

House Engrossed Senate Bill

~~appropriation; Arizona trail fund~~
(now: health care facilities; electronic monitoring)

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1041

AN ACT

AMENDING TITLE 36, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7.1; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 4, Arizona Revised Statutes, is
3 amended by adding article 7.1, to read:

4 ARTICLE 7.1. ELECTRONIC MONITORING

5 36-447.51. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "AUTHORIZED REPRESENTATIVE" MEANS A RESIDENT REPRESENTATIVE AS
8 DEFINED IN 42 CODE OF FEDERAL REGULATIONS SECTION 483.5 WHO HAS BEEN
9 EXPRESSLY GRANTED AUTHORITY BY THE RESIDENT OR A COURT OF LAW TO MAKE
10 DECISIONS ABOUT THE RESIDENT'S CARE, HEALTH AND SAFETY ON THE RESIDENT'S
11 BEHALF.

12 2. "ELECTRONIC MONITORING":

13 (a) MEANS THE USE OF AN ELECTRONIC MONITORING DEVICE IN THE ROOM OF
14 A RESIDENT OF A NURSING CARE INSTITUTION OR ASSISTED LIVING FACILITY TO
15 RECORD OR TRANSMIT SOUNDS OR ACTIVITY TO OR FOR THE RESIDENT, THE
16 RESIDENT'S AUTHORIZED REPRESENTATIVE OR AN AUTHORIZED THIRD PARTY.

17 (b) INCLUDES THE TAPES OR RECORDINGS FROM THE ELECTRONIC MONITORING
18 DEVICE.

19 3. "ELECTRONIC MONITORING DEVICE" MEANS ANY DEVICE OR TECHNOLOGY
20 THAT HAS A PLACED, FIXED OR OTHERWISE INSTALLED LOCATION, THAT CAPTURES,
21 RECORDS OR BROADCASTS AUDIO OR VIDEO, OR BOTH, AND THAT IS USED FOR
22 ELECTRONIC MONITORING.

23 4. "FACILITY" MEANS THE NURSING CARE INSTITUTION OR ASSISTED LIVING
24 FACILITY IN WHICH THE RESIDENT IS LIVING.

25 5. "RESIDENT" MEANS A PERSON WHO RESIDES IN A NURSING CARE
26 INSTITUTION OR ASSISTED LIVING FACILITY.

27 36-447.52. Right to electronic monitoring

28 A RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE HAS THE RIGHT
29 TO CONDUCT ELECTRONIC MONITORING OF THE RESIDENT'S ROOM THROUGH THE USE OF
30 ELECTRONIC MONITORING DEVICES PLACED, FIXED OR OTHERWISE INSTALLED IN THE
31 RESIDENT'S ROOM AS PROVIDED IN THIS ARTICLE.

32 36-447.53. Notice; intent to conduct electronic monitoring

33 A. A RESIDENT IN A NURSING CARE INSTITUTION OR ASSISTED LIVING
34 FACILITY OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE SHALL NOTIFY THE
35 FACILITY OF THE PLANNED INSTALLATION AND USE OF AN ELECTRONIC MONITORING
36 DEVICE IN THE LIVING QUARTERS OF THE RESIDENT BY SUBMITTING TO THE
37 FACILITY A WRITTEN AND COMPLETED NOTICE AND CONSENT FORM AS PRESCRIBED BY
38 THE DEPARTMENT PURSUANT TO SECTION 36-447.54. THE NOTICE AND CONSENT FORM
39 SERVES TO INFORM THE FACILITY THAT THE RESIDENT OR RESIDENT'S AUTHORIZED
40 REPRESENTATIVE INTENDS TO CONDUCT ELECTRONIC MONITORING AND CONSENTS TO
41 THE MONITORING AND DESCRIBES HOW THE RESIDENT OR THE RESIDENT'S AUTHORIZED
42 REPRESENTATIVE INTENDS TO CONDUCT THE MONITORING. THE NOTICE AND CONSENT
43 FORM MUST BE PROVIDED TO THE FACILITY BEFORE THE RESIDENT OR RESIDENT'S
44 AUTHORIZED REPRESENTATIVE INSTALLS AN ELECTRONIC MONITORING DEVICE AND
45 BEGINS ELECTRONIC MONITORING.

