

# HOUSE BILL No. 4867

August 16, 2017, Introduced by Rep. Kosowski and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 20199 (MCL 333.20199), and by adding section 21788.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 20199. (1) Except as **OTHERWISE** provided in ~~subsection (2)~~  
 2 ~~or section 20142,~~ **THIS ARTICLE**, a person who violates this article  
 3 or a rule promulgated or an order issued under this article is  
 4 guilty of a misdemeanor, punishable by fine of not more than  
 5 \$1,000.00 for each day the violation continues or, ~~in case of~~ **FOR** a  
 6 violation of sections 20551 to 20554, a fine of not more than  
 7 \$1,000.00 for each occurrence.

8           (2) A person who violates sections 20181 to 20184 is guilty of  
 9 a misdemeanor, punishable by imprisonment for not more than 6  
 10 months, or a fine of not more than \$2,000.00, or both.

1           SEC. 21788. (1) A NURSING HOME SHALL PERMIT A RESIDENT OR THE  
2 RESIDENT'S REPRESENTATIVE TO MONITOR THE RESIDENT THROUGH THE USE  
3 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 REPRESENTATIVE.

7           (B) ALL COSTS OF THE MONITORING, INCLUDING, BUT NOT LIMITED  
8 TO, THE COST OF THE ELECTRONIC MONITORING DEVICE AND ITS  
9 INSTALLATION, ARE PAID BY THE RESIDENT OR THE RESIDENT'S  
10 REPRESENTATIVE.

11           (C) THE MONITORING IS CONDUCTED IN A MANNER THAT PROTECTS THE  
12 PRIVACY OF OTHER RESIDENTS AND VISITORS TO THE NURSING HOME TO THE  
13 EXTENT REASONABLY POSSIBLE. IF A RESIDENT OR THE RESIDENT'S  
14 REPRESENTATIVE WISHES TO INSTALL AN ELECTRONIC MONITORING DEVICE IN  
15 THE RESIDENT'S ROOM, AND IF THE RESIDENT SHARES THE ROOM WITH  
16 ANOTHER RESIDENT, THE WRITTEN CONSENT OF THE OTHER RESIDENT OR HIS  
17 OR HER REPRESENTATIVE MUST BE OBTAINED BEFORE THE ELECTRONIC  
18 MONITORING DEVICE IS INSTALLED.

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

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

24           (A) A REASONABLY SECURE PLACE TO MOUNT THE ELECTRONIC  
25 MONITORING DEVICE.

26           (B) ACCESS TO A POWER SOURCE FOR THE ELECTRONIC MONITORING  
27 DEVICE.

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

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

6 (4) A NURSING HOME MAY REQUIRE A RESIDENT OR THE RESIDENT'S  
7 REPRESENTATIVE WHO WISHES TO INSTALL AN ELECTRONIC MONITORING  
8 DEVICE TO MAKE THE REQUEST IN WRITING.

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

13 (6) AN OWNER OR OPERATOR OR EMPLOYEE OF A NURSING HOME WHO  
14 VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
15 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
16 \$2,000.00, OR BOTH.

17 (7) AN INDIVIDUAL WHO WILLFULLY AND WITHOUT THE CONSENT OF THE  
18 RESIDENT OR THE RESIDENT'S REPRESENTATIVE HAMPERS, OBSTRUCTS,  
19 TAMPERS WITH, OR DESTROYS THE RESIDENT'S OR REPRESENTATIVE'S  
20 ELECTRONIC MONITORING DEVICE OR ITS FILM, TAPE, OR OTHER RECORDING  
21 MEDIUM IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR  
22 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$2,000.00, OR  
23 BOTH.

24 (8) AS USED IN THIS SECTION, "ELECTRONIC MONITORING DEVICE"  
25 MEANS A VIDEO SURVEILLANCE CAMERA, AN AUDIO DEVICE, A VIDEO  
26 TELEPHONE, AN INTERNET VIDEO SURVEILLANCE DEVICE, OR A SIMILAR  
27 DEVICE DESIGNED TO CAPTURE THE AUDIO RECORDINGS OR VISUAL IMAGES OF

**1 ITS SURROUNDINGS.**

**2** Enacting section 1. This amendatory act takes effect 90 days  
**3** after the date it is enacted into law.