

HOUSE BILL No. 4136

February 1, 2005, Introduced by Rep. Bieda and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
(MCL 400.701 to 400.737) by adding section 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 28. (1) AN ADULT FOSTER CARE FACILITY SHALL PERMIT A**
2 **RESIDENT OR THE RESIDENT'S GUARDIAN TO MONITOR THE RESIDENT THROUGH**
3 **THE USE OF AN ELECTRONIC MONITORING DEVICE IF ALL OF THE FOLLOWING**
4 **REQUIREMENTS ARE MET:**

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

7 **(B) ALL COSTS OF THE MONITORING, INCLUDING, BUT NOT LIMITED**
8 **TO, THE COST OF THE ELECTRONIC MONITORING DEVICE AND ITS**

1 INSTALLATION, ARE PAID BY THE RESIDENT OR THE RESIDENT'S GUARDIAN.

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

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

13 (2) AN ADULT FOSTER CARE FACILITY SHALL MAKE REASONABLE
14 ACCOMMODATION FOR ELECTRONIC MONITORING BY PROVIDING ALL OF THE
15 FOLLOWING:

16 (A) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC
17 MONITORING DEVICE.

18 (B) ACCESS TO A POWER SOURCE FOR THE ELECTRONIC MONITORING
19 DEVICE.

20 (C) NOTICE TO ALL RESIDENTS OF THE RIGHT TO INSTALL AN
21 ELECTRONIC MONITORING DEVICE.

22 (3) AN ADULT FOSTER CARE FACILITY SHALL NOT REFUSE TO ADMIT AN
23 INDIVIDUAL AS A RESIDENT OF OR REMOVE A RESIDENT FROM THE ADULT
24 FOSTER CARE FACILITY BECAUSE OF A REQUEST TO INSTALL AN ELECTRONIC
25 MONITORING DEVICE.

26 (4) AN ADULT FOSTER CARE FACILITY MAY REQUIRE THAT A RESIDENT
27 OR THE RESIDENT'S GUARDIAN SUBMIT A REQUEST TO INSTALL AN

1 ELECTRONIC MONITORING DEVICE IN WRITING.

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

6 (6) A LICENSEE OR EMPLOYEE OF AN ADULT FOSTER CARE FACILITY
7 WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
8 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
9 \$2,000.00, OR BOTH.

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

17 (8) AS USED IN THIS SECTION, "ELECTRONIC MONITORING DEVICE"
18 MEANS A VIDEO SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO
19 TELEPHONE, AN INTERNET VIDEO SURVEILLANCE DEVICE, OR A SIMILAR
20 DEVICE DESIGNED TO CAPTURE THE AUDIO RECORDINGS OR VISUAL IMAGES OF
21 ITS SURROUNDINGS.