1 B. FOR A RESIDENT WHO HAS THE ABILITY TO CONSENT BUT WHOSE
2 AUTHORIZED REPRESENTATIVE HAS THE AUTHORITY TO CONSENT TO THE ELECTRONIC
3 MONITORING, THE RESIDENT'S AUTHORIZED REPRESENTATIVE MAY CONSENT ON BEHALF
4 OF THE RESIDENT IF BOTH OF THE FOLLOWING APPLY:

5 1. THE RESIDENT'S AUTHORIZED REPRESENTATIVE HAS FULLY EXPLAINED THE
6 PROPOSED ELECTRONIC MONITORING TO THE RESIDENT, INCLUDING THE RESIDENT'S
7 RIGHT TO OBJECT TO THE ELECTRONIC MONITORING.

8 2. THE RESIDENT HAS NOT AFFIRMATIVELY OBJECTED TO THE PROPOSED
9 FORM, FORMAT AND SCOPE OF ELECTRONIC MONITORING.

10 C. FOR A RESIDENT WHO DOES NOT HAVE THE ABILITY TO CONSENT TO THE
11 ELECTRONIC MONITORING, THE RESIDENT'S AUTHORIZED REPRESENTATIVE MAY
12 CONSENT ON BEHALF OF THE RESIDENT IF ALL OF THE FOLLOWING APPLY:

13 1. THE RESIDENT'S AUTHORIZED REPRESENTATIVE HAS THE AUTHORITY TO
14 CONSENT.

15 2. THE RESIDENT'S AUTHORIZED REPRESENTATIVE HAS FULLY EXPLAINED THE
16 PROPOSED ELECTRONIC MONITORING TO THE RESIDENT, INCLUDING THE RESIDENT'S
17 RIGHT TO OBJECT TO THE ELECTRONIC MONITORING.

18 3. THE RESIDENT HAS NOT AFFIRMATIVELY OBJECTED TO THE PROPOSED
19 FORM, FORMAT AND SCOPE OF ELECTRONIC MONITORING.

20 4. THE RESIDENT DOES NOT HAVE AN EXECUTED LIVING WILL, MEDICAL
21 POWER OF ATTORNEY, PREHOSPITAL MEDICAL DIRECTIVE OR OTHER LEGAL DOCUMENT
22 IN WHICH THE RESIDENT SPECIFIED THE RESIDENT'S OBJECTION TO ELECTRONIC
23 MONITORING.

24 D. A RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE MAY
25 CONSENT TO ELECTRONIC MONITORING WITH ANY LIMITING OR QUALIFYING TERMS OR
26 CONDITIONS THAT THE RESIDENT OR RESIDENT'S AUTHORIZED REPRESENTATIVE
27 CHOOSES REGARDING THE MANNER IN WHICH THE ELECTRONIC MONITORING IS
28 CONDUCTED. THE LIMITING OR QUALIFYING TERMS OR CONDITIONS SHALL BE
29 SPECIFIED IN THE NOTICE AND CONSENT FORM PURSUANT TO SECTION 36-447.54.

30 36-447.54. Notice and consent form

31 A. THE DEPARTMENT SHALL PRESCRIBE THE NOTICE AND CONSENT FORM THAT
32 MUST BE COMPLETED BY THE RESIDENT OR THE RESIDENT'S AUTHORIZED
33 REPRESENTATIVE PURSUANT TO THIS ARTICLE AND SHALL INCLUDE ADEQUATE SPACE
34 ON THE FORM FOR THE RESIDENT OR AUTHORIZED REPRESENTATIVE TO OUTLINE
35 CHOICES REGARDING ALL OF THE FOLLOWING:

36 1. THE RESIDENT'S OR AUTHORIZED REPRESENTATIVE'S INTENT TO CONDUCT
37 ELECTRONIC MONITORING AND THE INTENDED START DATE.

38 2. THE TYPE, FUNCTION AND INTENDED PURPOSE OF THE ELECTRONIC
39 MONITORING DEVICE TO BE USED.

40 3. ANY INSTALLATION SPECIFICATIONS, SUCH AS THE PLANNED MOUNTING OF
41 A DEVICE TO A WALL OR CEILING.

