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By: **Delegates Love, Cadden, V. Clagett, Frush, Gilleland, McConkey,  
Menes, Moe, and Sophocleus**

Introduced and read first time: January 26, 2006

Assigned to: Health and Government Operations

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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 electronic  
8 monitoring of residents shall be noncompulsory and with the written permission  
9 of certain persons and funded by the nursing facility; requiring the nursing  
10 facility to develop and implement certain policies related to the privacy rights of  
11 certain residents and visitors; prohibiting a nursing facility from refusing  
12 residency of certain persons and from removing certain residents because of a  
13 refusal to accept electronic monitoring; requiring the administrator of a nursing  
14 facility to maintain certain records; establishing certain penalties; requiring  
15 that videotapes created from video camera monitoring be admissible in criminal  
16 and civil actions brought in Maryland courts, subject to the Maryland Rules of  
17 Evidence; defining a certain term; providing for the application of this Act; and  
18 generally 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 (2005 Replacement Volume and 2005 Supplement)

24 BY adding to  
25 Article - Health - General  
26 Section 19-343.1  
27 Annotated Code of Maryland  
28 (2005 Replacement Volume and 2005 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 MONITORING 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  
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) ELECTRONIC MONITORING CONDUCTED UNDER THIS SECTION  
2 SHALL:

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

5 (II) BE FUNDED BY THE RELATED INSTITUTION.

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

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

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

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

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2006.