

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1409 (Delegates Woorman and McComas)
 Health and Government Operations and
 Judiciary

Health - Medical Care Facilities - Electronic Monitoring Devices

This bill requires a “medical care facility” to allow a resident or the legal representative of a resident to monitor the resident through the use of an “electronic monitoring device.” Among other related requirements, each facility must ensure that a notice of the presence of any electronic monitoring device is posted. The bill also provides an exception to Maryland’s Wiretapping and Electronic Surveillance Act prohibition against willfully intercepting wire or electronic communication for a resident in a medical care facility under specified circumstances. Subject to the Maryland Rules of Evidence, a recording created through the use of electronic monitoring under the bill’s provisions must be admissible in either a civil or criminal action brought in a Maryland court.

Fiscal Summary

State Effect: The Office of Health Care Quality (OHCQ) general fund expenditures increase by \$98,500 in FY 2026 for staff, as discussed below. Future years reflect annualization, inflation, and ongoing operating costs. The bill does not materially impact the workload of the Judiciary. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	98,500	118,800	123,700	128,800	134,000
Net Effect	(\$98,500)	(\$118,800)	(\$123,700)	(\$128,800)	(\$134,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially impact local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Electronic monitoring device” means a video surveillance camera or a microphone or other device that captures audio. “Electronic monitoring device” does not include (1) a device that is specifically intended to capture wire, electronic, or oral communication without notice to or the consent of a party to the communications or (2) a device that is connected to the Internet or that is designed to transmit data via an electronic communication.

“Medical care facility” means, as defined in the Health-General Article, a facility or an Alzheimer’s special care unit or program.

Electronic Monitoring Requirements within a Medical Care Facility

A medical care facility must require a resident or the legal representative of a resident who engages in electronic monitoring to post a notice on the door of the resident’s room that states that the room is being monitored by an electronic monitoring device. Before allowing a resident or a legal representative of a resident to begin electronic monitoring, a medical care facility must require the resident or the legal representative of the resident who wishes to engage in electronic monitoring to obtain the written consent from all other residents who share the room or the legal representative of the other residents.

Electronic monitoring must (1) be noncompulsory and at the election of the resident or legal representative of the resident; (2) be funded by the resident or legal representative of the resident; and (3) protect the privacy rights of other residents and visitors to the medical care facility to the extent reasonably possible.

A medical care facility must inform a resident or the legal representative of the resident of the resident’s right to engage in electronic monitoring. A medical care facility may not refuse to admit an individual to residency in the medical care facility or remove a resident from the facility because of a request for electronic monitoring.

A medical care facility must make reasonable physical accommodation for electronic monitoring by providing a reasonably secure place to mount an electronic monitoring device and access to a power source. A medical care facility may request a resident or the legal representative of the resident to conduct electronic monitoring in plain view. An administrator of the facility may require that a resident (or legal representative) make any request for installation of an electronic monitoring device in writing.

Maryland Wiretapping and Electronic Surveillance Act

The bill creates an exception under the Maryland Wiretapping and Electronic Surveillance Act by establishing that it is lawful for a person to intercept a wire, oral, or electronic
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communication in a medical care facility if the person (1) is a resident of the medical care facility or the legal representative of a resident; (2) conducts the electronic monitoring only in the resident's room in the medical care facility; (3) received permission from all roommates of the resident, if applicable; and (4) posts a notice on the door of the resident's room stating that the room is being monitored by an electronic monitoring device.

Current Law: "Facility" means a related institution that, under the rules and regulations of the Maryland Department of Health (MDH), is a comprehensive care facility or an extended care facility. Maryland regulations define "comprehensive care facility" as a nursing home that admits patients suffering from disease or disabilities or advanced age, requiring medical service and nursing service rendered by or under the supervision of a registered nurse. "Extended care facility" means a nursing home that offers subacute care, providing treatment services for patients requiring inpatient care but who do not currently require continuous hospital services.

"Alzheimer's special care unit or program" means a secured or segregated special unit or program specifically designed for individuals with a probable or confirmed diagnosis of Alzheimer's disease or a related disorder.

Rights of a Resident of a Facility

It is the policy of the State that, in addition to any other rights, each resident of a facility has the following basic rights:

- the right to be treated with consideration, respect, and full recognition of human dignity and individuality;
- the right to receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State and federal laws, rules, and regulations;
- the right to privacy;
- the right to be free from mental and physical abuse;
- the right to notice, procedural fairness, and humane treatment when being transferred or discharged from a facility;
- the right to participate in decision making regarding transitions in care, including a transfer or discharge from a facility;
- the right to expect and receive appropriate assessment, management, and treatment of pain as an integral component of the patient's care;
- the right to be free from physical and chemical restraints, except for restraints that a physician authorizes for a clearly indicated medical need;
- the right to receive respect and privacy in a medical care program; and
- the right to manage personal financial affairs.

Each facility must (1) post, conspicuously in a public place, the policy of the resident's basic rights (as shown above) and information related to other provisions as specified in statute (e.g., grievance rights, visitation privacy, management of resident accounts, etc.); (2) give a copy of the policy and related information to the resident on admission, to the guardian, next of kin, or sponsoring agency of the resident, and to the representative payee of the resident; (3) keep a receipt for the copy that is signed by the person who received the copy; and (4) provide appropriate staff training to carry out the policy and specified procedures.

Office of Health Care Quality

OHCQ within MDH oversees and licenses health care facilities in the State. To ensure compliance with these rules and regulations, OHCQ inspects each health care facility. In general, OHCQ inspects facilities for which a license is sought and periodically after a license has been issued. MDH submits an annual report to the General Assembly regarding the inspections conducted during the immediately preceding year.

Maryland Wiretapping and Electronic Surveillance Act

Under Maryland's Wiretapping and Electronic Surveillance Act, except for under specified exceptions, it is unlawful to willfully intercept any wire, oral, or electronic communication. The statute does authorize the interception of an oral communication if all participants have given prior consent (sometimes called "two-party consent").

Each interception in violation of the Act's provisions is a felony, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine. A person who is the victim of a violation of the Act has a civil cause of action against the violator for damages, attorney's fees, and litigation costs.

State Expenditures: Although the bill does not require MDH to monitor medical care facilities for compliance with the bill's electronic monitoring device requirements, MDH advises that the department currently receives complaints regarding cameras, surveillance content, and a resident's inability to install devices in specified facilities. Under the bill, MDH anticipates an increase in complaints regarding electronic monitoring; MDH specifically anticipates that the volume of complaints will be highest for assisted living facilities with Alzheimer's units.

Thus, OHCQ general fund expenditures increase by \$98,474 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one health facilities nurse surveyor to process and respond to complaints regarding electronic monitoring. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses (including estimated travel costs).

Position	1.0
Salary and Fringe Benefits	\$83,387
Operating Expenses	<u>15,087</u>
Total FY 2026 State Expenditures	\$98,474

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Small Business Effect: Assisted living programs (the vast majority of which are small businesses) must comply with the bill's electronic monitoring requirements, including (1) informing residents of their right to engage in electronic monitoring; (2) obtaining specified written consent for all residents who share the room with electronic monitoring; and (3) making reasonable physical accommodations for electronic monitoring.

Additional Comments: As of March 2025, MDH advises that there are approximately 222 licensed nursing homes and 69 licensed assisted living programs with Alzheimer's Units in the State.

Chapter 409 of 2003 required MDH to develop guidelines for a nursing home that elects to use electronic monitoring with the consent of a resident or the legal representative of the resident and report on the guidelines. These guidelines were issued in December 2003 and are a general resource tool designed to assist facilities with implementing requests for electronic monitoring.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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