

HOUSE BILL 149

Unofficial Copy  
J3

2003 Regular Session  
(31r0932)

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by **Delegates Goldwater, Boutin, Bromwell, Bronrott, Conroy,  
Conway, Cryor, ~~Donoghue~~, Dumais, Franchot, Haynes, Hubbard, James,  
Kirk, Lee, Mandel, Marriott, McIntosh, Menes, Murray, Oaks,  
Pendergrass, Petzold, Rzepkowski, and ~~Smigiel~~ Smigiel, Love, and  
Weldon**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Vera's Law**

3 FOR the purpose of ~~creating an exception to the prohibition against willfully~~  
4 ~~intercepting a wire or electronic communication for a person who intercepts~~  
5 ~~wire, oral, or electronic communications in a related institution under certain~~  
6 ~~circumstances; requiring a related institution to permit a resident or a resident's~~  
7 ~~legal representative to monitor the resident through the use of video cameras or~~  
8 ~~other electronic monitoring devices; requiring a resident who shares a room with~~  
9 ~~another resident to obtain written consent before beginning electronic~~  
10 ~~monitoring; requiring the related institution to provide power sources and~~  
11 ~~mounting space to set up electronic monitoring devices; prohibiting a related~~  
12 ~~institution from refusing to admit an individual to the related institution or~~  
13 ~~removing a resident from the related institution because of a request to install~~

1 an electronic monitoring device; establishing certain penalties for violators;  
 2 requiring that tapes created from electronic monitoring be admissible in  
 3 criminal and civil actions brought in Maryland courts, subject to the Maryland  
 4 Rules of Evidence; requiring the Department of Health and Mental Hygiene to  
 5 develop guidelines for nursing homes that elect to use electronic monitoring  
 6 with certain consent; requiring the Department to report on the guidelines to  
 7 certain committees of the General Assembly on or before a certain date; and  
 8 generally relating to guidelines for electronic monitoring in related institutions  
 9 nursing facilities.

10 ~~BY adding to~~

11 ~~Article—Courts and Judicial Proceedings~~  
 12 ~~Section 10-402(e)(10)~~  
 13 ~~Annotated Code of Maryland~~  
 14 ~~(2002 Replacement Volume)~~

15 ~~BY adding to~~

16 ~~Article—Health—General~~  
 17 ~~Section 19-343.1~~  
 18 ~~Annotated Code of Maryland~~  
 19 ~~(2000 Replacement Volume and 2002 Supplement)~~

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

22 ~~**Article—Courts and Judicial Proceedings**~~

23 ~~10-402.~~

24 ~~(C) (10) (I) IN THIS PARAGRAPH, "RELATED INSTITUTION" HAS THE~~  
 25 ~~MEANING STATED IN § 19-343.1 OF THE HEALTH—GENERAL ARTICLE.~~

26 ~~(H) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO~~  
 27 ~~INTERCEPT A WIRE, ORAL, OR ELECTRONIC COMMUNICATION IN A RELATED~~  
 28 ~~INSTITUTION IF THE PERSON:~~

29 ~~1. IS A RESIDENT OF THE RELATED INSTITUTION OR THE~~  
 30 ~~LEGAL REPRESENTATIVE OF A RESIDENT;~~

31 ~~2. CONDUCTS THE ELECTRONIC MONITORING IN THE~~  
 32 ~~RESIDENT'S ROOM IN THE RELATED INSTITUTION; AND~~

33 ~~3. POSTS A NOTICE ON THE DOOR OF THE RESIDENT'S ROOM~~  
 34 ~~STATING THAT THE ROOM IS BEING MONITORED BY AN ELECTRONIC MONITORING~~  
 35 ~~DEVICE.~~

1 ~~Article—Health—General~~

2 ~~19-343.1.~~

3 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
4 ~~INDICATED.~~

5 (2) ~~"ELECTRONIC MONITORING DEVICE" INCLUDES A VIDEO~~  
6 ~~SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELEPHONE, AND AN~~  
7 ~~INTERNET VIDEO SURVEILLANCE DEVICE.~~

8 (3) (1) ~~"RELATED INSTITUTION" MEANS AN ORGANIZED INSTITUTION,~~  
9 ~~ENVIRONMENT, OR HOME THAT:~~

10 1. ~~MAINTAINS CONDITIONS OR FACILITIES AND EQUIPMENT~~  
11 ~~TO PROVIDE DOMICILIARY, PERSONAL, OR NURSING CARE FOR TWO OR MORE~~  
12 ~~UNRELATED INDIVIDUALS WHO ARE DEPENDENT ON THE ADMINISTRATOR,~~  
13 ~~OPERATOR, OR PROPRIETOR FOR NURSING CARE OR THE SUBSISTENCE OF DAILY~~  
14 ~~LIVING IN A SAFE, SANITARY, AND HEALTHFUL ENVIRONMENT; AND~~

