
By: **Delegate Love (By Request) and Delegate Menes**

Introduced and read first time: February 9, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facilities - Electronic Monitoring**

3 FOR the purpose of requiring certain nursing facilities to install and use electronic
4 monitoring devices in rooms of residents for a certain purpose; requiring the
5 nursing facility to post a certain notice in a conspicuous location; requiring the
6 area in the nursing facility that receives the signals from the electronic
7 monitoring devices to meet certain criteria; providing that the monitoring of
8 residents shall be noncompulsory and with the written permission of certain
9 persons and funded by the nursing facility; requiring the nursing facility to
10 develop and implement certain policies related to the privacy rights of certain
11 residents and visitors; prohibiting a nursing facility from refusing residency of
12 certain persons and from removing certain residents because of a refusal to
13 accept electronic monitoring; requiring the administrator of a nursing facility to
14 maintain certain records; establishing certain penalties; requiring videotapes
15 created from video camera monitoring be admissible in criminal and civil
16 actions brought in Maryland courts, subject to the Maryland Rules of Evidence;
17 defining a certain term; providing for the application of this Act; and generally
18 relating to electronic monitoring of nursing facilities.

19 BY repealing and reenacting, without amendments,
20 Article - Health - General
21 Section 19-301(o)
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2003 Supplement)

24 BY adding to
25 Article - Health - General
26 Section 19-343.1
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2003 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
30 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 DEVICE" INCLUDES A VIDEO
16 SURVEILLANCE CAMERA AND AN AUDIO DEVICE.

17 (B) THIS SECTION APPLIES TO RELATED INSTITUTIONS THAT HAVE:

18 (1) A PATIENT POPULATION OF 50 OR MORE; AND

19 (2) A NURSING ASSISTANT STAFF WITH A RATIO OF MORE THAN TWO
20 PATIENTS TO ONE NURSING ASSISTANT.21 (C) (1) A RELATED INSTITUTION SHALL INSTALL AND USE ELECTRONIC
22 MONITORING DEVICES IN RESIDENT ROOMS TO MONITOR THE SAFETY OF
23 RESIDENTS, INCLUDING THE ROOMS OF RESIDENTS MOST AT RISK OF FALLING AND
24 SUSTAINING INJURIES.25 (2) THE RELATED INSTITUTION SHALL POST A NOTICE IN A
26 CONSPICUOUS LOCATION THAT STATES THAT ROOMS OF RESIDENTS ARE BEING
27 MONITORED BY AN ELECTRONIC MONITORING DEVICE.28 (3) THE AREA IN THE RELATED INSTITUTION THAT RECEIVES THE
29 SIGNALS FROM THE ELECTRONIC MONITORING DEVICES SHALL:

30 (I) BE STAFFED 24 HOURS PER DAY;

31 (II) BE OUT OF THE VIEW AND HEARING OF VISITORS AND OTHER
32 RESIDENTS OF THE RELATED INSTITUTION; AND33 (III) HAVE A COMMUNICATION SYSTEM THAT IMMEDIATELY
34 NOTIFIES THE APPROPRIATE STAFF OF A MONITORED RESIDENT'S NEED FOR
35 ASSISTANCE.

1 (4) MONITORING CONDUCTED UNDER THIS SECTION SHALL:

2 (I) BE NONCOMPULSORY AND WITH THE WRITTEN PERMISSION OF
3 THE RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT; AND

4 (II) FUNDED BY THE RELATED INSTITUTION.

5 (5) A RELATED INSTITUTION SHALL DEVELOP AND IMPLEMENT
6 POLICIES REGARDING THE PROTECTION OF PRIVACY RIGHTS OF RESIDENTS THAT
7 ELECT NOT TO BE MONITORED AND VISITORS TO THE RELATED INSTITUTION.

8 (6) A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN
9 INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A RESIDENT
10 FROM THE RELATED INSTITUTION BECAUSE OF A REFUSAL TO ACCEPT ELECTRONIC
11 MONITORING.

12 (D) THE ADMINISTRATOR OF A RELATED INSTITUTION SHALL MAINTAIN
13 RECORDS OF THE FOLLOWING ORIGINAL DOCUMENTS:

14 (1) THE WRITTEN RECORD OF A RESIDENT'S DECISION TO ACCEPT OR
15 REFUSE ELECTRONIC MONITORING; AND

16 (2) THE WRITTEN RECORD OF A RESIDENT'S DECISION TO RESCIND THE
17 RESIDENT'S ORIGINAL ACCEPTANCE OR REFUSAL OF ELECTRONIC MONITORING.

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2004.