

**SLED STANDARDS FOR ELECTRONIC MONITORING AGENCIES AND
ELECTRONIC MONITORING DEVICES
November 1, 2023**

BACKGROUND

In accordance with S.C. Code Ann. § 17-15-37(A), the South Carolina Law Enforcement Division (SLED) was tasked with developing standards for the use and approval of active electronic monitoring devices, and a process to certify electronic monitoring agencies, including law enforcement agencies, electronic monitoring companies, bondsmen, and bonding companies.

AGENCY CERTIFICATION REQUIREMENT

South Carolina Code Ann. § 17-15-35 authorizes courts to consider and utilize electronic monitoring and establishes the parameters for such use. Specifically, S.C. Code Ann. § 17-15-35(B) provides that:

The court, in its discretion, may, for a person charged with a violation of criminal offense under the jurisdiction of the court of general sessions or any offense where the court finds sufficient evidence of a concern for the victim’s safety or the safety of any member of the public, order that the person be placed on surveillance via an **approved active electronic monitoring device which must be worn or possessed at all times for the duration specified by the court**, either in lieu of setting or requiring the posting of bond or as an additional condition of the release on bond.

For pretrial bond consideration, the judge is not limited to nonviolent offenses, but must take into consideration all concerns relating to the setting of an appropriate bond under Section 22-5-510, Sections 17-15-10, et seq., and Section 16-25-120. The device must be capable of recording the person’s location at all times. **If the court orders a device, before the participant is allowed to leave custody, the detention facility where the defendant is located, in coordination with the approved monitoring agency, must ensure the participant is fitted with an approved active electronic monitoring device, and that all appropriate bond paperwork, including the agreement with the bonding and electronic monitoring companies acknowledging the terms and restrictions of the bond, is completed.** (emphasis added).

The Legislature defined “approved electronic monitoring agency” for the purpose of this statute as “a law enforcement agency, licensed bondsman or bonding company, or electronic monitoring company that is certified by SLED to supply, maintain, and monitor electronic monitoring devices to participants ordered by the court to wear electronic monitoring devices under the provisions of this section.” S.C. Code Ann. § 17-15-35(A)(2).

Accordingly, all entities seeking to engage in electronic monitoring in South Carolina, including law enforcement agencies, electronic monitoring companies, bondsmen, and bonding companies must be certified by SLED. A SLED certification is not transferable under any circumstances.

AGENCY CERTIFICATION PROCESS

1. An applicant seeking certification as an electronic monitoring agency in South Carolina shall submit an application for a certification on a form provided by SLED, a copy of which is attached hereto and can be found on SLED's website at www.sled.sc.gov. A SLED certification remains valid until revoked, suspended, or otherwise terminated by SLED.
2. If the applicant is an individual, the applicant must certify under oath that the applicant:
 - (a) is at least twenty-one years of age and is a citizen of the United States;
 - (b) has a high school diploma or equivalent;
 - (c) has not been convicted of or have pending charges for a felony or crime involving moral turpitude;
 - (d) is of good moral character and does not unlawfully use drugs;
 - (e) has not been discharged from military service with other than an honorable discharge;
 - (f) has not been found to have committed misconduct as defined by S.C. Code Ann. § 23-23-150;
 - (g) has satisfied to SLED that the applicant has or will have an adequate training program with a curriculum approved by SLED, or that adequate training will be obtained from another approved source;
 - (h) has a valid license and is in good standing with South Carolina Department of Insurance, or other regulatory authority, if applicable; and
 - (i) meets any and all other qualifications SLED may establish by regulation.
3. If the applicant is a corporation, partnership, limited liability company, or other legal entity, the application must be signed under oath by each partner, director, and officer. Each partner, director, or officer must certify that each:
 - (a) is at least twenty-one years of age and is a citizen of the United States;
 - (b) has a high school diploma or equivalent;
 - (c) has not been convicted of or have pending charges for a felony or crime involving moral turpitude;
 - (d) is of good moral character and does not unlawfully use drugs;
 - (e) has not been discharged from military service with other than an honorable discharge;
 - (f) has not been found to have committed misconduct as defined by S.C. Code Ann. §§ 23-23-150, 38-5-120, 38-43-130, 38-53-150, or any other applicable provision of South Carolina law.
 - (g) are authorized to transact business in the State of South Carolina and in each county of operation;
 - (h) has a valid license or certificate of authority to operate in this State and is in good standing with the Department of Insurance, if applicable;
 - (i) has satisfied to SLED that the applicant has an adequate training program with a curriculum approved by SLED; and
 - (j) meets any and all other qualifications SLED may establish by regulation.