15 2. ~~ADMITS OR RETAINS THE INDIVIDUALS FOR OVERNIGHT~~  
16 ~~CARE.~~

17 (II) ~~"RELATED INSTITUTION" INCLUDES A NURSING FACILITY OR~~  
18 ~~VISITING NURSE SERVICE THAT IS CONDUCTED ONLY BY OR FOR ADHERENTS OF A~~  
19 ~~BONA FIDE CHURCH OR RELIGIOUS ORGANIZATION, IN ACCORDANCE WITH TENETS~~  
20 ~~AND PRACTICES THAT INCLUDE RELIANCE ON TREATMENT BY SPIRITUAL MEANS~~  
21 ~~ALONE FOR HEALING.~~

22 (B) (1) ~~A RELATED INSTITUTION SHALL PERMIT A RESIDENT OR LEGAL~~  
23 ~~REPRESENTATIVE OF THE RESIDENT TO MONITOR THE RESIDENT THROUGH THE~~  
24 ~~USE OF ELECTRONIC MONITORING DEVICES.~~

25 (2) (1) ~~A RELATED INSTITUTION SHALL REQUIRE A RESIDENT WHO~~  
26 ~~ENGAGES IN ELECTRONIC MONITORING TO POST A NOTICE ON THE DOOR OF THE~~  
27 ~~RESIDENT'S ROOM.~~

28 (II) ~~THE NOTICE MUST STATE THAT THE ROOM IS BEING~~  
29 ~~MONITORED BY AN ELECTRONIC MONITORING DEVICE.~~

30 (3) ~~BEFORE BEGINNING ELECTRONIC MONITORING, A RELATED~~  
31 ~~INSTITUTION SHALL REQUIRE A RESIDENT WHO WISHES TO ENGAGE IN ELECTRONIC~~  
32 ~~MONITORING AND SHARES A ROOM WITH ANOTHER RESIDENT TO OBTAIN THE~~  
33 ~~WRITTEN CONSENT FROM THE OTHER RESIDENT OR THE LEGAL REPRESENTATIVE~~  
34 ~~OF THE OTHER RESIDENT.~~

35 (4) ~~MONITORING CONDUCTED UNDER THIS SECTION SHALL:~~

36 (1) ~~BE NONCOMPULSORY AND AT THE ELECTION OF THE~~  
37 ~~RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;~~

1                   (HI)     ~~BE FUNDED BY THE RESIDENT OR LEGAL REPRESENTATIVE OF~~  
2 ~~THE RESIDENT; AND~~

3                   (III)    ~~PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND~~  
4 ~~VISITORS TO THE RELATED INSTITUTION TO THE EXTENT REASONABLY POSSIBLE.~~

5                   (5)     ~~A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN~~  
6 ~~INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT~~  
7 ~~FROM THE RELATED INSTITUTION BECAUSE OF A REQUEST FOR ELECTRONIC~~  
8 ~~MONITORING.~~

9                   (6)     ~~A RELATED INSTITUTION SHALL MAKE REASONABLE PHYSICAL~~  
10 ~~ACCOMMODATION FOR ELECTRONIC MONITORING, BY PROVIDING:~~

11                  (I)     ~~A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC~~  
12 ~~MONITORING DEVICE; AND~~

13                  (II)    ~~ACCESS TO POWER SOURCES.~~

14                  (7)     ~~A RELATED INSTITUTION SHALL INFORM A RESIDENT OR THE LEGAL~~  
15 ~~REPRESENTATIVE OF THE RESIDENT OF THE RESIDENT'S RIGHT TO ELECTRONIC~~  
16 ~~MONITORING.~~

17                  (8)     ~~A RELATED INSTITUTION MAY REQUEST A RESIDENT OR A~~  
18 ~~RESIDENT'S LEGAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING~~  
19 ~~WITHIN PLAIN VIEW.~~

20                  (C)     ~~A RESIDENT WHO WISHES TO INSTALL AN ELECTRONIC MONITORING~~  
21 ~~DEVICE MAY BE REQUIRED BY THE ADMINISTRATOR OF THE RELATED INSTITUTION~~  
22 ~~TO MAKE THE REQUEST IN WRITING.~~

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

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

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

35     ~~SECTION 1. AND BE IT FURTHER ENACTED, BE IT ENACTED BY THE~~  
36 ~~GENERAL ASSEMBLY OF MARYLAND, That:~~

1 (a) The Department of Health and Mental Hygiene shall develop guidelines  
2 for a nursing home that elects to use electronic monitoring with the consent of a  
3 resident or the legal representative of the resident.

4 (b) On or before December 1, 2003, the Department of Health and Mental  
5 Hygiene shall report on the guidelines developed under subsection (a) of this section  
6 to the Senate Finance Committee and the House Health and Government Operations  
7 Committee of the General Assembly, in accordance with § 2-1246 of the State  
8 Government Article.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 ~~October~~ July 1, 2003.