

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency \_\_\_\_\_

Department \_\_\_\_\_

Contact \_\_\_\_\_ E-mail \_\_\_\_\_ Phone \_\_\_\_\_

Statutory Authority for Promulgating Rules \_\_\_\_\_

Rule Title: \_\_\_\_\_

### Intended Effective Date

(Check One)

Date

☐

Emergency (ACA 25-15-204)

Legal Notice Published ..... \_\_\_\_\_

☐

10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment ..... \_\_\_\_\_

☐

Other \_\_\_\_\_

(Must be more than 10 days after filing date.)

Reviewed by Legislative Council ..... \_\_\_\_\_

Adopted by State Agency ..... \_\_\_\_\_

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

Phone Number


E-mail Address

Title

Date

	<b>ADMINISTRATIVE RULE</b>  <b>STATE OF ARKANSAS</b>  <b>BOARD OF CORRECTIONS</b>	<b>Section Number:</b> <b>ACC 7.12</b> <b>ADC 1317</b>	<b>Page Number:</b> <b>1</b>
		<b>Board Approval Date:</b> <b>8/21/2015</b>	
		<b>Supersedes:</b> <b>ACC 7.12</b> <b>ADC 1317</b>	<b>Dated:</b> <b>1/31/2013</b>
		<b>Reference:</b> Sec. of State 159.	<b>Effective Date:</b> <b>9/15/2015</b>
<b>SUBJECT: Electronic Monitoring After 120 Days Served</b>			

- I. AUTHORITY.** The Board of Corrections is vested with the authority to promulgate this administrative rule by Ark. Code Ann. §§ 12-27-105, 16-93-1203 and 16-93-1205.
- II. POLICY.** The Department of Correction (ADC) will have an appropriate process and/or procedures for identifying and certifying to the Parole Board eligible ADC inmates to be considered for release to electronic monitoring (EM) after serving 120 days of a sentence.
- III. APPLICABILITY.** This policy applies to ADC and ACC employees and ADC inmates.
- IV. GUIDELINES.**
- A. Eligibility Criteria.** Community Correction Center residents are not eligible for EM-120 release. An inmate serving a sentence in the ADC may be approved for EM-120 release if the
1. offense for which the offender is incarcerated was committed on or after March 2, 2015
  2. sentence was not the result of a jury or bench verdict
  3. inmate has served one hundred twenty (120) days of his/her sentence
  4. inmate has an approved parole plan
  5. inmate does not have a prior felony conviction for a sex offense or for a felony offense that involved the use or threat of violence or bodily harm
  6. inmate was sentenced from a cell in the sentencing guidelines with:
    - a. an incarceration range of 36 months or less, or
    - b. a presumptive sentence of probation
  7. conviction is for a Class C or D felony
  8. conviction is not for a crime of violence, regardless of felony level
  9. conviction is not for a sex offense, including failure to register as a sex offender under § 12-12-906, regardless of felony level
  10. conviction is not for manufacturing methamphetamine, §5-64-423(a) or the former §5-64-401

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11. conviction is not for possession of drug paraphernalia with the purpose to manufacture methamphetamine, § 5-64-443, if the conviction is a Class C felony or higher
12. conviction is not for a crime involving the use or threat of violence or bodily harm
13. conviction is not for a crime that resulted in a death
14. inmate has not previously failed a drug court program
15. inmate has not been transferred from Arkansas Community Correction (ACC) to ADC as a result of disciplinary action, and,
16. inmate does not have an active detainer.

- B. Notice.** The ADC Director will provide notice to the Parole Board of inmates eligible for EM-120 release and subsequent notice to the Institutional Release Office if approved for such release.
- C. Supervision.** Offenders approved for EM-120 release will be supervised by ACC through electronic monitoring (home detention) until the offender's transfer eligibility date or for at least ninety (90) days of full compliance by the offender, whichever is sooner. Home detention will be tailored and defined by the parole/probation supervision officer for each program participant (for example, curfew, authorized for school/work, practice religion). The term of electronic monitoring must not exceed the maximum number of years of imprisonment or supervision to which the offender could be sentenced.
- D. Funding for Services.** Eligible offenders must pay the cost of their electronic monitoring service and associated equipment.
- E. Types of GPS Devices.** ACC is authorized to use all types of electronic monitoring devices for monitoring the presence of an offender in his/her home in a manner consistent with the law.
- F. Discharge Credit.** An eligible offender approved for EM-120 release may earn discharge credits against his/her sentence.