



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB1409-Health-Medical Care Facilities-Electronic Monitoring Devices
FROM: Maryland Office of the Public Defender
POSITION: Favorable With Amendments
DATE: March 10, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue a report on HB 1409 that is Favorable with Amendments in order to address concerns regarding privacy, consent and court admissibility.

The Mental Health Division of the Office of the Public Defender regularly represents individuals who are under the care of assisted living facilities and generally has an interest in the care of former clients who may be conditionally released from a civil commitment and may remain under the care of an assisted living facility to ensure their continued success once released from commitment. The need to protect individuals who are unable to independently care for themselves is a matter we can all agree is one that deserves our most acute attention and careful consideration.

HB 1409 is a well-intended bill that seeks to allow for the electronic monitoring of a resident in a medical care facility in order to protect vulnerable individuals from neglect and abuse. However, given the vast issues and concerns that electronic monitoring can pose in these particularly sensitive settings, it is critically important to put in place appropriate guardrails and protections that will achieve the intended goal of protecting and not harming vulnerable populations. Unfortunately, the current bill text presents serious issues and concerns that may result in unintended harms and complications for the residents in assisted care facilities. While supportive of the intended aim of HB 1409, we believe additional measures are needed to amend the bill text. A few primary concerns and suggestions are highlighted below.

1. The mandated admissibility of recordings in court proceedings should be removed from the bill text, or at a minimum revised to apply within legal and procedural evidentiary and due process bounds, and only in cases of abuse or neglect.
2. The bill text should provide greater clarity, guidance and protections regarding consent and revocation of consent of the resident and those who would also be subject to being electronically monitored, particularly when consent or permission may be at odds with a legal representative or guardian.
3. The bill text should provide greater clarity, guidance and protections regarding data storage and access, particularly given ever occurring cybersecurity and hacking threats and the uncertainty presented with how and when the surveillance is being accessed and stored.
4. Additional concerns remain regarding the definition and applicability of a “medical care facility” and whether it would include settings such as supervised housing, group homes or DDA licensed residences, etc.
5. Lastly, as an agency representing indigent individuals, it is important to highlight that this bill would seemingly favor only those who can afford to have electronic monitoring devices (often requiring paid streaming subscriptions) while also at the same time potentially creating disparate treatment within facilities and bed availability for those who may refuse requests to be electronically monitored.

For these reasons we urge a report on HB1409 that is Favorable with Amendments to address the need for additional protections and guardrails regarding court admissibility, privacy and consent.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.