

HOUSE BILL 433

Unofficial Copy  
J3  
HB 751/00 - ENV

2001 Regular Session  
11r1202

---

By: **Delegates Hecht, Boutin, Bronrott, Conroy, Conway, Cryor, D'Amato,  
DeCarlo, Dypski, Giannetti, Grosfeld, Hutchins, James, V. Jones, Kagan,  
Leopold, Marriott, McIntosh, Pitkin, Riley, Rzepkowski, and  
Valderrama**

Introduced and read first time: February 1, 2001  
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 through the use of video cameras or  
5 other electronic monitoring devices; requiring the related institution to provide  
6 power sources and mounting space to set up electronic monitoring devices;  
7 prohibiting a related institution from refusing to admit an individual to the  
8 related institution or removing a resident from the related institution because of  
9 a request to install an electronic monitoring device; establishing certain  
10 penalties for violators; requiring that tapes created from electronic monitoring  
11 be admissible in criminal and civil actions brought in Maryland courts, subject  
12 to the Maryland Rules of Evidence; and generally relating to electronic  
13 monitoring in related institutions.

14 BY repealing and reenacting, without amendments,  
15 Article - Health - General  
16 Section 19-301(o)  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume)

19 BY adding to  
20 Article - Health - General  
21 Section 19-343.1  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
25 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) IN THIS SECTION, "ELECTRONIC MONITORING DEVICE" INCLUDES A VIDEO  
16 SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELEPHONE, AND AN  
17 INTERNET VIDEO SURVEILLANCE DEVICE.18 (B) (1) A RELATED INSTITUTION SHALL PERMIT A RESIDENT OR LEGAL  
19 REPRESENTATIVE OF THE RESIDENT TO MONITOR THE RESIDENT THROUGH THE  
20 USE OF ELECTRONIC MONITORING DEVICES.21 (2) A RELATED INSTITUTION SHALL REQUIRE A RESIDENT WHO  
22 ENGAGES IN ELECTRONIC MONITORING TO POST A NOTICE ON THE DOOR OF THE  
23 RESIDENT'S ROOM. THE NOTICE MUST STATE THAT THE ROOM IS BEING MONITORED  
24 BY AN ELECTRONIC MONITORING DEVICE.

25 (3) MONITORING CONDUCTED UNDER THIS SECTION SHALL:

26 (I) BE NONCOMPULSORY AND AT THE ELECTION OF THE  
27 RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;28 (II) BE FUNDED BY THE RESIDENT OR LEGAL REPRESENTATIVE OF  
29 THE RESIDENT; AND30 (III) PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND  
31 VISITORS TO THE RELATED INSTITUTION TO THE EXTENT REASONABLY POSSIBLE.32 (4) A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN  
33 INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT  
34 FROM THE RELATED INSTITUTION BECAUSE OF A REQUEST FOR ELECTRONIC  
35 MONITORING.

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

3 (I) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC  
4 MONITORING DEVICE; AND

5 (II) ACCESS TO POWER SOURCES.

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

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

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

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2001.