42 4. THE RESIDENT'S OR AUTHORIZED REPRESENTATIVE'S CHOSEN TERMS AND
43 CONDITIONS FOR THE USE OF THE ELECTRONIC MONITORING DEVICE, INCLUDING:

44 (a) WHETHER TO INCLUDE OR EXCLUDE AUDIO RECORDING.

45 (b) WHETHER TO INCLUDE OR EXCLUDE VIDEO RECORDING.

- 1 (c) WHETHER TO INCLUDE OR EXCLUDE BROADCASTING OF AUDIO OR VIDEO.
2 (d) WHEN TO TURN THE ELECTRONIC MONITORING DEVICE ON OR OFF OR
3 BLOCK OR UNBLOCK THE VIDEO RECORDING COMPONENT OF THE ELECTRONIC
4 MONITORING DEVICE FOR THE DURATION OF AN EXAMINATION OR PROCEDURE BY A
5 HEALTH CARE PROFESSIONAL, INCLUDING HOW THE ELECTRONIC MONITORING DEVICE
6 WILL BE TURNED ON OR OFF AND TURNED BACK ON OR OFF AND BY WHOM.
7 (e) WHEN TO TURN THE ELECTRONIC MONITORING DEVICE ON OR OFF OR
8 BLOCK OR UNBLOCK THE VIDEO RECORDING COMPONENT OF THE ELECTRONIC
9 MONITORING DEVICE WHILE DRESSING OR BATHING IS PERFORMED, INCLUDING HOW
10 THE ELECTRONIC MONITORING DEVICE WILL BE TURNED ON OR OFF AND TURNED BACK
11 ON OR OFF AND BY WHOM.
12 (f) WHEN TO TURN THE ELECTRONIC MONITORING DEVICE ON OR OFF FOR THE
13 DURATION OF A VISIT WITH A SPIRITUAL ADVISER, OMBUDSMAN, ATTORNEY,
14 FINANCIAL PLANNER, INTIMATE PARTNER OR OTHER VISITOR, INCLUDING HOW THE
15 ELECTRONIC MONITORING DEVICE WILL BE TURNED ON OR OFF AND TURNED BACK ON
16 OR OFF AND BY WHOM.
17 (g) ANY OTHER CONDITION OR RESTRICTION ELECTED BY THE RESIDENT OR
18 AUTHORIZED REPRESENTATIVE REGARDING THE USE OF AN ELECTRONIC MONITORING
19 DEVICE.
20 5. WHETHER THE RESIDENT'S OR AUTHORIZED REPRESENTATIVE'S PLANNED
21 ELECTRONIC MONITORING REQUIRES ROOMMATE CONSENT PURSUANT TO SECTION
22 36-447.55.
23 6. A DESCRIPTION OF WHO MAY BE ABLE TO HEAR OR VIEW THE RECORDINGS
24 IN REAL TIME OR ON DEMAND.
25 7. A DESCRIPTION OF WHO MAY BE ABLE TO TEMPORARILY DISABLE, OBSCURE
26 OR OTHERWISE COMPLY WITH THE TERMS AND CONDITIONS DESCRIBED IN PARAGRAPH 4
27 OF THIS SUBSECTION.
28 8. A STATEMENT OF HOW THE RECORDINGS MAY BE USED AND WITH WHOM THE
29 RECORDING MAY BE SHARED.
30 9. THE RESIDENT'S SIGNED CONSENT TO ELECTRONIC MONITORING OR THE
31 SIGNATURE OF THE RESIDENT'S AUTHORIZED REPRESENTATIVE, IF APPLICABLE. IF A
32 PERSON OTHER THAN THE RESIDENT SIGNS THE CONSENT FORM, THAT PERSON SHALL
33 INDICATE THE SOURCE OF AUTHORITY ALLOWING THE PERSON'S SIGNATURE AND SHALL
34 ATTEST ON THE FORM THAT THE RESIDENT WAS ASKED IF THE RESIDENT WANTS
35 ELECTRONIC MONITORING TO BE CONDUCTED AND THE RESIDENT DID NOT
36 AFFIRMATIVELY OBJECT.
37 10. IF THE ELECTRONIC MONITORING REQUIRES ROOMMATE CONSENT PURSUANT
38 TO SECTION 36-447.55, THE SIGNED CONSENT OF THE RESIDENT'S ROOMMATE OR THE
39 ROOMMATE'S AUTHORIZED REPRESENTATIVE, IF APPLICABLE. IF A ROOMMATE'S
40 AUTHORIZED REPRESENTATIVE SIGNS THE CONSENT FORM, THAT PERSON SHALL
41 INDICATE THE SOURCE OF AUTHORITY ALLOWING THE PERSON'S SIGNATURE AND SHALL
42 ATTEST ON THE FORM THAT THE ROOMMATE WAS ASKED IF THE ROOMMATE AGREES TO
43 THE ELECTRONIC MONITORING TO BE CONDUCTED AS PROPOSED BY THE RESIDENT AND
44 THE ROOMMATE DID NOT AFFIRMATIVELY OBJECT.

