

Department of Legislative Services  
Maryland General Assembly  
2002 Session

FISCAL NOTE

House Bill 880 (Delegate Hecht, *et al.*)  
Environmental Matters

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Vera's Law

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This bill provides that it is lawful for a person to intercept a wire, oral, or electronic communication in a related institution, such as a nursing home, if the person: (1) is a resident of the institution or the resident's legal representative; (2) conducts the electronic monitoring in the resident's room; and (3) posts a notice on the door of the resident's room stating the room is being monitored by an electronic monitoring device.

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Fiscal Summary

**State Effect:** The criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

**Local Effect:** The criminal penalty provisions of this bill are not expected to significantly affect local jurisdiction finances or operations.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** An institution must permit a resident or the resident's legal representative to monitor the resident through the use of electronic monitoring devices. The institution must require the resident to post a notice on the door of the resident's room stating that the room is being monitored by an electronic monitoring device. The resident is responsible for paying for the monitoring and must protect the privacy rights of other residents and visitors to the extent reasonably possible. A resident who wishes to

engage in electronic monitoring, and who shares a room with another resident, must obtain the other resident's written consent to perform electronic monitoring in the room.

A related institution must inform residents of their rights to electronic monitoring and cannot discharge or refuse to admit a resident who uses electronic monitoring. The institution must make reasonable physical accommodation for electronic monitoring by providing a reasonably secure place to mount the device and access to power sources. The institution may request that a resident conduct the electronic monitoring within plain view. The institution may require a resident who wishes to install a device to make a written request to do so.

A tape created through the use of electronic monitoring may be admissible in either a civil or criminal action brought in a Maryland court.

A person who operates an institution in violation of the bill's provisions is guilty of a misdemeanor and subject to a fine not exceeding \$2,000 or imprisonment not exceeding five years or both. A person who willfully and without consent of a resident hampers, obstructs, tampers with, or destroys an electronic monitoring device or tape is guilty of a misdemeanor and subject to a fine not exceeding \$2,000 or imprisonment not exceeding 90 days or both.

**Current Law:** Under Maryland's wiretapping and electronic surveillance laws, it is unlawful to willfully intercept any wire, oral, or electronic communication. "Interception" means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. A person who violates these provisions is guilty of a felony and subject to imprisonment for not more than five years or a fine of not more than \$10,000 or both. There are specified exceptions for lawful acts performed by such individuals as: (1) a switchboard operator, or wire or electronic communication service employee; (2) an investigative or law enforcement officer acting in a criminal investigation or other specified circumstances; (3) a person who is a party to the intercepted communication, where all of the parties have given prior consent; (4) an employee of a governmental emergency communications center; and (5) a person intercepting an electronic communication that is readily accessible to the general public.

There are no provisions in current law authorizing electronic monitoring in nursing homes.

## **Additional Information**

**Prior Introductions:** Similar bills have been introduced in the past two sessions. HB 433 of 2001 was reported to summer study by the Environmental Matters Committee. HB 751 of 2000 was not reported from the Environmental Matters Committee.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene (Developmental Disabilities Administration, Mental Hygiene Administration), Department of Legislative Services

**Fiscal Note History:** First Reader - March 18, 2002  
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