

# SENATE BILL No. 184

February 10, 2005, Introduced by Senators BASHAM and GOSCHKA and referred to the Committee on Health Policy.

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 THE  
2           RESIDENT'S LEGAL REPRESENTATIVE TO MONITOR THE RESIDENT THROUGH THE  
3           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 LEGAL  
7           REPRESENTATIVE.

8           (B) ALL COSTS OF THE MONITORING, INCLUDING, BUT NOT LIMITED

1 TO, THE COST OF THE ELECTRONIC MONITORING DEVICE AND ITS  
2 INSTALLATION, ARE PAID BY THE RESIDENT OR THE RESIDENT'S LEGAL  
3 REPRESENTATIVE.

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

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

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

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

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

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

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

26 (4) A NURSING HOME MAY REQUIRE A RESIDENT OR THE RESIDENT'S  
27 LEGAL REPRESENTATIVE WHO WISHES TO INSTALL AN ELECTRONIC MONITORING

1 DEVICE TO MAKE THE REQUEST 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) AN OWNER OR OPERATOR OR EMPLOYEE OF A NURSING HOME WHO  
7 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 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.