
By: **Delegates Hecht, DeCarlo, Dewberry, Fulton, Grosfeld, Howard,
Hutchins, James, V. Jones, K. Kelly, Kopp, McIntosh, McKee, Menes,
Nathan-Pulliam, Patterson, Petzold, Pitkin, Riley, and Turner**

Introduced and read first time: February 10, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facilities - Electronic Monitoring**

3 FOR the purpose of requiring a related institution to permit a resident or a resident's
4 legal representative to monitor the resident using video cameras or other
5 electronic monitoring devices; requiring the related institution to provide power
6 sources and mounting space to set up cameras for video monitoring; requiring a
7 resident that shares a room with another resident to obtain written consent
8 before beginning electronic monitoring; prohibiting a related institution from
9 refusing to admit an individual to the related institution or removing a resident
10 from the related institution because of a request to install an electronic
11 monitoring device; establishing certain penalties for violators; requiring that
12 video tapes created from video camera monitoring be admissible in criminal and
13 civil actions brought in Maryland courts, subject to the Maryland Rules of
14 Evidence; and generally relating to electronic monitoring in related institutions.

15 BY repealing and reenacting, without amendments,
16 Article - Health - General
17 Section 19-301(o)
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1999 Supplement)

20 BY adding to
21 Article - Health - General
22 Section 19-343.1
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 1999 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 19-301.

3 (o) (1) "Related institution" means an organized institution, environment,
4 or home that:5 (i) Maintains conditions or facilities and equipment to provide
6 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are
7 dependent on the administrator, operator, or proprietor for nursing care or the
8 subsistence of daily living in a safe, sanitary, and healthful environment; and

9 (ii) Admits or retains the individuals for overnight care.

10 (2) "Related institution" does not include a nursing facility or visiting
11 nurse service that is conducted only by or for adherents of a bona fide church or
12 religious organization, in accordance with tenets and practices that include reliance
13 on treatment by spiritual means alone for healing.

14 19-343.1.

15 (A) (1) FOR THE PURPOSE OF THIS SECTION, AN ELECTRONIC DEVICE
16 INCLUDES VIDEO SURVEILLANCE CAMERAS AND AUDIO DEVICES.17 (2) AN ELECTRONIC MONITORING DEVICE DOES NOT INCLUDE AN
18 ELECTRONIC DEVICE USED IN WIRE TAPPING OR ORAL COMMUNICATIONS UNDER
19 TITLE 10, SUBTITLE 4 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.20 (B) (1) A RELATED INSTITUTION SHALL PERMIT A RESIDENT OR LEGAL
21 REPRESENTATIVE OF THE RESIDENT TO MONITOR THE RESIDENT THROUGH THE
22 USE OF VIDEO CAMERAS OR OTHER ELECTRONIC DEVICES.23 (2) A RELATED INSTITUTION SHALL REQUIRE A RESIDENT WHO
24 ENGAGES IN ELECTRONIC MONITORING TO POST A NOTICE ON THE DOOR OF THE
25 RESIDENT'S ROOM. THE NOTICE MUST STATE THAT THE ROOM IS BEING MONITORED
26 BY AN ELECTRONIC MONITORING DEVICE.

27 (3) MONITORING CONDUCTED UNDER THIS SECTION SHALL:

28 (I) BE NONCOMPULSORY AND AT THE ELECTION OF THE
29 RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;30 (II) BE FUNDED BY THE RESIDENT OR LEGAL REPRESENTATIVE OF
31 THE RESIDENT; AND32 (III) PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND
33 VISITORS TO THE RELATED INSTITUTION TO THE EXTENT REASONABLY POSSIBLE.34 (4) A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN
35 INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT

1 FROM THE RELATED INSTITUTION BECAUSE OF A REQUEST FOR ELECTRONIC
2 MONITORING.

3 (5) A RELATED INSTITUTION SHALL MAKE REASONABLE PHYSICAL
4 ACCOMMODATION FOR ELECTRONIC MONITORING, BY PROVIDING:

5 (I) A REASONABLY SECURE PLACE TO MOUNT THE VIDEO CAMERA
6 OR ELECTRONIC MONITORING DEVICE; AND

7 (II) ACCESS TO POWER SOURCES.

8 (6) A RELATED INSTITUTION SHALL INFORM A RESIDENT OR THE LEGAL
9 REPRESENTATIVE OF THE RESIDENT OF THE RESIDENT'S RIGHT TO ELECTRONIC
10 MONITORING.

11 (7) A RELATED INSTITUTION MAY REQUEST A RESIDENT OR A
12 RESIDENT'S PERSONAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING
13 WITHIN PLAIN VIEW.

14 (C) A RESIDENT WHO WISHES TO INSTALL AN ELECTRONIC MONITORING
15 DEVICE MAY BE REQUIRED BY THE ADMINISTRATOR OF THE RELATED INSTITUTION
16 TO MAKE THE REQUEST IN WRITING.

17 (D) SUBJECT TO THE MARYLAND RULES OF EVIDENCE, A TAPE CREATED
18 THROUGH THE USE OF ELECTRONIC MONITORING SHALL BE ADMISSIBLE IN EITHER
19 A CIVIL OR CRIMINAL ACTION BROUGHT IN A MARYLAND COURT.

20 (E) (1) A PERSON WHO OPERATES A RELATED INSTITUTION IN VIOLATION
21 OF THE PROVISIONS IN THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
22 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,000 OR IMPRISONMENT NOT
23 EXCEEDING 5 YEARS OR BOTH.

24 (2) A PERSON WHO WILLFULLY AND WITHOUT THE CONSENT OF A
25 RESIDENT HAMPERS, OBSTRUCTS, TAMPERS WITH, OR DESTROYS AN ELECTRONIC
26 MONITORING DEVICE OR TAPE SHALL BE GUILTY OF A MISDEMEANOR AND ON
27 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$2,000 OR IMPRISONMENT NOT
28 EXCEEDING 90 DAYS OR BOTH.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2000.