

HOUSE BILL No. 4558

April 16, 2013, Introduced by Reps. Tlaib, Slavens and Irwin and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1979 PA 218, entitled
"Adult foster care facility licensing act,"
(MCL 400.701 to 400.737) by adding section 27a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 27A. (1) AN ADULT FOSTER CARE FACILITY SHALL PERMIT A
2 RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE TO MONITOR THE
3 RESIDENT THROUGH THE USE OF AN ELECTRONIC MONITORING DEVICE IF ALL
4 OF THE FOLLOWING REQUIREMENTS ARE MET:

5 (A) THE MONITORING IS COMPLETELY VOLUNTARY AND IS CONDUCTED AT
6 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 THE
2 PRIVACY OF OTHER RESIDENTS AND VISITORS IN THE ADULT FOSTER CARE
3 FACILITY TO THE EXTENT REASONABLY POSSIBLE. IF A RESIDENT OR THE
4 RESIDENT'S LEGAL REPRESENTATIVE REQUESTS TO HAVE AN ELECTRONIC
5 MONITORING DEVICE INSTALLED IN THE RESIDENT'S ROOM, AND IF THE
6 RESIDENT SHARES THE ROOM WITH ANOTHER RESIDENT, THE WRITTEN CONSENT
7 OF THE OTHER RESIDENT OR HIS OR HER LEGAL REPRESENTATIVE SHALL 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 (2) AN ADULT FOSTER CARE FACILITY SHALL MAKE REASONABLE
13 ACCOMMODATION FOR ELECTRONIC MONITORING BY PROVIDING ALL OF THE
14 FOLLOWING:

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

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

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

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

26 (4) AN ADULT FOSTER CARE FACILITY MAY REQUIRE A RESIDENT OR
27 THE RESIDENT'S LEGAL REPRESENTATIVE REQUEST IN WRITING TO INSTALL

1 AN ELECTRONIC MONITORING DEVICE.

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

10 (7) AN INDIVIDUAL WHO WILLFULLY AND WITHOUT THE CONSENT OF THE
11 RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE HAMPERS, OBSTRUCTS,
12 TAMPERS WITH, OR DESTROYS THE RESIDENT'S OR LEGAL REPRESENTATIVE'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.