

# HOUSE BILL No. 5786

March 12, 2002, Introduced by Reps. Basham, Dennis, Woodward, Gielegem, Bogardus, Schauer, Minore, Jannick, Clark, DeRossett, Newell, Quarles, Phillips, Anderson, Plakas, Daniels, Adamini, Whitmer, Bovin and Kolb and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 21788.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 21788. (1) A NURSING HOME SHALL PERMIT A RESIDENT OR  
2 THE RESIDENT'S LEGAL REPRESENTATIVE TO MONITOR THE RESIDENT  
3 THROUGH THE USE OF AN ELECTRONIC MONITORING DEVICE IF ALL OF THE  
4 FOLLOWING REQUIREMENTS ARE MET:

5           (A) THE MONITORING IS COMPLETELY VOLUNTARY AND IS CONDUCTED  
6 AT THE ELECTION OF THE RESIDENT OR THE RESIDENT'S LEGAL  
7 REPRESENTATIVE.

8           (B) ALL COSTS OF THE MONITORING, INCLUDING, BUT NOT LIMITED  
9 TO, THE COST OF THE ELECTRONIC MONITORING DEVICE AND ITS  
10 INSTALLATION, ARE PAID BY THE RESIDENT OR THE RESIDENT'S LEGAL  
11 REPRESENTATIVE.

1 (C) THE MONITORING IS CONDUCTED IN A MANNER THAT PROTECTS  
2 THE PRIVACY OF OTHER RESIDENTS AND VISITORS TO THE NURSING HOME  
3 TO THE EXTENT REASONABLY POSSIBLE. IF A RESIDENT OR THE  
4 RESIDENT'S LEGAL REPRESENTATIVE WISHES TO INSTALL AN ELECTRONIC  
5 MONITORING DEVICE IN THE RESIDENT'S ROOM, AND IF THE RESIDENT  
6 SHARES THE ROOM WITH ANOTHER RESIDENT, THE WRITTEN CONSENT OF THE  
7 OTHER RESIDENT OR HIS OR HER LEGAL REPRESENTATIVE MUST BE  
8 OBTAINED BEFORE THE ELECTRONIC MONITORING DEVICE IS INSTALLED.

9 (D) THERE IS A NOTICE POSTED ON THE DOOR OF THE RESIDENT'S  
10 ROOM STATING THAT THE ROOM IS BEING MONITORED BY AN ELECTRONIC  
11 MONITORING DEVICE.

12 (E) THE ELECTRONIC MONITORING DEVICE, INCLUDING THE VIEWING  
13 MONITOR, IF ANY, IS CONTAINED IN A LOCKED BOX THAT CAN BE  
14 ACCESSED ONLY BY THE RESIDENT OR THE RESIDENT'S LEGAL  
15 REPRESENTATIVE.

16 (2) A NURSING HOME SHALL MAKE REASONABLE ACCOMMODATION FOR  
17 ELECTRONIC MONITORING BY PROVIDING ALL OF THE FOLLOWING:

18 (A) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC MONI-  
19 TORING DEVICE.

20 (B) ACCESS TO A POWER SOURCE FOR THE ELECTRONIC MONITORING  
21 DEVICE.

22 (C) NOTICE TO ALL RESIDENTS OF THE RIGHT TO INSTALL AN ELEC-  
23 TRONIC MONITORING DEVICE.

24 (3) A NURSING HOME SHALL NOT REFUSE TO ADMIT AN INDIVIDUAL  
25 AS A RESIDENT OF OR REMOVE A RESIDENT FROM THE NURSING HOME  
26 BECAUSE OF A REQUEST TO INSTALL AN ELECTRONIC MONITORING DEVICE.