4. Each application must state the applicant's, or each partner, director, and officer's:
 - (a) full name;
 - (b) age, date, and place of birth;
 - (c) current residence address, and residence addresses for the past ten years;
 - (d) employment for the past ten years, including names and addresses of employers;
 - (e) current occupation, including the name and address of the current employer;
 - (f) the date and jurisdiction of any arrests or convictions for violations of federal or state laws;
 - (g) any previous business license suspensions or revocations;
 - (h) any pending litigation or previous judgements; and
 - (i) any additional information SLED may require on the application.
5. The applicant must secure and demonstrate proof of a general liability insurance policy with at least one million dollars (\$1,000,000.00) of coverage, which must be applicable at all times the applicant is engaged in electronic monitoring in South Carolina.
6. Each applicant must provide SLED 2 sets of fingerprints, three business or professional references, and three statements of good character and reputation from parties that are not related to the applicant by blood or marriage for the following:
 - (a) the applicant, if the applicant is an individual; or
 - (b) each partner, director, and officer of the applicant, if the applicant is a corporation, partnership, limited liability company, or other entity

so that SLED can conduct a fingerprint-based state and a federal criminal history check and evaluate the fitness of applicant to provide electronic monitoring in South Carolina.

7. Each applicant must acknowledge under oath that the entity and all employees of the entity will:
 - (a) provide active electronic monitoring devices approved by SLED that must provide verifiable identity and location information at regular and random intervals throughout the day, and that timely record and report the person's presence near or within a prohibited area or the person's departure from a specified geographic location (as applicable pursuant to the court order);
 - (b) allow any law enforcement agency, including the prosecutor's office, to have access to real-time monitoring, if possible, and provide any reports requested by law enforcement or the prosecution within twenty-four hours of the request;
 - (c) notify the prosecutor having jurisdiction over the participant and the bondsman within forty-eight hours when the entity or employee becomes aware that the participant has violated any provision of the court's order for electronic monitoring, or the participant has been surrendered to the custody of law enforcement;

- (d) immediately notify local law enforcement and the prosecutor having jurisdiction over the participant and make reasonable attempts to immediately notify the victim if the participant violates any exclusion zones related to the victim; and
 - (e) comply with all requirements of the court order, including electronic monitoring as a pretrial release condition and all requirements of the applicable South Carolina laws and regulations, and all standards mandated by SLED.
8. Each applicant must demonstrate to SLED that the applicant, and all employees, can perform all of the above requirements and that the applicant and all employees have the requisite training, background, and experience to successfully monitor electronic monitoring participants in a manner that promotes public safety and protects crime victims in South Carolina.
 9. Each applicant must provide documentation that the applicant has the capability to provide enough employees on duty at all times so that the number of individuals being monitored does not pose a threat to public safety, but not less than one employee on duty and one on call and available twenty-four hours a day, seven days a week.
 10. Each applicant must provide SLED a current list of all employees who are or will be employed by the applicant. Each employee must:
 - (a) be at least eighteen years of age and be a citizen of the United States;
 - (b) have not been convicted of or have pending charges for a felony or crime involving moral turpitude;
 - (c) be of good moral character;
 - (d) meet any and all other qualifications SLED may establish by regulation.

For each employee, the applicant must provide 2 sets of fingerprints for SLED to conduct a fingerprint-based state and a federal criminal history check of each employee.

11. For each employee, the applicant must provide an acknowledgment in writing that the applicant will not utilize an employee who is (a) not competent or capable of performing the requirements of paragraph 7 above, or (b) who has not successfully completed SLED-approved training on the use of electronic monitoring equipment or the monitoring of a participant.
12. Each applicant must acknowledge and agree that the failure to maintain compliance with standards or regulations established by SLED, the order of the court, or any applicable statute shall be grounds for administrative action by SLED, by the South Carolina Department of Insurance, or any other regulatory or licensing authority. Each applicant must acknowledge that it will fully comply with any investigation in this regard.
13. SLED may impose a fine, suspend, revoke, or terminate the certification for any approved electronic monitoring agency who fails to maintain these standards and the reporting requirements set forth in any regulations and any applicable statutes.