1 11. A SIGNATURE AND DATE BOX FOR DOCUMENTING THE SIGNATURE AND
2 CONSENT OF THE RESIDENT, THE RESIDENT'S AUTHORIZED REPRESENTATIVE, THE
3 ROOMMATE OR THE ROOMMATE'S AUTHORIZED REPRESENTATIVE.

4 B. THE DEPARTMENT SHALL ISSUE THE REQUIRED NOTICE AND CONSENT FORM
5 REQUIRED IN THIS ARTICLE NOT LATER THAN SIXTY DAYS AFTER THE EFFECTIVE
6 DATE OF THIS SECTION. IF THE DEPARTMENT HAS NOT ISSUED THE FORM BY THAT
7 DATE, A RESIDENT MAY USE A FORM THAT SUBSTANTIALLY COMPLIES WITH THIS
8 ARTICLE UNTIL THE DEPARTMENT-PREScribed FORM IS AVAILABLE. THIS SECTION
9 DOES NOT INVALIDATE A NOTICE AND CONSENT FORM THAT WAS USED BEFORE THE
10 DEPARTMENT CIRCULATES A DEPARTMENT-PREScribed FORM SOLELY DUE TO THE FORM
11 NOT BEING THE FORM PREScribed BY THE DEPARTMENT.

12 36-447.55. Roommate consent requirement; refusal to consent;
13 accommodations; withdrawal of consent

14 A. BEFORE IMPLEMENTING ELECTRONIC MONITORING, A RESIDENT OR
15 RESIDENT'S AUTHORIZED REPRESENTATIVE SHALL OBTAIN THE WRITTEN CONSENT ON
16 THE NOTICE AND CONSENT FORM OF ANY OTHER RESIDENT RESIDING IN THE SHARED
17 ROOM OR SHARED PRIVATE LIVING UNIT. THE RESIDENT OR RESIDENT'S AUTHORIZED
18 REPRESENTATIVE SHALL DESCRIBE THE FORM, FORMAT AND SCOPE OF ELECTRONIC
19 MONITORING TO WHICH THE ROOMMATE OR ROOMMATE'S AUTHORIZED REPRESENTATIVE
20 AGREES, INCLUDING THE SPECIFICATIONS PREScribed IN SECTION 36-447.54.

21 B. THE CONSENT OF A ROOMMATE OR THE ROOMMATE'S AUTHORIZED
22 REPRESENTATIVE UNDER THIS SECTION AUTHORIZES THE RESIDENT'S USE OF ANY
23 ELECTRONIC MONITORING OBTAINED UNDER THIS ARTICLE.

24 C. THIS ARTICLE DOES NOT PREVENT TWO ROOMMATES FROM JOINTLY
25 NOTIFYING THE FACILITY OF THEIR JOINT PLAN TO USE ELECTRONIC MONITORING.

26 D. ANY RESIDENT WHO IS CONDUCTING ELECTRONIC MONITORING THAT
27 REQUIRES ROOMMATE CONSENT AND WHO HAS A NEW ROOMMATE SHALL IMMEDIATELY
28 REMOVE OR DISABLE AN ELECTRONIC MONITORING DEVICE WHEN THE NEW ROOMMATE
29 MOVES INTO A SHARED ROOM OR SHARED PRIVATE LIVING UNIT, UNLESS OR UNTIL
30 THE RESIDENT OBTAINS THE WRITTEN CONSENT OF THE NEW ROOMMATE OR THE
31 ROOMMATE'S AUTHORIZED REPRESENTATIVE AS REQUIRED BY THIS SECTION. ON
32 OBTAINING THE NEW ROOMMATE'S SIGNED NOTICE AND CONSENT FORM AND SUBMITTING
33 THE FORM TO THE FACILITY, THE RESIDENT MAY RESUME ELECTRONIC MONITORING.

