

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**

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 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 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
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Section 5. 152

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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
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