

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 78**

**Representatives Brent, Crossman**

**Cosponsors: Representatives Weinstein, Howse, Miller, J., Smith, K., Sheehy,  
Crawley, Lightbody, Lepore-Hagan**

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**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 20  
section 3721.21 of the Revised Code. 21

(C) "Resident" means an individual who resides in a long- 22  
term care facility. 23

(D) "Sponsor" has the same meaning as in section 3721.10 24  
of the Revised Code. 25

**Sec. 3721.61.** (A) Subject to section 3721.62 of the 26  
Revised Code, a resident or a resident's sponsor may authorize 27  
the installation and use of an electronic monitoring device in 28  
the resident's room in a long-term care facility. 29

(B) The installation and use of an electronic monitoring 30  
device may be authorized only if both of the following 31  
conditions are met: 32

(1) The resident or resident's sponsor completes the form 33  
described in section 3721.63 of the Revised Code and submits it 34  
to the facility. 35

(2) Unless a resident is eligible to receive financial 36  
assistance under section 3721.65 of the Revised Code, the cost 37  
of the device and the cost of installing, maintaining, and 38  
removing the device, other than the cost of electricity for the 39  
device, is paid for by the resident or the resident's sponsor. 40

(C) A resident who has authorized the installation and use 41  
of an electronic monitoring device may withdraw that 42  
authorization at any time. 43

**Sec. 3721.62.** (A) If a resident wishing to conduct 44  
authorized electronic monitoring of the resident's room lives 45

with another resident in a long-term care facility, the consent 46  
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 76  
Revised Code; 77

(B) An acknowledgment that the resident or resident's 78  
sponsor has consented to the installation and use of the device 79  
in the resident's room; 80

(C) In the case of a resident who lives in a room with 81  
another resident, an acknowledgment that the other resident or 82  
other resident's sponsor has consented to the installation and 83  
use of the device and a description of any conditions placed on 84  
that consent pursuant to division (B)(2) of section 3721.62 of 85  
the Revised Code; 86

(D) A section for providing the facility with information 87  
regarding the type, function, and use of the device to be 88  
installed and used; 89

(E) A section stating that the facility is released from 90  
liability in any civil or criminal action or administrative 91  
proceeding for a violation of the resident's right to privacy in 92  
connection with using the device. 93

**Sec. 3721.64.** A long-term care facility shall post a 94  
notice in a conspicuous place at the entrance to a resident's 95  
room with an electronic monitoring device stating that an 96  
electronic monitoring device is in use in that room. 97

**Sec. 3721.65.** The director of health shall establish a 98  
program to assist residents of long-term care facilities who are 99  
eligible for medicaid with purchasing electronic monitoring 100  
devices. Eligible residents shall apply to the department of 101  
health for assistance with purchasing and installing electronic 102  
monitoring devices in the manner prescribed by the department. 103

**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 act are hereby appropriated 144  
as designated out of any moneys in the state treasury to the 145  
credit of the designated fund. For all operating appropriations 146  
made in this act, those in the first column are for fiscal year 147  
2022 and those in the second column are for fiscal year 2023. 148  
The operating appropriations made in this act are in addition to 149  
any other operating appropriations made for the FY 2022-FY 2023 150  
biennium. 151

**Section 5.** 152

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|   | 1                        | 2                     | 3 | 4        | 5        |
|---|--------------------------|-----------------------|---|----------|----------|
| 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 |
| E | TOTAL ALL BUDGET FUND GROUPS   | \$50,000 | \$50,000 |

ELECTRONIC MONITORING 154

The foregoing appropriation item 440531, Electronic 155  
Monitoring, shall be used for the purchase and installation of 156  
authorized electronic monitoring devices for residents of long- 157  
term care facilities who are eligible for Medicaid, in 158  
accordance with section 3721.65 of the Revised Code. 159

**Section 6.** Within the limits set forth in this act, the 160  
Director of Budget and Management shall establish accounts 161  
indicating the source and amount of funds for each appropriation 162  
made in this act, and shall determine the form and manner in 163  
which appropriation accounts shall be maintained. Expenditures 164  
from operating appropriations contained in this act shall be 165  
accounted for as though made in the main operating 166  
appropriations act of the 134th General Assembly. The operating 167  
appropriations made in this act are subject to all provisions of 168  
the main operating appropriations act of the 134th General 169  
Assembly that are generally applicable to such appropriations. 170