

HOUSE BILL 557

J1, J3
HB 880/02 – ENV

9lr0539

By: **Delegates Hecht, Beidle, Benson, Bronrott, Carr, Frush, Howard, McDonough, and Schuh**

Introduced and read first time: February 5, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Homes – Electronic Monitoring (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 allow 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
9 with 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; prohibiting electronic monitoring from being
15 conducted in the bathroom of a resident; establishing certain penalties for
16 violators; requiring that tapes created from electronic monitoring be admissible
17 in criminal and civil actions brought in Maryland courts, subject to the
18 Maryland Rules of Evidence; requiring that certain tapes and recordings
19 created from electronic monitoring be made available to the Department of
20 Health and Mental Hygiene for a certain purpose; and generally relating to
21 electronic monitoring in related institutions.

22 BY adding to

23 Article – Courts and Judicial Proceedings

24 Section 10–402(c)(11)

25 Annotated Code of Maryland

26 (2006 Replacement Volume and 2008 Supplement)

27 BY adding to

28 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 19-343.1
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2008 Supplement)

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

6 **Article – Courts and Judicial Proceedings**

7 10-402.

8 (c) (11) (I) IN THIS PARAGRAPH, “RELATED INSTITUTION” HAS THE
9 MEANING STATED IN § 19-343.1 OF THE HEALTH – GENERAL ARTICLE.

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

13 1. IS A RESIDENT OF THE RELATED INSTITUTION OR
14 THE LEGAL REPRESENTATIVE OF A RESIDENT;

15 2. CONDUCTS THE ELECTRONIC MONITORING IN
16 THE RESIDENT’S ROOM IN THE RELATED INSTITUTION; AND

17 3. POSTS A NOTICE ON THE DOOR OF THE
18 RESIDENT’S ROOM STATING THAT THE ROOM IS BEING MONITORED BY AN
19 ELECTRONIC MONITORING DEVICE.

20 **Article – Health – General**

21 **19-343.1.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

24 (2) “ELECTRONIC MONITORING DEVICE” INCLUDES A VIDEO
25 SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELEPHONE, AND AN
26 INTERNET VIDEO SURVEILLANCE DEVICE.

27 (3) “RELATED INSTITUTION” MEANS:

28 (I) A NURSING HOME AS DEFINED IN § 19-1401(E) OF THIS
29 ARTICLE; OR

1 (II) AN ASSISTED LIVING PROGRAM THAT IS LICENSED TO
2 SERVE 17 OR MORE RESIDENTS.

3 (B) (1) A RELATED INSTITUTION SHALL ALLOW A RESIDENT OR, IF
4 THE RESIDENT IS INCAPACITATED, THE LEGAL REPRESENTATIVE OF THE
5 RESIDENT TO MONITOR THE RESIDENT THROUGH THE USE OF ELECTRONIC
6 MONITORING DEVICES.

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

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

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

17 (4) MONITORING CONDUCTED UNDER THIS SECTION SHALL:

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

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

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

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

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

31 (I) A REASONABLY SECURE PLACE TO MOUNT THE
32 ELECTRONIC MONITORING DEVICE; AND

1 **(II) ACCESS TO POWER SOURCES.**

2 **(7) A RELATED INSTITUTION SHALL INFORM A RESIDENT OR THE**
3 **LEGAL REPRESENTATIVE OF THE RESIDENT OF THE RESIDENT'S RIGHT TO**
4 **ELECTRONIC MONITORING:**

5 **(I) IN THE FACILITY'S ADMISSION AGREEMENT; AND**

6 **(II) BY POSTING NOTICE IN A PROMINENT LOCATION IN THE**
7 **FACILITY.**

8 **(8) A RELATED INSTITUTION MAY REQUEST A RESIDENT OR A**
9 **RESIDENT'S LEGAL REPRESENTATIVE TO CONDUCT ELECTRONIC MONITORING**
10 **WITHIN PLAIN VIEW.**

11 **(9) MONITORING CONDUCTED UNDER THIS SECTION MAY NOT**
12 **INCLUDE MONITORING THE BATHROOM OR TOILET FACILITY OF A RESIDENT.**

13 **(C) A RESIDENT WHO WISHES TO INSTALL AN ELECTRONIC**
14 **MONITORING DEVICE MAY BE REQUIRED BY THE ADMINISTRATOR OF THE**
15 **RELATED INSTITUTION TO MAKE THE REQUEST IN WRITING.**

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

20 **(E) A TAPE OR RECORDING DERIVED FROM ELECTRONIC MONITORING**
21 **CONDUCTED UNDER THIS SECTION THAT IS IN THE POSSESSION OF A RELATED**
22 **INSTITUTION SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR THE**
23 **PURPOSE OF ASSESSING THE RELATED INSTITUTION'S COMPLIANCE WITH**
24 **APPLICABLE REGULATIONS.**

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.