14. Each applicant must have and must provide a written policy and procedure governing the availability, storage, and use of electronic monitoring devices and equipment, which includes provisions for:
 - (a) secure storage, making equipment inaccessible to the participant;
 - (b) visual and physical inspection of equipment worn by the participant to determine its condition not less than once per month;
 - (c) maintaining an updated and current master listing and inventory of all electronic monitoring devices and equipment;
 - (d) having available at least one complete backup unit for every 10 units in use within a reasonable amount of time;
 - (e) responses to system malfunctions; and
 - (f) maintenance and cleaning of equipment.

15. Each applicant must provide a list of all monitoring devices that the applicant intends to use to electronically monitor a participant. A “monitoring device” means a body worn or non-body worn device or mobile phone application that must be approved by the SLED. The device must record or transmit oral or wire communications or an auditory sound, visual images, or information regarding the person’s location and activities, and must timely record and report the person’s location. If the device is a mobile phone application, the application must verify live biometric, photographic, and videographic identification information, and must timely record and report the person’s location.

16. An applicant may not use a monitoring device that has not been approved by SLED in accordance with these standards.

GOVERNMENTAL ENTITY CERTIFICATION

17. If the applicant is a governmental entity, whether a state agency, law enforcement entity, or a detention center, the application must be signed under oath by the chief executive of the entity. However, a government entity applicant is exempt from the requirements of Paragraphs 4, 5, 6, and 7 above. At the time of the application, the governmental entity must provide SLED with documentation acknowledging the applicant’s existing bond or liability insurance policy.

OBLIGATIONS OF APPROVED ELECTRONIC MONITORING AGENCY

Once an applicant is certified by SLED, the electronic monitoring agency must comply with the following recordkeeping obligations.

1. Maintain a physical office location in South Carolina at an address provided to SLED. Maintain a working business email and telephone number that is accessible 24 hours a day. Notify SLED of any change of address or of any change in contact information within 3 business days.
2. Maintain records in South Carolina related to all participants being actively monitored by the electronic monitoring company. These records must be immediately available and accessible for inspection by SLED or by any law enforcement agency, prosecutor, or by any designated court representative upon request. At a minimum, the following records must be kept:
 - (a) all executed written contracts or agreements for service, including signatures;
 - (b) all bonds and court orders for each participant monitored;
 - (c) documentation regarding attempts to collect fees and receipts of all payments for electronic monitoring services;
 - (d) management reports or documentation regarding all participants; and
 - (e) any other documentation regarding participant compliance with electronic monitoring.
3. In addition, all electronic monitoring agencies must keep the following information (for at least the past 3 years) and make the information available upon request to SLED or to any law enforcement agency, prosecutor, or any designated court representative:
 - (a) the number and names of participants being monitored on the first day of each month, categorized by the type of electronic monitoring, device used, and judicial circuit;
 - (b) the number and names of participants for whom monitoring was initiated during the month, categorized by the type of electronic monitoring, device used, and judicial circuit;
 - (c) the number and names of participants for whom monitoring was ended during the month, categorized by the type of electronic monitoring, device used and judicial circuit;
 - (d) the number and names of participants being monitored on the last day of the month, categorized by the type of electronic monitoring, device used, and judicial circuit;
 - (e) the number and names of participants violating the court order or program rules, and the number and names of participants removed from monitoring for a violation, categorized by the type of monitoring, device used, and judicial circuit;
 - (f) the number and names of participants that are arrested while being monitored, categorized by the type of monitoring, device used, and judicial circuit;
 - (g) the number of instances for which a participant was unaccounted for, absent from an approved location, or whose location was unknown within the following time frames:
 1. less than 2 hours;
 2. more than 2 hours but less than 24 hours; and
 3. 24 hours or more.
 - (h) for each such individual identified in item (g) above, the name of the participant and the name of the law enforcement agency or other appropriate official to whom the violation was reported in accordance with these standards and South Carolina law.

