

Ordinance No. 10212 (N.S.)

AN URGENCY ORDINANCE TO AMEND SECTION 953 OF ARTICLE LXIII OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO PUBLIC SAFETY REALIGNMENT OF 2011, TO TAKE EFFECT IMMEDIATELY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and declares as follows:

On April 4, 2011, Governor Brown signed Assembly Bill (AB) 109, the Public Safety Realignment Act, which fundamentally changed the criminal justice system and transferred many criminal justice responsibilities to counties, including local supervision of persons who would otherwise be in prison or supervised by the state. AB 109 amended California Penal Code section 1203.016, authorizing the Board of Supervisors to authorize the county correctional administrators to administer a home detention and electronic monitoring program, prescribe reasonable rules and regulations under which a home detention program may operate, and to charge participants a fee.

On September 27, 2011, the Board of Supervisors authorized the Sheriff, as one of the county's two correctional administrators, to develop and implement a home detention and electronic monitoring program. Additionally, the Board of Supervisors authorized the Sheriff to contract with appropriate public or private agencies or entities for the provision of specified program services. Pursuant to this authority, the Sheriff has contracted with a private entity for the supervision of program participants and the provision of treatment and counseling services for selected program participants. Under this agreement, the Sheriff determines which participants are required to enroll and participate in treatment programs and counseling, and which participants are only supervised. The private entity will collect an administrative fee from program participants based upon their ability to pay. Authorization of this administrative fee by the Board of Supervisors will facilitate the implementation of the Sheriff's home detention and electronic monitoring program (known as the Alternate Custody Program).

The Alternate Custody Program is needed immediately in order to mitigate the impact of realignment, including increases in jail population, on public peace and safety. Accordingly, on June 19, 2012, the Board of Supervisors approved reasonable rules and regulations governing the Alternate Custody Program. To complete successful implementation of the Alternate Custody Program, the Board of Supervisors determines that the fee authorized by Penal Code section 1203.016 should be adopted by an urgency ordinance pursuant to Government Code section 25123(d), with such ordinance and fee effective immediately upon passage.

Section 2. Section 953 of Article LXIII of the San Diego Administrative Code is hereby amended to read as follows:

**Sec. 953. Home Detention and Electronic Monitoring Fees.**

(a) Unless otherwise provided in this Article or State law, the Probation Department or County collection agent shall be paid pursuant to the fees and charges under County Administrative Code section 363 for home supervision and electronic monitoring of minor persons in custody of the Probation Officer, minors under Probation supervision and adult probation services, investigation and supervision.

(b) Each participant in the home detention program administered by the Sheriff pursuant to Penal Code section 1203.016 shall be charged a program administrative fee. Participants who are required by the Sheriff to enroll and participate in treatment programs or counseling shall be charged a fee of up to \$10 a day. All other participants shall be charged a fee of up to \$9 a day. The Sheriff shall charge all or a portion of the program administrative fee based on the participant's ability to pay. Inability to pay all or a portion of this fee shall not preclude participation in the program, and eligibility shall not be enhanced by reason of ability to pay. The Sheriff shall ensure that all fees are administered in compliance with the requirements of Penal Code section 1208.2.

Section 3. This Ordinance is declared to be an ordinance necessary for the immediate preservation of public safety and shall take effect immediately on June 19, 2012 pursuant to subdivision (d) of Section 25123 of the Government Code. This Board finds that it is necessary for this Ordinance to take effect immediately because the population of the County jail is nearing capacity due to Public Safety Realignment and thereby threatening the safety of inmates and officers. Immediate adoption of a program administrative fee will facilitate rapid implementation of the home detention program designed to alleviate those conditions in County jail.

Section 4. This Urgency Ordinance shall expire on the effective date of the ordinance titled "AN ORDINANCE TO AMEND SECTION 953 OF ARTICLE LXIII OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE, RELATING TO PUBLIC SAFETY REALIGNMENT OF 2011", which was adopted by the Board of Supervisors on June 26, 2012.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 19<sup>th</sup> day of June, 2012.

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL  
BY  
Mark Day, Deputy County Counsel