34 E. IF A RESIDENT WHO IS RESIDING IN A SHARED ROOM OR SHARED LIVING
35 UNIT HAS A ROOMMATE WHO REFUSES TO CONSENT TO THE USE OF THE ELECTRONIC
36 MONITORING DEVICE AND THE PARTIES CANNOT AGREE TO A MODIFICATION OF THE
37 RESIDENT'S DESIRED ELECTRONIC MONITORING, THE FACILITY SHALL MAKE A
38 REASONABLE ATTEMPT TO ACCOMMODATE THE RESIDENT WHO WANTS TO CONDUCT
39 ELECTRONIC MONITORING. A FACILITY MEETS THE REQUIREMENT TO REASONABLY
40 ATTEMPT TO ACCOMMODATE A RESIDENT OR A RESIDENT'S AUTHORIZED
41 REPRESENTATIVE WHO WANTS TO CONDUCT ELECTRONIC MONITORING PURSUANT TO THIS
42 SUBSECTION IF THE FACILITY OFFERS TO MOVE THE RESIDENT AT THE RESIDENT'S
43 EXPENSE TO ANOTHER SHARED ROOM OR SHARED LIVING UNIT THAT IS AVAILABLE AT
44 THE TIME OF THE REQUEST. IF A RESIDENT CHOOSES TO RESIDE IN A PRIVATE
45 ROOM OR PRIVATE LIVING UNIT IN A FACILITY IN ORDER TO ACCOMMODATE THE USE

1 OF AN ELECTRONIC MONITORING DEVICE, THE RESIDENT SHALL PAY THE FACILITY'S
2 PRIVATE ROOM RATE. THE FACILITY IS NOT REQUIRED TO PROVIDE A PRIVATE
3 ROOM, A SINGLE-BED ROOM OR A PRIVATE LIVING UNIT TO A RESIDENT WHO IS
4 UNABLE OR UNWILLING TO PAY.

5 F. A ROOMMATE OR THE ROOMMATE'S AUTHORIZED REPRESENTATIVE MAY
6 WITHDRAW CONSENT TO ELECTRONIC MONITORING AT ANY TIME. THE WITHDRAWAL OF
7 CONSENT SHALL BE DOCUMENTED ON THE ORIGINAL NOTICE AND CONSENT FORM. THE
8 RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE SHALL IMMEDIATELY
9 REMOVE OR DISABLE THE ELECTRONIC MONITORING DEVICE WHEN CONSENT IS
10 WITHDRAWN BY A ROOMMATE OR THE ROOMMATE'S AUTHORIZED REPRESENTATIVE, AND
11 THE FACILITY SHALL MAKE A REASONABLE ATTEMPT TO ACCOMMODATE THE RESIDENT
12 OR RESIDENT'S AUTHORIZED REPRESENTATIVE WHO WANTS TO CONTINUE TO CONDUCT
13 ELECTRONIC MONITORING PURSUANT TO THIS SECTION.

14 36-447.56. Facilities; signage; requirements

15 A. A FACILITY WHERE ELECTRONIC MONITORING IS OCCURRING SHALL POST A
16 SIGN AT EACH FACILITY ENTRANCE THAT STATES, IN ENGLISH AND IN SPANISH:
17 "ELECTRONIC MONITORING DEVICES, INCLUDING SECURITY CAMERAS AND AUDIO
18 DEVICES, MAY BE PRESENT TO RECORD PERSONS AND ACTIVITIES." THE SIGN SHALL
19 BE IN LARGE, CLEARLY LEGIBLE TYPE AND FONT. THE FACILITY SHALL BEAR THE
20 COSTS ASSOCIATED WITH INSTALLING AND MAINTAINING THE SIGN REQUIRED BY THIS
21 SUBSECTION.