4. Each electronic monitoring agency must also send SLED an annual report containing the above information for the previous calendar year. This report must be sent by January 30 each year unless an extension is approved in writing by SLED.
5. Notify SLED as soon as is possible (and in no event more than 3 business days) about the:
 - (a) departure of a partner, director, or of any employee engaged in monitoring activities;
 - (b) arrest of any partner, director, or of any employee engaged in monitoring activities;
 - (c) cancellation or forfeiture of any bond required;
 - (d) material changes in the business operations, policies, or practices of the electronic monitoring company; and
 - (e) any change in email or telephone contact information for the company.
6. Maintain training records for all current employees. Employee training must consist of a minimum of fourteen (14) hours of instruction annually. The training must be approved by SLED and must include training on the following topics:
 - (a) an overview of the criminal justice system (including the commercial bail bond industry);
 - (b) the types of electronic monitoring allowed in South Carolina;
 - (c) instruction on reading and interpreting court orders;
 - (d) instruction on record-keeping requirements, privacy and other confidentiality concerns;
 - (e) installing and troubleshooting errors to equipment; and
 - (f) public safety, victim safety, and participant safety issues.
7. An electronic monitoring agency may not engage in the electronic monitoring of any participant who is in any way related by blood or marriage to any employee of the agency. An electronic monitoring agency may not monitor any individual with a personal, fiduciary, business, or financial relationship with any employee of the agency. The electronic monitoring agency may not enter into any agreement with an individual that would pose an actual, potential, or apparent conflict of interest because of a fiduciary, business, personal, or financial relationship with any employee of the agency.
8. An employee of an electronic monitoring agency may not associate with a participant except in a professional relationship that will support the goals of the electronic monitoring program. A monitoring agency or employee may not employ a participant or member of the participant's family for at least 1 year after the termination of the monitoring.
9. A monitoring agency licensee or employee may not engage in criminal conduct, violate any laws of this State related to bail, or violate these standards.
10. An electronic monitoring agency shall have a written policy prohibiting a monitored participant from accessing the files, computers, computer records, or written records of the electronic monitoring agency.

11. An electronic monitoring agency shall have a written policy ensuring the confidentiality of records of all participants and shall only allow access to this information as is authorized in these standards or when required by law or regulation.
12. An electronic monitoring agency shall not employ any individual or utilize any individual in any monitoring capacity unless the employee meets the following requirements:
 - (a) be at least eighteen years of age and is a citizen of the United States;
 - (b) have not been convicted of or been charged with a felony or crime involving moral turpitude; and
 - (c) be of good moral character.

Prior to using an employee in any capacity, the electronic monitoring agency must provide SLED 2 sets of fingerprints from the employee for SLED to conduct a fingerprint-based state and a federal criminal history check on the employee.

13. An electronic monitoring agency must at all times:
 - (a) provide active electronic monitoring devices approved by SLED that must provide verifiable identity and location information at regular and random intervals throughout the day, and that timely record and report the person's presence near or within a prohibited area or the person's departure from a specified geographic location (as applicable pursuant to the court order);
 - (b) allow any law enforcement agency, including the prosecutor's office, to have access to real-time monitoring, if possible, and provide any reports requested by law enforcement or the prosecution within twenty-four hours of the request;
 - (c) notify the prosecutor having jurisdiction over the participant and the bondsman within forty-eight hours when the entity or employee becomes aware that the participant has violated any provision of the court's order for electronic monitoring, or the participant has been surrendered to the custody of law enforcement;
 - (d) immediately notify local law enforcement and the prosecutor having jurisdiction over the participant and make reasonable attempts to immediately notify the victim if the participant violates any exclusion zones related to the victim; and
 - (e) comply with all requirements of the court order, including electronic monitoring as a pretrial release condition and all requirements of the applicable South Carolina laws and regulations, and all standards mandated by SLED.

