

RCW 9.94A.736 Electronic monitoring—Supervising agency to establish terms and conditions—Duties of monitoring agency. (1) A supervising agency must establish terms and conditions of electronic monitoring for each individual subject to electronic monitoring under the agency's jurisdiction. The supervising agency must communicate those terms and conditions to the monitoring agency. A supervising agency must also establish protocols for when and how a monitoring agency must notify the supervising agency when a violation of the terms and conditions occurs. A monitoring agency must comply with the terms and conditions as established by the supervising agency.

(2) A monitoring agency shall:

(a) Provide notification within twenty-four hours to the court or other supervising agency when the monitoring agency discovers that the monitored individual is unaccounted for, or is beyond an approved location, for twenty-four consecutive hours. Notification shall also be provided to the probation department, the prosecuting attorney, local law enforcement, the local detention facility, or the department, as applicable;

(b) Establish geographic boundaries consistent with court-ordered activities and report substantive violations of those boundaries;

(c) Verify the location of the offender through in-person contact on a random basis at least once per month; and

(d) Report to the supervising agency or other appropriate authority any known violation of the law or court-ordered condition.

(3) In addition, a private monitoring agency shall:

(a) Have detailed contingency plans for the monitoring agency's operation with provisions for power outage, loss of telephone service, fire, flood, malfunction of equipment, death, incapacitation or personal emergency of a monitor, and financial insolvency of the monitoring agency;

(b) Prohibit certain relationships between a monitored individual and a monitoring agency, including:

(i) Personal associations between a monitored individual and a monitoring agency or agency employee;

(ii) A monitoring agency or employee entering into another business relationship with a monitored individual or monitored individual's family during the monitoring; and

(iii) A monitoring agency or employee employing a monitored individual for at least one year after the termination of the monitoring;

(c) Not employ or be owned by any person convicted of a felony offense within the past four years; and

(d) Obtain a background check through the Washington state patrol for every partner, director, officer, owner, employee, or operator of the monitoring agency, at the monitoring agency's expense.

(4) A private monitoring agency that fails to comply with any of the requirements in this section may be subject to a civil penalty, as determined by a court of competent jurisdiction or a court administrator, in an amount of not more than one thousand dollars for each violation, in addition to any penalties imposed by contract. A court or court administrator may cancel a contract with a monitoring agency for any violation by the monitoring agency.

(5) (a) A court that receives notice of a violation by a monitored individual of the terms of electronic monitoring or home detention shall note and maintain a record of the violation in the court file.

(b) (i) The presiding judge of a court must notify the administrative office of the courts if:

(A) The court or court administrator decides it will not allow use of a particular monitoring agency by persons ordered to comply with an electronic monitoring or home detention program; and

(B) The court or court administrator, after previously deciding not to allow use of a particular monitoring agency, decides to resume allowing use of the monitoring agency by persons ordered to comply with a home detention program.

(ii) In either case, the court or court administrator must include in its notice the reasons for the court's decision.

(6) The administrative office of the courts shall, after receiving notice pursuant to subsection (5) of this section, transmit the notice to all superior courts and courts of limited jurisdiction in the state, and any law enforcement or corrections agency that has requested such notification.

(7) The courts, the administrative office of the courts, and their employees and agents are not liable for acts or omissions pursuant to subsections (5) and (6) of this section absent a showing of gross negligence or bad faith.

(8) For the purposes of this section:

(a) A "monitoring agency" means an entity, private or public, which electronically monitors an individual, pursuant to an electronic monitoring or home detention program, including the department of corrections, a sheriff's office, a police department, a local detention facility, or a private entity; and

(b) A "supervising agency" means the public entity that authorized, approved, administers or manages, whether pretrial or posttrial, the home detention or electronic monitoring program of an individual and has jurisdiction and control over the monitored individual. A supervising agency may also be a monitoring agency.

(9) All government contracts with a private monitoring agency to provide electronic monitoring or home detention must be in writing and may provide contractual penalties in addition to those provided under chapter 287, Laws of 2015. [2015 c 287 § 3.]