

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
17-44-S
SUPERSEDES 15-13-S

**IN RE: CRIMINAL – EMPACT ELECTRONIC MONITORING OF DEFENDANTS AS A
CONDITION OF PRE-TRIAL RELEASE - GENERAL GUIDELINES AND
SPECIFICALLY IN DOMESTIC VIOLENCE MATTERS**

Whereas, most criminal defendants are entitled to be released from custody pending disposition of the charges for which they were arrested; and

Whereas, the Seminole County Sheriff, under the Florida Rule of Criminal Procedure 3.131(b)(1)(d), have the capability to electronically monitor defendants who are released from custody by non-intrusive means through a program known as Electronic Monitoring Protection and Crime Tracking (EMPACT); and Whereas, electronic monitoring can provide timely information to law enforcement regarding the activities of a defendant as they relate to compliance with conditions of release, including abstinence from criminal activity; and

Whereas, the Seminole County Sheriff and the State Attorney have requested authority to require defendants who meet specified criteria to be electronically monitored as a condition of pretrial release, in addition to reasonable or reduced bond, but not in lieu of bond, without compliance with the investigation and recommendation required by F.S. 907.041(3)(b); and

Whereas, F.S. 903.046 and Florida Rule of Criminal Procedure 3.131(b) permit the imposition of reasonable conditions of pretrial release that will protect the community from risk of physical harm to persons, assure the presence of the accused at trial or assure the integrity of the judicial process; and

Whereas, it is estimated that more than 10 million Americans are victims of domestic violence by an intimate partner each year; and in 2013, in the State of Florida, there were 108,030 reported cases of domestic violence, 170 of which were domestic-related homicides; and from January, 2015, to December 2015, there were 2,749 domestic violence incidents in Seminole County, of which 2,398 resulted in an arrest or criminal charges filed against the defendant; and January 1, 2005-December 31, 2015, 23 Seminole County residents have fallen victim to domestic-related homicides; and

Whereas, the use of electronic monitoring devices has proven to modify the behavior of certain defendants via a non-intrusive method of such monitoring individuals, while simultaneously affording additional protection to the community and ensuring a monitored individual's appearance in court; and

Whereas, the Seminole County Sheriff's Office implemented such a program in 2003 known as EMPACT (Electronic Monitoring Protection and Crime Tracking), as a pretrial release condition for certain qualified defendants; and since that time the program has expanded to include a domestic violence and dating violence program, or DV EMPACT, which introduces an additional level of security by offering the ability to immediately notify the victim, law enforcement, and others of certain specified violations perpetrated by a defendant; and although this initiative should not be considered a failsafe assurance on behalf of the victim, it does provide a near to real time accounting of the defendant's whereabouts and activities, thereby enhancing both the security of the victim and the responsibility of the defendant to answer for violations of conditions of pretrial release;

Now, therefore, after due consideration,

IT IS ADJUDGED;

The following procedures and criteria shall be followed when defendants are released from custody by the Court upon the condition that they submit to electronic monitoring under the EMPACT program or other monitoring program and more specifically, shall be followed when defendants are released from custody by the Court upon the condition that they submit to electronic monitoring under the EMPACT or DV EMPACT program approved by the Seminole County Sheriff:

1. The defendant must have a residence. The residence must have an operational telephone line if the electronic monitor requires a telephone line.
2. The defendant must be a resident of Seminole County, Florida, or have made arrangements to live in the contiguous counties of Lake, Orange, Brevard, Osceola, Polk or Volusia upon Court approval with verification that the electronic monitor program covers the defendant's new residence.
3. Defendants who have a serious medical condition that requires frequent care, or who are identified as psychotic, severely mentally retarded, currently suicidal, mentally incapable or unable to cope with the structure of electronic monitoring shall not be placed on an electronic monitor. Any Defendant that the Sheriff or any Police Agency in Seminole County determines is not mentally capable to cope with the structure of electronic monitoring shall notify the court immediately. The Defendant shall not be released until a further determination is made by the Court as to the Defendant's release conditions.
4. Defendants who have a condition of release to participate in the EMPACT or another electronic monitoring program shall be responsible for any damage or loss to equipment issued and shall pay a per diem cost to Seminole County.
5. The Seminole County Sheriff's Office shall be responsible for collection of any fees related to the EMPACT program. In the event of non-payment for electronic monitoring services the Seminole County Sheriff's Office may notify the Court of the Defendant's non-indigent status and recommend review by the Court.
6. The following categories of defendants may be placed upon electronic monitoring as a condition of pretrial release only after considering the availability of electronic monitoring equipment and the risk the defendant presents to the victim or the community:

- A. Defendants with a pending violation of probation on a case involving domestic violence when the violation involves violence, unauthorized contact with the victim, or coming onto property forbidden by the probation order.
 - B. Defendants who have been taken into custody for violation of an injunction for protection against domestic violence, repeat violence, or dating violence.
 - C. Defendants who have been taken into custody for any domestic violence related offense.
 - D. Defendants who have been charged with stalking/aggravated stalking, with notice to the victim.
 - E. Defendants who have been taken into custody for any offense for which no bail shall be set until the initial appearance proceeding enumerated in Seminole County Administrative Order Bail Schedule.
 - F. Defendants taken into custody for the offense of burglary, grand theft motor vehicle (where the Defendant has a prior arrest for grand theft motor vehicle), or felony retail theft (where the Defendant has a previous felony arrest for a felony retail theft.)
 - G. Any Defendant where the Court finds that the facts and circumstances warrant such monitoring.
7. Any defendant who breaches a condition of release while on electronic monitoring in a domestic violence case shall be taken into custody by any law enforcement officer upon probable cause and held until first appearance as provided by F. S. 901.15(13), F.S. 903.0471, and Seminole County Administrative Order Bail Schedule. Any defendant who commits a violation of F.S. 843.23 by intentionally removing, destroying, altering, tampering with damaging, or circumventing the operation of an electronic monitoring device that must be worn or used by that person pursuant to a court order shall be taken into custody by any law enforcement officer and brought before the Court for first appearance. In the event of a violation that occurs out of county, that results in an out of county arrest of the Defendant for a new-law violation, that the defendant's bond shall be revoked automatically, and the defendant shall be held at no bond on the underlying case, until such time as he/she can be transported to Seminole County, and appear before a first appearance judge to determine if said violation is willful. In the event of a suspected breach of any other condition of electronic monitoring, the Seminole County Sheriff's Office shall notify the Court in writing so that the violation may be brought before the Court for review. Defendants shall have been informed in their Court minutes/order placing them on EMPACT that violations include, but not be limited to:
- A. Equipment tampers or removals.
 - B. Willful exclusion zone violations.
 - C. Failure to comply with any conditions of release set by the Court.
 - D. Failure to comply with any of the program requirements set forth by the GPS Electronic Monitoring Program.
 - E. The defendant must refrain from criminal conduct of any kind.
 - F. The defendant must not have unauthorized contact with the victim.

- G. All information provided to the Court, the Sheriff and any supervising agency, must be truthful.
- H. Payment of per diem costs to Seminole County Sheriff's Office.
- 8. This Order supersedes and repeals all prior Administrative Orders on this subject of pre-trial release monitoring.

Done and Ordered this 31st day of October, 2017.

JOHN M. HARRIS
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CHIEF JUDGE

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