STANDARDS FOR MANAGEMENT OF PARTICIPANTS

1. An approved electronic monitoring agency must have SLED approved written policies and procedures governing the intake and orientation of a participant before undertaking the activation of an approved monitoring device. The policies and procedures must provide specific information regarding the following:
 - (a) documented verification of a valid legal document noting the conditions and stipulations ordered by the court, which must be maintained;
 - (b) collection of personal data pertaining to the monitored individual, including all contact information needed to facilitate monitoring, which must be safeguarded;
 - (c) procedures to verify a participant's approved location, if the participant is restricted by court order to a single location or designated locations;
 - (d) procedures for the installation of appropriate certified monitoring devices as ordered by the court;
 - (e) documentation regarding the use, servicing, repair, and care of the monitoring device;
 - (f) compliance expectations for any and all approved locations or exclusion zones; and
 - (g) rules and regulations required for monitoring or compliance with the court order.

2. The electronic monitoring agency must obtain documentation from the participant acknowledging participant's written agreement and acknowledgment to:
 - (a) wear an approved device at all times to verify his compliance with the conditions of his detention or pre-trial release order or if the device is not body worn, must maintain possession of his approved device on or near his person at all times for the duration of the detention and must verify his identity and location at any time required by the order of the court and must maintain the monitoring device on or near his person at all times for the duration of the detention, subject to the order of the court and reasonable orders of an agent or employee of the monitoring agency in order to effectuate the conditions of the monitoring order. For purposes of this subsection, "near" means within hearing distance of the device's notification or call alerts but not farther than thirty feet. In areas of the State where cellular coverage requires the use of an alternate device, the approved electronic monitoring company may use an alternate approved device with approval of the court;
 - (b) charge and maintain the monitoring device in working order and must report any damage, destruction, or noticeable malfunction of the active monitoring device, whether the incident was accidental or intentional, and including the device having a dead battery, to the following parties **within two hours of the incident**: the monitoring agency, the appropriate law enforcement agency with jurisdiction over the underlying offense, and any other party specified in the order;
 - (c) abide by other terms and conditions set forth by the approved electronic monitoring agency with regard to the monitoring device and electronic monitoring program;
 - (d) turn himself in to custody of the appropriate detention facility upon the order or direction of the electronic monitoring agency, or the appropriate law enforcement agency with jurisdiction over the offense; and
 - (e) notify the electronic monitoring agency and the court of any change of the participant's address, phone number, or other contact information.

3. An approved electronic monitoring agency must have a written policy and procedure governing the collection of fees, which must be in accordance with S.C. Code Ann. § 17-15-35(B)(3) and all other applicable statutes. Specifically, a participant must:

pay for the cost of the approved active electronic monitoring device and the operation of the monitoring device for the duration of the time the person is required to be electronically monitored, subject to an order of indigency by the court. The summary court or circuit court has jurisdiction upon motion of the defendant to consider exempting a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if it is determined that exceptional circumstances exist such that these payments cause a severe hardship to the person who is deemed indigent. If the indigency hearing is held at a time and date separate from the initial bond hearing, the defense must notify the prosecutor, the bondsman, and the monitoring agency of the date, time, and location of the hearing subject to the notice requirements of the court.

The payment of the cost must be a condition of supervision of the person and a delinquency of two weeks or more in making payments may operate as a violation of a term or condition of the electronic monitoring and bond. No person shall be denied the privilege of electronic monitoring under this statute based on inability to pay upon a finding by the court that the defendant meets the qualifications for indigency. The State shall allocate funds to be housed in an indigency fund under the control of the Department of Public Safety to be distributed to the monitoring companies as appropriate to cover the cost of indigent participants.

4. An electronic monitoring agency shall, at all times have:
 - (a) enough employees on duty so that the number of individuals being monitored does not pose a threat to public safety, but not less than one employee on duty and one on call and available twenty-four hours a day, seven days a week;
 - (b) in-person contact with a participant as ordered by the court;
 - (c) sufficient capability to verify a participant's approved location or designated location, if the participant is restricted by court order to a single location or designated locations;
 - (d) verification of the monitored individual's attendance at, and status of, employment or a court-ordered activity, or both;
 - (e) the capability to provide immediate notification to the local law enforcement agency, and the capability to provide all required notifications to the court or to the appropriate prosecutor within the required timeframes;
 - (f) written policies and procedures to govern emergency situations, including the following:
 - (1) power outage(s);
 - (2) loss of telephone service;
 - (3) fire;
 - (4) flood;
 - (5) malfunction of equipment; and
 - (6) storm or weather event.