22 B. A RESIDENT WHO CONDUCTS AUTHORIZED ELECTRONIC MONITORING OR THE
23 RESIDENT'S AUTHORIZED REPRESENTATIVE MAY POST AND MAINTAIN A NOTICE AT THE
24 ENTRANCE TO THE RESIDENT'S ROOM STATING THAT THE ROOM IS BEING MONITORED
25 BY AN ELECTRONIC MONITORING DEVICE.

26 36-447.57. Electronic monitoring devices; responsibility for
27 costs; internet service; accommodations;
28 interference or tampering prohibited

29 A. A RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE WHO
30 CHOOSES TO CONDUCT ELECTRONIC MONITORING SHALL DO SO AT THE RESIDENT'S OWN
31 EXPENSE, INCLUDING PURCHASE, INSTALLATION, INTERNET SERVICE, MAINTENANCE
32 AND REMOVAL COSTS. THE RESIDENT OR AUTHORIZED REPRESENTATIVE IS SOLELY
33 RESPONSIBLE FOR:

34 1. CHOOSING THE ELECTRONIC MONITORING DEVICE, SUBJECT TO THE LIMITS
35 PRESCRIBED IN THIS SECTION.

36 2. PAYING THE COST OF THE ELECTRONIC MONITORING DEVICE AND THE COST
37 OF INSTALLING, MAINTAINING AND REMOVING THE ELECTRONIC MONITORING DEVICE,
38 IF APPLICABLE, OTHER THAN THE COST OF ELECTRICITY USED TO POWER THE
39 ELECTRONIC MONITORING DEVICE. AFTER REMOVING THE ELECTRONIC MONITORING
40 DEVICE, THE RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE SHALL
41 RESTORE THE FACILITY'S PROPERTY TO ITS CONDITION BEFORE THE ELECTRONIC
42 MONITORING DEVICE WAS INSTALLED.

43 3. IF APPLICABLE, PAYING THE COST OF INTERNET SERVICE FOR AN
44 ELECTRONIC MONITORING DEVICE.

1 B. A FACILITY IS NOT REQUIRED TO PROVIDE INTERNET SERVICE OR
2 NETWORK ACCESS TO ANY ELECTRONIC MONITORING DEVICE INSTALLED BY A RESIDENT
3 OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE. ANY INTERNET SERVICE FOR AN
4 ELECTRONIC MONITORING DEVICE IS THE SOLE RESPONSIBILITY OF THE RESIDENT OR
5 THE RESIDENT'S AUTHORIZED REPRESENTATIVE.

6 C. A FACILITY MAY CHOOSE TO PROVIDE INTERNET SERVICE OR NETWORK
7 ACCESS AND CHARGE A RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE
8 FOR THE INTERNET SERVICE OR NETWORK ACCESS THAT IS USED FOR AN ELECTRONIC
9 MONITORING DEVICE INSTALLED BY THE RESIDENT OR AUTHORIZED REPRESENTATIVE.
10 THE COST OF THE INTERNET SERVICE OR NETWORK ACCESS CHARGED TO THE RESIDENT
11 OR AUTHORIZED REPRESENTATIVE MAY NOT EXCEED THE ACTUAL COST OF THE
12 INTERNET SERVICE OR NETWORK ACCESS INCURRED BY THE FACILITY.

13 D. A FACILITY MAY NOT PREVENT A RESIDENT OR THE RESIDENT'S
14 AUTHORIZED REPRESENTATIVE FROM PURCHASING, MAINTAINING AND PAYING FOR
15 SEPARATE INTERNET SERVICE OR NETWORK ACCESS THAT IS INDEPENDENT FROM THE
16 FACILITY'S INTERNET SERVICE OR NETWORK.

17 E. AN ELECTRONIC MONITORING DEVICE CHOSEN BY A RESIDENT OR THE
18 RESIDENT'S AUTHORIZED REPRESENTATIVE MUST BE CAPABLE OF BEING TEMPORARILY
19 DISABLED OR TURNED ON AND OFF BY THE RESIDENT OR AUTHORIZED REPRESENTATIVE
20 CONSISTENT WITH THE RESIDENT'S CHOICES RELATING TO ACTIVATION AND
21 DEACTIVATION AS OUTLINED IN THE NOTICE AND CONSENT FORM. IF THE
22 ELECTRONIC MONITORING DEVICE TRANSMITS VIDEO OR OTHER VISUAL DISPLAYS,
23 BROADCASTS OR RECORDINGS, THE ELECTRONIC MONITORING DEVICE, TO THE
24 GREATEST EXTENT PRACTICABLE, MUST BE INSTALLED:

