

CALLOWAY COUNTY FISCAL COURT

ORDINANCE NO. 15-0422-A

AN ORDINANCE AUTHORIZING AND DIRECTING THE CALLOWAY COUNTY ATTORNEY TO ESTABLISH AND OPERATE THE CALLOWAY COUNTY COMMUNITY CORRECTIONS MONITORED RELEASE PROGRAM.

WHEREAS, the Fiscal Court of Calloway County, Kentucky, hereby recognizes the excessive fiscal burden imposed on the County taxpayers of Calloway County by the extended incarceration of County Prisoners in the Calloway County Detention Center, both prior to trial and after formal sentencing; and

WHEREAS, KRS Chapter 403, House Bill 463 and related Kentucky penal reform in conjunction with the Commonwealth's economic crisis has in recent years and will continue to greatly change the circumstances and options available to local governments relating to the incarceration and monitoring of local County Prisoners both before conviction and after formal sentencing; and

WHEREAS, the Calloway County Fiscal Court recognizes that successive annual budget cuts coupled with new unfunded mandates at the State and Federal level have drastically impacted delivery and maintenance of prosecution, child support, and local administrative services provided by the County Attorney Offices in each Kentucky County; and

WHEREAS, the County of Calloway further recognizes that law enforcement and victims of crimes stand resolutely in opposition to the current existing State policy solution to the problem of overcrowding in the Commonwealth's correctional system, to-wit, the wholesale and largely unsupervised administrative release of State prisoners back in to the general County population, thereby evidencing the recidivism rate that Court records currently evidence; and

WHEREAS, the County Attorney of Calloway County, in diligent response to the lack of affordable and properly allocated State and Federal resources, has proposed the enactment of the Calloway County Community Corrections Monitored Release Program to be operated by the Calloway County Attorney Office and set forth in more detail below;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE FISCAL COURT OF CALLOWAY COUNTY, COMMONWEALTH OF KENTUCKY, as follows:

Section 1. In recognition of the above listed findings as well as the recognition by the Fiscal Court of the current budget and funding reductions faced by the Office of

County Attorney caused solely by the current State and Federal budget crisis, the Calloway County Attorney is hereby authorized to Establish and Operate the Calloway County Community Corrections Monitored Release Program.

Section 2. Definitions.

Client – Any pretrial detainee or criminal defendant who is subject to Diversion or has been convicted of a misdemeanor or felony offense and is subject to an alternative sentence of Monitored Release and Supervision. This definition includes Juvenile Respondents or individuals under Civil Contempt Orders if referred by the local District or Circuit Court. Clients are not County Prisoners as defined by KRS. The District or Circuit Court may elect to credit the time under supervision toward any sentence to jail or prison. The County bears no responsibility for any medical treatment cost of any Client or Pretrial Detainee under supervision.

Pretrial Detainee – Any criminal defendant (prior to conviction) who has been charged with a misdemeanor or felony offense and who is Ordered by a Court of Competent Jurisdiction to participate in Monitored Release and Supervision as a condition of Pretrial Release or Bond.

Section 3. In furtherance of the purpose of this Ordinance, the Calloway County Attorney, in his discretion, is authorized to enter into Monitoring and Supervision agreements with an appropriate monitoring company or other third party provider on behalf of Calloway County, to provide the all of the following services in lieu of detention, including but not limited to the following:

- a) To establish a Home Incarceration Ankle Monitoring program to provide alternatives to the formal incarceration of County Prisoners to the Judicial District or Circuit; and
- b) To establish a Monitored Pretrial Release Monitoring program to provide alternatives to the pretrial incarceration of individuals charged with misdemeanor or felony offenses to the Judicial District and Circuit; (The local District and Circuit Courts are specifically authorized to utilize the program through MCR and in cases involving Juvenile Respondents and Civil Contempt, so long as all Policy guidelines as referenced in Section 6, below, are followed); and
- c) To enact programs on matters relating to Community Correction programs, aftercare, counseling, drug and alcohol education and testing programs; community service programs; adult education programs; diversion education; traffic school; county training and continuing education, or any other such programs as would be beneficial in a supervised Monitored Release Community Correction environment, in the discretion of the County Attorney and in conjunction with the particular provider; and

- d) The contract provider shall provide all necessary technical support and liaison services necessary for the efficient supervision and monitoring of the program, as well as Consulting Services for additional more in depth Community Supervision.

Section 4. The entire cost associated with this program, whether provided by the Calloway County Attorney's office or a third party provider and incurred by the County shall ultimately be borne by the prisoner or detainee. If a third party provider is utilized, then the third party provider shall invoice the County Attorney on no less frequent basis than monthly. Invoices shall be paid by the County Attorney within thirty days of receipt from proceeds collected from individuals under supervision, or pursuant to future directives of the Fiscal Court. Should a Client damage or steal any unit, the County Attorney may be required to pay to the third party the cost of the repair or replacement of the unit, however, the Client shall be required to make full and complete restitution to the County under the criminal and civil remedies both listed below and set forth in the Kentucky Revised Statutes.