1 (4) A NURSING HOME MAY REQUIRE A RESIDENT OR THE RESIDENT'S  
2 LEGAL REPRESENTATIVE WHO WISHES TO INSTALL AN ELECTRONIC  
3 MONITORING DEVICE TO AUTHORIZE THE INSTALLATION IN WRITING. IF A  
4 WRITING IS REQUIRED UNDER THIS SUBSECTION, THE WRITING SHALL BE  
5 IN SUBSTANTIALLY THE FOLLOWING FORM:

6 "AUTHORIZATION FOR THE USE OF AN ELECTRONIC MONITORING DEVICE  
7 I, THE RESIDENT, \_\_\_\_\_, OR I, \_\_\_\_\_,  
8 RESIDENT GUARDIAN  
9 THE GUARDIAN OF THE RESIDENT, \_\_\_\_\_,  
10 RESIDENT  
11 OR I, \_\_\_\_\_, THE RESIDENT'S AGENT OR  
12 AGENT OR DURABLE POWER OF ATTORNEY

13 DURABLE POWER OF ATTORNEY OF THE RESIDENT, \_\_\_\_\_,  
14 RESIDENT

15 HEREBY AUTHORIZE THE USE OF AN ELECTRONIC MONITORING DEVICE TO  
16 MONITOR AND RECORD MY PERSON, \_\_\_\_\_, OR THE RESIDENT,  
17 RESIDENT

18 \_\_\_\_\_, IN THE NURSING HOME, \_\_\_\_\_, FOR  
19 RESIDENT

20 ANY AND ALL PURPOSES INCLUDING, BUT NOT LIMITED TO, THE TREATMENT  
21 OF MY PERSON AND TO SAFEGUARD MY PROPERTY.

22  
23 THIS AUTHORIZATION IS SUBJECT TO MY REVOCATION IN  
24 WRITING AT ANY TIME. THE RESIDENT'S GUARDIAN, AGENT,  
25 OR DURABLE POWER OF ATTORNEY SHALL NOT WITNESS THE  
26 SIGNING OF THIS DOCUMENT.  
27  
28  
29  
30

31 \_\_\_\_\_ OR  
32 WITNESSED BY: RESIDENT

33  
34  
35  
36 \_\_\_\_\_ OR  
37 RESIDENT'S GUARDIAN  
38  
39  
40

1 \_\_\_\_\_  
2 AGENT OR DURABLE POWER OF ATTORNEY

3  
4  
5 DATE SIGNED: \_\_\_\_\_ DATE SIGNED: \_\_\_\_\_ " .

6 (5) SUBJECT TO THE MICHIGAN RULES OF EVIDENCE, A TAPE OR  
7 OTHER RECORDING CREATED BY AN ELECTRONIC MONITORING DEVICE UNDER  
8 THIS SECTION IS ADMISSIBLE IN EITHER A CIVIL OR A CRIMINAL ACTION  
9 BROUGHT IN A COURT IN THIS STATE.

10 (6) AN OWNER OR OPERATOR OR EMPLOYEE OF A NURSING HOME WHO  
11 VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
12 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
13 \$2,000.00, OR BOTH.

14 (7) AN INDIVIDUAL WHO WILLFULLY AND WITHOUT THE CONSENT OF  
15 THE RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE HAMPERS,  
16 OBSTRUCTS, TAMPERS WITH, OR DESTROYS THE RESIDENT'S OR LEGAL  
17 REPRESENTATIVE'S ELECTRONIC MONITORING DEVICE OR ITS FILM, TAPE,  
18 OR OTHER RECORDING MEDIUM IS GUILTY OF A MISDEMEANOR PUNISHABLE  
19 BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE  
20 THAN \$2,000.00, OR BOTH.

21 (8) AS USED IN THIS SECTION, "ELECTRONIC MONITORING DEVICE"  
22 MEANS A VIDEO SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO TELE-  
23 PHONE, AN INTERNET VIDEO SURVEILLANCE DEVICE, OR A SIMILAR DEVICE  
24 DESIGNED TO CAPTURE THE AUDIO RECORDINGS OR VISUAL IMAGES OF ITS  
25 SURROUNDINGS.