

**As Passed by the House**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. S. B. No. 58**

**Senators Antonio, Brenner**

**Cosponsors: Senators Craig, Fedor, Maharath, Schaffer, Sykes, Thomas, Williams, Yuko, Huffman, S., Blessing, Cirino, Dolan, Hottinger, Johnson, Manning, Roegner, Rulli Representatives Liston, Click, Troy, Bird, Brent, Brown, Carfagna, Carruthers, Creech, Crossman, Cutrona, Denson, Edwards, Galonski, Ghanbari, Ginter, Grendell, Gross, Hall, Hicks-Hudson, Hillyer, Hoops, Humphrey, Jarrells, John, Johnson, Jones, Koehler, Lanese, LaRe, Leland, Lightbody, Loychik, Manning, Merrin, Miller, A., Miller, J., Miller, K., Miranda, Pavliga, Plummer, Ray, Richardson, Riedel, Robinson, Roemer, Russo, Schmidt, Sheehy, Skindell, Smith, K., Smith, M., Sobecki, Stein, Sweeney, Sykes, Upchurch, Weinstein, West, White, Wilkin, Young, T., Zeltwanger, Speaker Cupp**

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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, and 3721.68 of the 3  
Revised Code to permit a resident of a long-term 4  
care facility to conduct electronic monitoring 5  
of the resident's room and to designate this act 6  
as Esther's Law. 7

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

**Section 1.** That section 3721.99 be amended and sections 8  
3721.60, 3721.61, 3721.62, 3721.63, 3721.64, 3721.65, 3721.66, 9  
3721.67, and 3721.68 of the Revised Code be enacted to read as 10  
follows: 11

**Sec. 3721.60.** As used in sections 3721.60 to 3721.67 of 12

the Revised Code: 13

(A) "Attorney in fact" means a person designated as such 14  
by a durable power of attorney for health care executed pursuant 15  
to sections 1337.11 to 1337.17 of the Revised Code. 16

(B) "Electronic monitoring device" means a surveillance 17  
instrument with a fixed position video camera or an audio 18  
recording device, or a combination thereof, that is installed in 19  
a resident's room and broadcasts or records activities or sounds 20  
occurring in the room. 21

(C) "Guardian" has the same meaning as in section 2111.01 22  
of the Revised Code. 23

(D) "Long-term care facility" has the same meaning as in 24  
section 3721.21 of the Revised Code. 25

(E) "Resident" means an individual who resides in a long- 26  
term care facility. 27

**Sec. 3721.61.** (A) Subject to section 3721.62 of the 28  
Revised Code, a resident or a resident's guardian or attorney in 29  
fact may authorize the installation and use of an electronic 30  
monitoring device in the resident's room in a long-term care 31  
facility. 32

(B) The installation and use of an electronic monitoring 33  
device may be authorized only if both of the following 34  
conditions are met: 35

(1) If a long-term care facility has prescribed a form 36  
described in section 3721.63 of the Revised Code, the resident 37  
or resident's guardian or attorney in fact completes the form 38  
and submits it to the facility. 39

(2) The cost of the device and the cost of installing, 40

maintaining, and removing the device, other than the cost of 41  
electricity for the device, is paid for by the resident or the 42  
resident's guardian or attorney in fact. 43

(C) A resident who has authorized the installation and use 44  
of an electronic monitoring device may withdraw that 45  
authorization at any time. 46

**Sec. 3721.62.** (A) If a resident wishing to conduct 47  
authorized electronic monitoring of the resident's room lives 48  
with another resident in a long-term care facility, the consent 49  
of the other resident or the other resident's guardian or 50  
attorney in fact to the installation and use of an electronic 51  
monitoring device in the room is required before any 52  
installation or use of such a device may occur. If the long- 53  
term care facility has prescribed a form described in section 54  
3721.63 of the Revised Code, the other resident or other 55  
resident's guardian or attorney in fact shall consent by 56  
completing the relevant part of the form. 57

(B) (1) If a resident living in a room with another 58  
resident wishes to conduct authorized electronic monitoring of 59  
the resident's room, but the other resident or other resident's 60  
guardian or attorney in fact refuses to consent to the 61  
installation and use of an electronic monitoring device, the 62  
facility shall make a reasonable attempt to accommodate the 63  
resident wishing to conduct authorized electronic monitoring by 64  
moving either resident to another available room with the 65  
consent of the resident being moved or resident's guardian or 66  
attorney in fact. 67