5. Before initiating monitoring, the electronic monitoring agency must provide written notice to all participants of the following requirements:
 - (a) A participant ordered by the court to be monitored under the provisions of this section who fails to comply with any of the provisions of this section or who fails to comply with any additional condition of the court order, including location restrictions, may have his bond revoked or may be punished for contempt at the discretion of the court.
 - (b) It is unlawful for any person, knowingly and without authority, to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent an active electronic monitoring device, or to aid or assist a person ordered by the court to be electronically monitored under the provisions of this section to remove, tamper with, damage, destroy, shield the signal from, or otherwise circumvent a monitoring device and, upon conviction, the person must be punished under the provisions of Section 24-13-425. This subsection does not apply to a person or agent of the electronic monitoring agency or bonding company, or a member of law enforcement acting under the authority of and with compliance to the court order.
6. The electronic monitoring agency shall have a written policy prohibiting discrimination against a monitored individual with regard to programs or services on the basis of race, religion, national origin, sex, or disability. The electronic monitoring agency shall ensure that reasonable accommodation is made for an individual with a disability.
7. All electronic monitoring policies and procedures are subject to SLED audit.

CERTIFICATION OF ELECTRONIC MONITORING DEVICES

1. An electronic monitoring agency may only use a monitoring device that has been certified by SLED and approved for use by that agency. A “monitoring device” means a body worn or non-body worn device or mobile phone application that must approved by SLED that records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person’s location and activities, and that timely records and reports the person’s location. If the device is a mobile phone application, the application must verify live biometric, photographic, and videographic identification information, and must timely record and report the person’s location.
2. When requesting certification of a device, the electronic monitoring agency must provide SLED the following:
 - (a) all specifications, capabilities, and all functional applications of the device;
 - (b) written documentation concerning the electronic monitoring agency’s prior uses of the device, including any disallowance of the device by any other jurisdiction;
 - (c) the electronic monitoring agency’s training materials regarding the device;
 - (d) the device manufacturer’s training materials regarding the device;
 - (e) sufficient proof that the device is capable of recording and transmitting information regarding the person’s location and activities as required by these standards and South Carolina law;
 - (f) any additional information or documentation that SLED requests regarding the device.
3. When requesting certification for a mobile phone application, the electronic monitoring agency must provide the following:
 - (a) all specifications, capabilities, and all functional applications of the application;
 - (b) written documentation concerning the electronic monitoring company’s prior uses of the application;
 - (c) the electronic monitoring company’s training materials regarding the application;
 - (d) the device manufacturer’s training materials regarding the application;
 - (e) sufficient proof that the application is capable of recording and transmitting information regarding the person’s location and activities as required by these standards and South Carolina law;
 - (f) sufficient proof that the application can and will verify live biometric, photographic, and videographic identification information, and timely record and report the person’s location.
 - (g) any additional information or documentation that SLED requests regarding the device.
4. The electronic monitoring agency must provide SLED, or any law enforcement or prosecution agency, with a full demonstration of the capability and functionality of device or application, including the recordation and transmission of required information in real time, upon request.
5. SLED’s certification of any electronic monitoring device is subject to revocation at any time and an electronic monitoring agency must immediately cease using any such device.

DEFINITIONS

The following definitions apply to throughout these standards:

1. “Approved active electronic monitoring device” and “monitoring device” means a body worn or non-body worn device or mobile phone application approved by the South Carolina Law Enforcement Division which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person’s location and activities, that must verify live biometric, photographic, or videographic identification information, and that timely records and reports the person’s location. S.C. Code Ann. § 17-15-35(A)(1).
2. “Approved electronic monitoring agency” means a law enforcement agency, licensed bondsman or bonding company, or electronic monitoring company that is certified by the South Carolina Law Enforcement Division to supply, maintain, and monitor electronic monitoring devices to participants ordered by the court to wear electronic monitoring devices under the provisions of this section. S.C. Code Ann. § 17-15-35(A)(2).
3. “Participant” means a person, ordered by the court or as a condition of bond to wear or possess an approved electronic monitoring device.
4. “Licensed Bondsman” means a professional bondsman or surety bondsman as defined by S.C. Code Ann. § 38-53-10.
5. “Bonding Company” means a surety or an insured as defined by S.C. Code Ann. § 38-53-10.