



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

Procedure:	PPD 4.6.207 HOME ARREST	
Effective Date:	06/21/2017	Page 1 of 3
Revision Date(s):	08/29/2018	
Reference(s):	46-18-201, MCA; 46-18-1001 through 1006, MCA; 46-23-1011, MCA; 46-23-1021, MCA; 46-23-1031, MCA	
Signature / Title:	/s/ Kevin Olson, Probation and Parole Division Administrator	

I. PURPOSE:

Probation and Parole Division employees will follow established guidelines and procedures when implementing §46-18-Part 10, Montana Code Annotated, Home Arrest.

II. DEFINITIONS:

Monitoring Device – An electronic device or apparatus capable of recording or transmitting information concerning the offender’s presence in or absence from the home. The device may include an apparatus for testing the offender’s breath for the presence of alcohol. A telephone alone is not a monitoring device.

Home – The temporary or permanent residence of an offender consisting of the actual living area approved by the supervising authority. When more than one residence or family are located on a single piece of property, the term does not include the residence of any other person who is not part of the social unity formed by the offender’s immediate family.

Home Arrest – The use of a person’s home for purposes of confinement and home arrest procedures and conditions imposed under this part. It does not include intensive supervision by the Department.

Supervising Authority – For adult felons, the Department; for adult misdemeanants, a court-approved entity other than the Department; or for juveniles, the juvenile probation division of the youth court or any other person or entity appointed by the court.

Violent Felony Offense – Deliberate homicide, mitigated deliberate homicide, negligent homicide, aggravated assault, negligent vehicular assault, kidnapping, aggravated kidnapping, robbery, sexual intercourse without consent, sexual abuse of children, arson, aggravated burglary, escape, any criminal attempt to commit an enumerated offense, or conviction as a persistent felony offender when the offender has a felony conviction for any of the listed offenses within the 5-year period preceding the date of the present conviction.

III. PROCEDURES:

A. GENERAL REQUIREMENTS:

1. A sentencing judge may impose home arrest upon an offender with a deferred or suspended imposition of sentence.
2. A person being held under a detainer, warrant, or process issued by some other jurisdiction is not eligible for home arrest. A person convicted of a violent felony offense is not eligible.

3. An offender with a sentence of imprisonment may petition a sentencing court for an order of home arrest prior to and throughout his/her sentence. The term of home arrest may not exceed six (6) months.
 - a. The petition must include the following as the home arrest plan:
 - 1) The type of monitoring device to be used that is:
 - a) received either through the Department if available; or
 - b) received through a private company that can and will implement the home arrest, along with the name and credentials of the company;
 - 2) The place of any employment of the offender and the name of the supervisor;
 - 3) A plan for participation in an educational, treatment, or training program if the offender has been accepted into one;
 - 4) The source and amount of any income of the offender; and
 - 5) The address at which the home arrest will occur and a list of any other persons who will reside at that address during all or part of the home arrest including their ages and relationship to the offender.
4. An offender under home arrest is subject to the decisions and applicable rules of the supervising authority during the period of supervision.
5. An offender under home arrest is responsible for all living and medical care expenses and costs associated with the program. The offender is eligible for government benefits to the same extent as a probationer or parolee.

B. PROCEDURES AND RESPONSIBILITIES:

1. The sentencing judge will refer an adult offender's petition for an order of home arrest to the Department for review.
2. The petition will be reviewed by a POII in the office that will supervise the offender and is accepted or rejected.
 - a. If rejected, the petition will be dismissed; or
 - b. If accepted, the sentencing judge may conduct a hearing and grant or deny the petition.
3. If petition is granted, the order must incorporate the home arrest plan with any modifications by the court, require compliance with the plan, and set forth the conditions of home arrest.
 - a. Conditions may include but are not limited to the following:
 - 1) Offender must be confined to his/her home at all times except when:
 - a) working at approved employment, traveling directly to and from employment, or seeking employment;
 - b) undergoing medical, psychiatric, or mental health treatment or participating in an approved counseling or aftercare program;
 - c) attending an approved educational institution or program;
 - d) attending a regularly scheduled religious service at a place of worship;
 - e) participating in approved community service; or
 - f) conforming to schedule prepared by supervising P&P Officer which sets specific times offender may be absent from home and the locations the offender may be during those times.
 - 2) The place of home arrest or offender's schedule may not be changed without prior approval of P&P Officer.

- 3) The offender will maintain a telephone (includes cell phone) in the home and the ordered monitoring device on his/her person at all times.
- 4) Other conditions to include:
 - a) restitution;
 - b) supervision fees;
 - c) any condition imposed on probation offenders.
- b. The order will provide for arresting authority and violation procedure.
4. A written agreement with the court that includes all court-ordered conditions is signed by offender.
 - a. Agreement must include specific procedures regarding monitoring and the immediate reporting of all violations to the P&P Officer and/or law enforcement in the event the P&P Officer is not available.
5. The offender will file with the court a written and notarized consent signed by each adult residing with the offender during all or part of the home arrest.
6. When order and agreement is received by P&P office, offender is assigned to supervising P&P Officer and given reporting date to begin supervision of home arrest.
7. At least once every 30 days, each P&P Officer supervising offenders on home arrest will provide a list of those offenders to his/her local and county law enforcement agencies. The list will include the following information on each offender:
 - a. place of home arrest;
 - b. offense for which the offender was charged, convicted, or otherwise placed under home arrest;
 - c. date the sentence of home arrest will be completed; and
 - d. supervising Officer's name, address, and phone number.

IV. CLOSING:

Questions regarding this procedure will be directed to the Deputy Chief or P&P Bureau Chief.