(2) In the case of a resident living in a room with 68  
another resident, the other resident or other resident's 69  
guardian or attorney in fact may place conditions on any consent 70

to the installation and use of an electronic monitoring device, 71  
including conditions such as pointing the device away from the 72  
other resident or limiting or prohibiting the use of certain 73  
devices. If conditions are placed on consent, the device shall 74  
be installed and used according to those conditions. 75

(C) A resident whose consent is required under this 76  
section may withdraw that consent at any time. 77

**Sec. 3721.63.** A long-term care facility may prescribe a 78  
form for use by a resident or resident's guardian or attorney in 79  
fact seeking to authorize the installation and use of an 80  
electronic monitoring device in the resident's room in a long- 81  
term care facility. If a long-term care facility prescribes a 82  
form, it shall, at a minimum, include all of the following: 83

(A) An explanation of sections 3721.60 to 3721.67 of the 84  
Revised Code; 85

(B) An acknowledgment that the resident or resident's 86  
guardian or attorney in fact has consented to the installation 87  
and use of the device in the resident's room; 88

(C) In the case of a resident who lives in a room with 89  
another resident, an acknowledgment that the other resident or 90  
other resident's guardian or attorney in fact has consented to 91  
the installation and use of the device and a description of any 92  
conditions placed on that consent pursuant to division (B) (2) of 93  
section 3721.62 of the Revised Code; 94

(D) A section for providing the facility with information 95  
regarding the type, function, and use of the device to be 96  
installed and used; 97

(E) A section stating that the facility is released from 98  
liability in any civil or criminal action or administrative 99

proceeding for a violation of the resident's right to privacy in 100  
connection with using the device. 101

Sec. 3721.64. A long-term care facility may post a notice 102  
in a conspicuous place at the entrance to a resident's room with 103  
an electronic monitoring device stating that an electronic 104  
monitoring device is in use in that room. 105

Sec. 3721.65. No person or resident shall be denied 106  
admission to or discharged from a long-term care facility or 107  
otherwise discriminated or retaliated against because of the 108  
decision to authorize the installation and use of an electronic 109  
monitoring device in a resident's room in the facility. 110

Sec. 3721.66. (A) No person other than the resident or 111  
resident's guardian or attorney in fact who authorized the 112  
installation and use of an electronic monitoring device in the 113  
resident's room in a long-term care facility shall intentionally 114  
obstruct, tamper with, or destroy the device or a recording made 115  
by the device. 116

(B) Except as provided in division (C) of this section, no 117  
person other than the following shall intentionally view or 118  
listen to the images displayed or sounds recorded by an 119  
electronic monitoring device installed in a resident's room: 120

(1) The resident; 121

(2) The resident's guardian or attorney in fact; 122

(3) Law enforcement personnel. 123

(C) A resident or resident's guardian or attorney in fact 124  
may authorize a person to view or listen to the images displayed 125  
or sounds recorded by an electronic monitoring device installed 126  
in a resident's room. 127

Sec. 3721.67. The director of health may adopt rules in 128  
accordance with Chapter 119. of the Revised Code as necessary to 129  
implement sections 3721.60 to 3721.66 of the Revised Code. 130

Sec. 3721.68. Sections 3721.60 to 3721.67 of the Revised 131  
Code do not apply if an electronic monitoring device is 132  
installed by a law enforcement agency and used solely for a bona 133  
fide law enforcement purpose. 134

**Sec. 3721.99.** (A) Whoever violates section 3721.021, 135  
division (B), (D), or (E) of section 3721.05, division (A), (C), 136  
or (D) of section 3721.051, section 3721.06, division (A) of 137  
section 3721.22, division (A) or (B) of section 3721.24, ~~or~~ 138  
division (E) or (F) of section 3721.30, or section 3721.65 of 139  
the Revised Code shall be fined one hundred dollars for a first 140  
offense. For each subsequent offense, the violator shall be 141  
fined five hundred dollars. 142

(B) Whoever violates division (A) or (C) of section 143  
3721.05 or division (B) of section 3721.051 of the Revised Code 144  
shall be fined five thousand dollars for a first offense. For 145  
each subsequent offense, the violator shall be fined ten 146  
thousand dollars. 147

(C) Whoever violates division (D) of section 3721.031 or 148  
division (E) of section 3721.22 of the Revised Code is guilty of 149  
registering a false complaint, a misdemeanor of the first 150  
degree. 151

(D) Whoever violates section 3721.66 of the Revised Code 152  
is guilty of tampering with an electronic monitoring device, a 153  
misdemeanor of the first degree. 154

**Section 2.** That existing section 3721.99 of the Revised 155  
Code is hereby repealed. 156

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

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