

SENATE BILL No. 596

June 20, 2007, Introduced by Senators BASHAM, ANDERSON, GLEASON and OLSHOVE 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
9 TO, THE COST OF THE ELECTRONIC MONITORING DEVICE AND ITS

1 INSTALLATION, ARE PAID BY THE RESIDENT OR THE RESIDENT'S LEGAL
2 REPRESENTATIVE.

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

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

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

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

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

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

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

25 (4) A NURSING HOME MAY REQUIRE A RESIDENT OR THE RESIDENT'S
26 LEGAL REPRESENTATIVE WHO WISHES TO INSTALL AN ELECTRONIC MONITORING
27 DEVICE TO MAKE THE REQUEST IN WRITING.

1 (5) SUBJECT TO THE MICHIGAN RULES OF EVIDENCE, A TAPE OR OTHER
2 RECORDING CREATED BY AN ELECTRONIC MONITORING DEVICE UNDER THIS
3 SECTION IS ADMISSIBLE IN EITHER A CIVIL OR A CRIMINAL ACTION
4 BROUGHT IN A COURT IN THIS STATE.

5 (6) AN OWNER OR OPERATOR OR EMPLOYEE OF A NURSING HOME WHO
6 VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
7 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
8 \$2,000.00, OR BOTH.

9 (7) AN INDIVIDUAL WHO WILLFULLY AND WITHOUT THE CONSENT OF THE
10 RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE HAMPERS, OBSTRUCTS,
11 TAMPERS WITH, OR DESTROYS THE RESIDENT'S OR LEGAL REPRESENTATIVE'S
12 ELECTRONIC MONITORING DEVICE OR ITS FILM, TAPE, OR OTHER RECORDING
13 MEDIUM IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
14 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$2,000.00, OR
15 BOTH.

16 (8) AS USED IN THIS SECTION, "ELECTRONIC MONITORING DEVICE"
17 MEANS A VIDEO SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO
18 TELEPHONE, AN INTERNET VIDEO SURVEILLANCE DEVICE, OR A SIMILAR
19 DEVICE DESIGNED TO CAPTURE THE AUDIO RECORDINGS OR VISUAL IMAGES OF
20 ITS SURROUNDINGS.