

HOUSE BILL 149

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J3
HB 880/02 - JUD

2003 Regular Session
3lr0932

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**

Introduced and read first time: January 27, 2003

Assigned to: Judiciary

A BILL ENTITLED

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
14 an electronic monitoring device; establishing certain penalties for violators;
15 requiring that tapes created from electronic monitoring be admissible in
16 criminal and civil actions brought in Maryland courts, subject to the Maryland
17 Rules of Evidence; and generally relating to electronic monitoring in related
18 institutions.

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 10-402(c)(10)
22 Annotated Code of Maryland
23 (2002 Replacement Volume)

24 BY adding to
25 Article - Health - General
26 Section 19-343.1
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2002 Supplement)

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

3 **Article - Courts and Judicial Proceedings**

4 10-402.

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

7 (II) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO
8 INTERCEPT A WIRE, ORAL, OR ELECTRONIC COMMUNICATION IN A RELATED
9 INSTITUTION IF THE PERSON:

10 1. IS A RESIDENT OF THE RELATED INSTITUTION OR THE
11 LEGAL REPRESENTATIVE OF A RESIDENT;

12 2. CONDUCTS THE ELECTRONIC MONITORING IN THE
13 RESIDENT'S ROOM IN THE RELATED INSTITUTION; AND

14 3. POSTS A NOTICE ON THE DOOR OF THE RESIDENT'S ROOM
15 STATING THAT THE ROOM IS BEING MONITORED BY AN ELECTRONIC MONITORING
16 DEVICE.

17 **Article - Health - General**

18 19-343.1.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "ELECTRONIC MONITORING DEVICE" INCLUDES A VIDEO
22 SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELEPHONE, AND AN
23 INTERNET VIDEO SURVEILLANCE DEVICE.

24 (3) (I) "RELATED INSTITUTION" MEANS AN ORGANIZED INSTITUTION,
25 ENVIRONMENT, OR HOME THAT:

26 1. MAINTAINS CONDITIONS OR FACILITIES AND EQUIPMENT
27 TO PROVIDE DOMICILIARY, PERSONAL, OR NURSING CARE FOR TWO OR MORE
28 UNRELATED INDIVIDUALS WHO ARE DEPENDENT ON THE ADMINISTRATOR,
29 OPERATOR, OR PROPRIETOR FOR NURSING CARE OR THE SUBSISTENCE OF DAILY
30 LIVING IN A SAFE, SANITARY, AND HEALTHFUL ENVIRONMENT; AND

31 2. ADMITS OR RETAINS THE INDIVIDUALS FOR OVERNIGHT
32 CARE.

33 (II) "RELATED INSTITUTION" INCLUDES A NURSING FACILITY OR
34 VISITING NURSE SERVICE THAT IS CONDUCTED ONLY BY OR FOR ADHERENTS OF A
35 BONA FIDE CHURCH OR RELIGIOUS ORGANIZATION, IN ACCORDANCE WITH TENETS

1 AND PRACTICES THAT INCLUDE RELIANCE ON TREATMENT BY SPIRITUAL MEANS
2 ALONE FOR HEALING.

3 (B) (1) A RELATED INSTITUTION SHALL PERMIT A RESIDENT OR LEGAL
4 REPRESENTATIVE OF THE RESIDENT TO MONITOR THE RESIDENT THROUGH THE
5 USE OF ELECTRONIC MONITORING DEVICES.

6 (2) (I) A RELATED INSTITUTION SHALL REQUIRE A RESIDENT WHO
7 ENGAGES IN ELECTRONIC MONITORING TO POST A NOTICE ON THE DOOR OF THE
8 RESIDENT'S ROOM.

9 (II) THE NOTICE MUST STATE THAT THE ROOM IS BEING
10 MONITORED BY AN ELECTRONIC MONITORING DEVICE.

11 (3) BEFORE BEGINNING ELECTRONIC MONITORING, A RELATED
12 INSTITUTION SHALL REQUIRE A RESIDENT WHO WISHES TO ENGAGE IN ELECTRONIC
13 MONITORING AND SHARES A ROOM WITH ANOTHER RESIDENT TO OBTAIN THE
14 WRITTEN CONSENT FROM THE OTHER RESIDENT OR THE LEGAL REPRESENTATIVE
15 OF THE OTHER RESIDENT.

16 (4) MONITORING CONDUCTED UNDER THIS SECTION SHALL:

17 (I) BE NONCOMPULSORY AND AT THE ELECTION OF THE
18 RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;

19 (II) BE FUNDED BY THE RESIDENT OR LEGAL REPRESENTATIVE OF
20 THE RESIDENT; AND

21 (III) PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND
22 VISITORS TO THE RELATED INSTITUTION TO THE EXTENT REASONABLY POSSIBLE.

23 (5) A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN
24 INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT
25 FROM THE RELATED INSTITUTION BECAUSE OF A REQUEST FOR ELECTRONIC
26 MONITORING.

27 (6) A RELATED INSTITUTION SHALL MAKE REASONABLE PHYSICAL
28 ACCOMMODATION FOR ELECTRONIC MONITORING, BY PROVIDING:

29 (I) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC
30 MONITORING DEVICE; AND

31 (II) ACCESS TO POWER SOURCES.

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

1 (8) A RELATED INSTITUTION MAY REQUEST A RESIDENT OR A
2 RESIDENT'S LEGAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING
3 WITHIN PLAIN VIEW.

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

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

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

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2003.