No individual seeking Monitored Release in lieu of jail time or other supervision services shall be qualified and approved by the Calloway County Attorney unless all activation fees are paid in advance. Individuals shall further prepay the per diem cost in lump sum increments of no less than ten days prior to installment of the monitor. Successive payments for no less than ten days service shall be made no less than 2 days prior to the expiration of each ten day cycle. Failure of the client to comply with this provision shall result in disqualification from the Monitoring Program and may subject the client to criminal or civil penalties as set forth in this Ordinance or related Kentucky Revised Statutes, or by virtue of an Order of a Court of lawful jurisdiction.

Should the County Attorney enter into an agreement with any third party provider for more intensive supervision and monitoring of particular prisoners or detainees, terms of a monthly supervision fees shall be assessed, collected, invoiced and disbursed as set forth in this Ordinance and by subsequent contractual agreement.

The Calloway County Attorney may perform the intake and initial installation of the monitoring device and subsequent supervision, or may utilize appropriate contract labor, including but not limited to office staff, private contract labor, or any other County Peace Officer, with payment for said labor being made from excess program fees in the discretion of the County Attorney.

Section 5. The Calloway County Attorney shall open and maintain a bank account titled Calloway County Attorney Community Corrections Expense Account as a County Attorney fee account. All fees and costs collected in conjunction with the program shall be deposited by the County Attorney as collected from the Clients or detainees. The net proceeds of the program shall first be used to pay all expenses or costs of the program. The County Attorney shall retain and dispose of any excess fees under the same standards for Delinquent Tax excess fees and Cold Check collection fees currently authorized by statute in the discretion of the Calloway County Attorney for matters relating to criminal prosecution, child support collection, or other County Attorney expenses. These excess fees shall be retained annually in said account and the County Attorney shall provide accountings to the Fiscal Court as directed. Should the

monthly cost of service or fees payable to a third party contractor or provider exceed the current state procurement level (currently \$20,000.00) in any month, the County Attorney shall follow public bidding requirements for the service.

Section 6. Program Policy. The Calloway County Attorney shall be the administrator of the Program. The Calloway County Attorney shall have the authority, in conjunction with the Sheriff or Jailer where necessary, to appoint duly trained County peace officers to monitor or supervise the Client or Pretrial Detainee. The Calloway County Attorney shall develop a written Administrative Policy regarding the Monitored Release Program. The County Attorney shall administer the program and determine the adequate and proper level of supervision based upon the facts of each case and shall at the time of sentencing disclose to the defendant in writing; the cost of activation; daily supervision; drug and or alcohol testing; community service supervision; adult education; or other services required as a condition of probation or conditional discharge. All program conditions with the exception of the Cost of program administration are subject to approval by the presiding District or Circuit Judge. Full payment of the Activation Fee and any supervision fees by the Client or Pretrial Detainee are prerequisites to Program Admission and may not be altered or waived by Court Order without the express consent of the County Attorney.

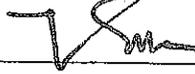
Section 7. Effective Date. The effective date of this Ordinance shall be April 22, 2015.

Section 8. PENALTIES.

1. The Client or Pretrial Detainee is financially responsible for the care of any equipment utilized by the program. Should any monitoring equipment which is issued to a Client or Pretrial Detainee be stolen or damaged, the prisoner or detainee shall be prosecuted under the relevant provisions of the Kentucky Revised Statutes and shall be required to additionally make full and complete restitution to the County or third party provider for any cost incurred in the repair or replacement of the equipment.
2. Any attempts to remove, alter, or obstruct the operation of the monitoring equipment shall constitute a Class A misdemeanor and be subject to the penalties proscribed for same under the Kentucky Revised Statutes.
3. Participation in the Monitored Release Program is conditioned on the full prepayment of the Activation Fee and Service Fees (10 day minimum in advance for each successive 10 day period.) Failure to make full and complete payment of the Activation fee and initial 10 day service fee and Service Fee or any subsequent service fees shall result in the immediate discharge from the Program and client shall report the Calloway County Detention Center for service of the remaining balance of the sentence.

INTRODUCED, SECONDED, AND GIVEN FIRST READING AND APPROVAL at a duly convened meeting of the Calloway County Fiscal Court held on the 3 day of March, 2015.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Calloway County Fiscal Court held on the 21 day of April, 2015.



Hon. Larry Elkins, County Judge/Executive

ATTEST:

Arthur D. Faulkner
Calloway County Court Clerk