

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 255

Senators Antonio, Brenner

Cosponsors: Senators Fedor, Lehner, Maharath, Sykes, Thomas, Williams

A BILL

To amend section 3721.99 and to enact sections 1
3721.60, 3721.61, 3721.62, 3721.63, 3721.64, 2
3721.65, 3721.66, 3721.67, 3721.68, and 3721.69 3
of the Revised Code to permit a resident of a 4
long-term care facility to conduct electronic 5
monitoring of the resident's room, to designate 6
this act as "Esther's Law," and to make an 7
appropriation. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3721.99 be amended and sections 9
3721.60, 3721.61, 3721.62, 3721.63, 3721.64, 3721.65, 3721.66, 10
3721.67, 3721.68, and 3721.69 of the Revised Code be enacted to 11
read as follows: 12

Sec. 3721.60. As used in sections 3721.60 to 3721.69 of 13
the Revised Code: 14

(A) "Electronic monitoring device" means a surveillance 15
instrument with a fixed position video camera or an audio 16
recording device, or a combination thereof, that is installed in 17
a resident's room and broadcasts or records activities or sounds 18

occurring in the room. 19

(B) "Long-term care facility" has the same meaning as in section 3721.21 of the Revised Code. 20
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(C) "Resident" means an individual who resides in a long-term care facility. 22
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(D) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code. 24
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Sec. 3721.61. (A) Subject to section 3721.62 of the Revised Code, a resident or a resident's sponsor may authorize the installation and use of an electronic monitoring device in the resident's room in a long-term care facility. 26
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(B) The installation and use of an electronic monitoring device may be authorized only if both of the following conditions are met: 30
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(1) The resident or resident's sponsor completes the form described in section 3721.63 of the Revised Code and submits it to the facility. 33
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(2) Unless a resident is eligible to receive financial assistance under section 3721.65 of the Revised Code, the cost of the device and the cost of installing, maintaining, and removing the device, other than the cost of electricity for the device, is paid for by the resident or the resident's sponsor. 36
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(C) A resident who has authorized the installation and use of an electronic monitoring device may withdraw that authorization at any time. 41
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Sec. 3721.62. (A) If a resident wishing to conduct authorized electronic monitoring of the resident's room lives with another resident in a long-term care facility, the consent 44
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of the other resident or the other resident's sponsor to the 47
installation and use of an electronic monitoring device in the 48
room is required before any installation or use of such a device 49
may occur. The other resident or other resident's sponsor shall 50
consent by completing the relevant part of the form described in 51
section 3721.63 of the Revised Code. 52

(B) (1) If a resident living in a room with another 53
resident wishes to conduct authorized electronic monitoring of 54
the resident's room, but the other resident or other resident's 55
sponsor refuses to consent to the installation and use of an 56
electronic monitoring device, the facility shall make a 57
reasonable attempt to accommodate the resident wishing to 58
conduct authorized electronic monitoring by moving either 59
resident to another available room. 60

(2) In the case of a resident living in a room with 61
another resident, the other resident or other resident's sponsor 62
may place conditions on any consent to the installation and use 63
of an electronic monitoring device, including conditions such as 64
pointing the device away from the other resident or limiting or 65
prohibiting the use of certain devices. If conditions are placed 66
on consent, the device shall be installed and used according to 67
those conditions. 68

(C) A resident whose consent is required under this 69
section may withdraw that consent at any time. 70

Sec. 3721.63. The director of health shall prescribe a 71
form for use by a resident or resident's sponsor seeking to 72
authorize the installation and use of an electronic monitoring 73
device in the resident's room in a long-term care facility. The 74
form shall include all of the following: 75

(A) An explanation of sections 3721.60 to 3721.69 of the Revised Code; 76
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(B) An acknowledgment that the resident or resident's sponsor has consented to the installation and use of the device in the resident's room; 78
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(C) In the case of a resident who lives in a room with another resident, an acknowledgment that the other resident or other resident's sponsor has consented to the installation and use of the device and a description of any conditions placed on that consent pursuant to division (B)(2) of section 3721.62 of the Revised Code; 81
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(D) A section for providing the facility with information regarding the type, function, and use of the device to be installed and used; 87
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(E) A section stating that the facility is released from liability in any civil or criminal action or administrative proceeding for a violation of the resident's right to privacy in connection with using the device. 90
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Sec. 3721.64. A long-term care facility shall post a notice in a conspicuous place at the entrance to a resident's room with an electronic monitoring device stating that an electronic monitoring device is in use in that room. 94
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Sec. 3721.65. The director of health shall establish a program to assist residents of long-term care facilities who are eligible for medicaid with purchasing electronic monitoring devices. Eligible residents shall apply to the department of health for assistance with purchasing and installing electronic monitoring devices in the manner prescribed by the department. 98
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Sec. 3721.66. Each long-term care facility shall submit an 104

annual report to the department of health detailing the number 105
of authorized electronic monitoring devices that are in use in 106
resident's rooms at the facility. 107

Sec. 3721.67. No person or resident shall be denied 108
admission to or discharged from a long-term care facility or 109
otherwise discriminated or retaliated against because of the 110
decision to authorize the installation and use of an electronic 111
monitoring device in a resident's room in the facility. 112

Sec. 3721.68. No person other than the resident or 113
resident's sponsor who authorized the installation and use of an 114
electronic monitoring device in the resident's room in a long- 115
term care facility shall intentionally obstruct, tamper with, or 116
destroy the device or a recording made by the device. 117

Sec. 3721.69. The director of health shall adopt rules in 118
accordance with Chapter 119. of the Revised Code as necessary to 119
implement sections 3721.60 to 3721.68 of the Revised Code. 120

Sec. 3721.99. (A) Whoever violates section 3721.021, 121
division (B), (D), or (E) of section 3721.05, division (A), (C), 122
or (D) of section 3721.051, section 3721.06, division (A) of 123
section 3721.22, division (A) or (B) of section 3721.24, ~~or~~ 124
division (E) or (F) of section 3721.30, or section 3721.67 of 125
the Revised Code shall be fined one hundred dollars for a first 126
offense. For each subsequent offense, the violator shall be 127
fined five hundred dollars. 128

(B) Whoever violates division (A) or (C) of section 129
3721.05 or division (B) of section 3721.051 of the Revised Code 130
shall be fined five thousand dollars for a first offense. For 131
each subsequent offense, the violator shall be fined ten 132
thousand dollars. 133

(C) Whoever violates division (D) of section 3721.031 or 134
 division (E) of section 3721.22 of the Revised Code is guilty of 135
 registering a false complaint, a misdemeanor of the first 136
 degree. 137

(D) Whoever violates section 3721.68 of the Revised Code 138
is guilty of tampering with an electronic monitoring device, a 139
misdemeanor of the first degree. 140

Section 2. That existing section 3721.99 of the Revised 141
 Code is hereby repealed. 142

Section 3. This act shall be known as "Esther's Law." 143

Section 4. All items in this section are hereby 144
 appropriated as designated out of any moneys in the state 145
 treasury to the credit of the designated fund. For all 146
 appropriations made in this act, those in the first column are 147
 for fiscal year 2020 and those in the second column are for 148
 fiscal year 2021. The appropriations made in this act are in 149
 addition to any other appropriations made for the FY 2020-FY 150
 2021 biennium. 151

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A	DOH DEPARTMENT OF HEALTH				
B	General Revenue Fund				
C	GRF	440531	Electronic Monitoring	\$ 50,000	\$ 50,000
D	TOTAL GRF General Revenue Fund			\$ 50,000	\$ 50,000

