In accordance with § 24-13-1570, 24-13-1580, and 24-13-1590 and other criteria as established by the department, the following will serve as a guide to applicant/participant selection: Unless otherwise established by ordinance, the court of jurisdiction must make all applicants/participants eligible for participation.

### **A. Family Court:**

1. The presiding judge must make an individual eligible for participation. The candidate must meet the department's criteria for placement.
2. Eligibility alone does not entitle any Family Court inmate/offender/defendant to be placed into the program unless approved by the department.
3. Participation is contingent upon:
  - a. Voluntary consent agreement;
  - b. Agreement of the inmate/offender/defendant to pay all associated fees, including any court ordered monies;
  - c. No additional pending criminal charges;
  - d. No history of escape, Criminal Domestic Violence, or crimes of violence;
  - e. Compliant behavior and adherence to local detention facility rules;
  - f. Residency in the county of jurisdiction; (If the inmate/offender/defendant resides in another county, the department must provide prior notification to the sheriff of such county before enrollment in the program. The sheriff will be provided criminal background history and information concerning the current charges. Under no circumstances will an inmate/offender/defendant reside outside of the boundaries of the State of South Carolina and enroll in the program.)
  - g. Having or maintaining valid verifiable employment, if required;
  - h. Agreement to one month supervision fee in advance, if required;
  - i. Agreement to install and maintain a telephone or other device as so designated;
  - j. Consent obtained from other adults in the participant's home/residence;
  - k. Agreement to abide by all other conditions as set forth by the department.

## **B. Magistrate Court and General Sessions Court:**

1. The presiding judge must make an individual eligible for participation. The candidate must meet the department's criteria for placement. Magistrates and Circuit Judges may order as a condition of bond that individuals be admitted into the home detention program if one is available.
2. Eligibility alone does not entitle, mandate, or require an individual's placement or acceptance into the program unless approved by the department.
3. Participation is contingent upon:
  - a. Voluntary consent agreement;
  - b. Agreement of the inmate/offender/defendant to pay all associated fees, including any court ordered monies;
  - c. No additional pending criminal charges;
  - d. No history of escape, Criminal Domestic Violence, or crimes of violence;
  - e. Compliant behavior and adherence to local detention facility rules;
  - f. Residency in the county of jurisdiction; (If the inmate/offender/defendant resides in another county, the department must provide prior notification to the sheriff of such county before enrollment in the program. The sheriff will be provided criminal background history and information concerning the current charges. Under no circumstances shall an inmate/offender/defendant reside outside of the boundaries of the State of South Carolina and enroll in the program.)
  - g. Having or maintaining valid verifiable employment, if required;
  - h. Agreement to one month supervision fee in advance, if required;
  - i. Agreement to install and maintain a telephone or other device as so designated;
  - j. Consent obtained from other adults in the participant's home/residence;
  - k. Agreement to abide by all other conditions as set forth by the department.

## **C. Participation as a Condition of Bond:**

1. Magistrates and Circuit Judges may order as a condition of bond that an individual be admitted into the home detention program if one is available. The candidate must meet the department's criteria for placement.
2. Unless a home detention program is established by ordinance, no person awaiting trial will be eligible or placed on home detention without approval of the court.
3. Once notified by the appropriate court that a person is eligible for release on bond as a condition,

**local detention facility staff will:**

- a. Interview and screen such persons;
- b. Explain the program's rules and regulations, including that program participation is voluntary and, as such, any participant can be removed for any or no stated reason at any time.
- c. Have the inmate/offender/defendant agree to obtain all consents; to pay all program fees; and to abide by all conditions of the program, including the department's rules and regulations.
- d. Have the inmate/offender/defendant wear and maintain any authorized electronic monitoring device and agree to the installation and maintenance of a telephone line if so designated.
- e. Have the inmate/offender/defendant: (1) permit entry to his/her residence at any time to verify compliance with the program's rules and (2) obtain consent to authorize permission for the department to enter his/her place of employment or school to verify the same.
- f. Should an inmate/offender/defendant be removed from the program for any reason prior to the disposition of the inmate's/offender's/defendant's pending criminal charges, the person in charge of the program must so notify the court.

**VICTIM INPUT**

Pursuant to § 24-13-1570(D), the victim of the participant's crime, or his/her immediate family, must be provided the opportunity for oral and/or written input and comment to the department or to the court, or to both, regarding the participant's home detention sentence.

**RESPONSIBILITY FOR FOOD, CLOTHING, MEDICAL CARE, AND TRANSPORTATION**

Any inmate/offender/defendant who is released on home detention shall be responsible for his/her own transportation to and from work, school, or other authorized designations as approved by the department. He/she shall be responsible for his/her own clothing, food, medical and dental care, and/or other terminal obligations and responsibilities including any court ordered fines, restitution, or other payments.

**SPECIAL CONDITIONS**

Besides any other conditions set forth by applicable State law, local ordinance, and/or the department operating the home detention program, the participant must:

- (1) Obtain the department's approval of adult residents living in the participant's home/residence, as determined by the department's coordinator.

- (2) Agree that no individuals may join the household unless notification to the department is received in advance.
- (3) Agree that no social gatherings, including parties, serving alcoholic beverages and/or illegal substances will take place at the participant's residence.
- (4) Agree to keep all animals at the residence confined to allow departmental agents and/or law enforcement officers access to his/her residence.
- (5) Agree not to operate any motor vehicle, either for personal or employment purposes, unless properly licensed and covered by insurance as required by law.
- (6) Agree not to operate a motor vehicle while under the influence of alcohol or drugs, whether prescribed or not.
- (7) Agree not to associate with persons deemed undesirable by the department.
- (8) Agree not to have telephone communications or personal communications with, and/or not to visit or otherwise attempt to harm or harass, a victim of the participant's crime or charges.
- (9) Agree not to communicate with another program participant or person confined in a local detention facility or state/federal prison unless such person is an immediate family member, being limited to spouse, parent, child, grandparent, grandchild, sibling, in-law, or other person approved by the department.
- (10) Agree and acknowledge that all residents of the household may be asked to agree to:
  - (a) Have no alcohol in the residence;
  - (b) Have no illegal drugs or narcotics in the residence;
  - (c) Have no firearms or dangerous weapons in the residence;
  - (d) Not consume or possess alcoholic beverages;
  - (e) Submit to random alcohol and drug testing at participant's expense if so requested by the department;
  - (f) Notify the department of all prescribed medication.
- (11) Agree to participate in any court ordered counseling program unless otherwise completed.
- (12) Agree to submit the participant's person, vehicle, and/or place of residence to search any time day or night with or without a search warrant by a department officer/agent upon request.
- (13) Agree to obey and comply with all federal and state laws and all county and municipal ordinances.
- (14) Agree to comply with all instructions of the department, both verbal as well as written.
- (15) Agree to report as directed by the department.

(16) Agree to pay all supervision and program fees in the form of cash, money order, or certified check.

(17) Agree to comply with other conditions as may be set forth.

### **CONTRACT SERVICES**

The county/municipality/other multi-jurisdictional governmental entity/department may contract with a private non-governmental entity to provide and/or to lease equipment, to provide monitoring services, to assist in supervising the participant(s), and/or to assist the county/department in the collection of fees. However, in all circumstances, the county/municipality/department retains overall authority for the program, and no private non-governmental entity or its employees will have any authority to arrest, detain, apprehend, or otherwise take into custody any participant who allegedly fails to abide by the conditions of the program, such authority being retained by the department operating the program and in whose custody the participant remains.