

ORDINANCE NO. 10221(N.S.)

**AN URGENCY ORDINANCE TO AMEND SECTIONS 949 and 953 OF
ARTICLE LXIII, 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 custody and supervision of persons who would otherwise be in prison or supervised by the state. On September 27, 2011, the Board of Supervisors authorized the Sheriff, as one of the county's two correctional administrators, to develop and implement home detention programs pursuant to Penal Code sections 1203.016 and 1203.018, to be operated as part of the Home Detention Electronic Monitoring Program (also known as the Alternate Custody Program). The Board of Supervisors may also authorize the Sheriff to offer an involuntary home detention program pursuant to Penal Code section 1203.017, and authorization of such a program will facilitate the implementation of the Home Detention Electronic Monitoring Program.

On September 27, 2011, the Board of Supervisors authorized the Sheriff to contract with appropriate public or private agencies or entities for the provision of specified home detention program services. Pursuant to this authority, the Sheriff has contracted with a private entity for supervision of program participants and the provision of treatment and counseling services for selected program participants. On June 19, 2012, the Board of Supervisors authorized the collection of an administrative fee from inmates placed in the Home Detention Electronic Monitoring Program pursuant to Penal Code section 1203.016 based on their ability to pay. The Board of Supervisors may also authorize the collection of an administrative fee from inmates placed in the Program pursuant to Penal Code section 1203.018, and authorization of such a fee will facilitate the implementation of the Program.

The Home Detention Electronic Monitoring Program (also known as 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. To continue the successful implementation of the Program, the Board of Supervisors determines that granting to the Sheriff the authorities in Penal Code section 1203.017 and the authorization of an administrative fee authorized by Penal Code section 1203.018 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. Sections 949 and 953 of Article LXIII of the San Diego County Administrative Code are amended to read as follows:

ARTICLE LXIII. PUBLIC SAFETY REALIGNMENT OF 2011.

Sec. 949. Home Detention Program for Inmates in Sheriff's Custody.

(a) The Sheriff, as correctional administrator of the county jails and inmates, may offer a voluntary or involuntary home detention program pursuant to section 1203.016 of the Penal Code and this Article for inmates committed to a county jail or other county correctional facility or inmates participating in a work furlough program, during their sentence in lieu of confinement in the county jail or other county correctional facility.

(b) Subject to the limitations set forth in Penal Code section 1203.016 and in accordance with the County laws and policies governing procurement of contract services, the Sheriff may administer a home detention program with appropriate public or private agencies or entities to provide specified program services.

(c) The Sheriff, as correctional administrator of the county jails and inmates, may offer an involuntary home detention program pursuant to Penal Code section 1203.017 and this Article.

(d) Subject to the limitations set forth in Penal Code section 1203.017 and in accordance with the County laws and policies governing procurement of contract services, the Sheriff may administer a home detention program with appropriate public or private agencies or entities to provide specified program services.

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 sections 1203.016 and 1203.018 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 September 25, 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 authorization to implement home detention pursuant to Penal Code 1203.017 and a program administrative fee for home detention pursuant to Penal Code 1203.018 will facilitate rapid implementation of the Home Detention Electronic Monitoring 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 SECTIONS 949, 950 AND 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 September 25, 2012.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 25th day of September, 2012.

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