- 25 1. WITH A FIXED VIEWPOINT OF THE LIVING QUARTERS.
- 26 2. IN A MANNER THAT AVOIDS CAPTURING IMAGES OF ACTIVITIES SUCH AS
27 BATHING, DRESSING AND TOILETING.
- 28 3. IN A CONSPICUOUSLY VISIBLE LOCATION IN THE ROOM.

29 F. A FACILITY SHALL MAKE A REASONABLE ATTEMPT TO ACCOMMODATE THE
30 RESIDENT'S ELECTRONIC MONITORING INSTALLATION NEEDS, UNLESS DOING SO WOULD
31 PLACE AN UNDUE BURDEN ON THE FACILITY. A FACILITY HAS THE BURDEN OF
32 PROVING THAT THE REQUESTED ACCOMMODATION IS NOT REASONABLE. ACCOMMODATIONS
33 INCLUDE:

- 34 1. PROVIDING A REASONABLY SECURE PLACE TO MOUNT THE DEVICE.
- 35 2. PROVIDING ACCESS TO POWER SOURCES FOR THE DEVICE.
- 36 3. ALLOWING ACCESS TO THE FACILITY'S PUBLIC-USE INTERNET OR WI-FI
37 SYSTEMS WHEN AVAILABLE FOR OTHER PUBLIC USES.

38 G. A PERSON OTHER THAN THE RESIDENT, THE RESIDENT'S AUTHORIZED
39 REPRESENTATIVE OR AN INDIVIDUAL EXPRESSLY AUTHORIZED BY THE RESIDENT OR
40 RESIDENT'S AUTHORIZED REPRESENTATIVE MAY NOT:

- 41 1. OBSTRUCT, TAMPER WITH OR DESTROY THE ELECTRONIC MONITORING
42 DEVICE OR ANY RECORDING MADE BY THE ELECTRONIC MONITORING DEVICE.
- 43 2. VIEW OR LISTEN TO ANY IMAGE OR SOUND THAT IS DISPLAYED,
44 BROADCAST OR RECORDED BY THE ELECTRONIC MONITORING DEVICE.

1 H. A PERSON MAY NOT KNOWINGLY TOUCH, HAMPER, OBSTRUCT, TAMPER WITH
2 OR DESTROY AN ELECTRONIC MONITORING DEVICE PLACED IN A RESIDENT'S ROOM OR
3 PRIVATE LIVING UNIT WITHOUT THE PERMISSION OF THE RESIDENT OR RESIDENT'S
4 AUTHORIZED REPRESENTATIVE.

5 I. IT IS NOT A VIOLATION OF THIS SECTION IF A PERSON TURNS OFF THE
6 ELECTRONIC MONITORING DEVICE OR BLOCKS THE VISUAL RECORDING COMPONENT OF
7 THE ELECTRONIC MONITORING DEVICE AT THE DIRECTION OF THE RESIDENT OR
8 RESIDENT'S AUTHORIZED REPRESENTATIVE, CONSISTENT WITH THE RESIDENT'S
9 NOTICE AND CONSENT FORM.

10 J. A FACILITY MAY NOT INTERFERE WITH THE RIGHT OF A RESIDENT TO USE
11 AN ELECTRONIC MONITORING DEVICE AND MAY NOT REQUIRE A RESIDENT TO SUBMIT A
12 REQUEST FOR APPROVAL.

13 36-447.58. Authority to access recorded images or sounds;
14 confidentiality; admissibility as evidence

15 A. ANY RECORDING OBTAINED AS THE RESULT OF AUTHORIZED ELECTRONIC
16 MONITORING PURSUANT TO THIS ARTICLE IS CONSIDERED THE PERSONAL PROPERTY OF
17 THE RESIDENT WHO INSTALLED THE ELECTRONIC MONITORING DEVICE.

18 B. EXCEPT AS OTHERWISE DESCRIBED IN THIS SECTION, A PERSON,
19 FACILITY OR FACILITY REPRESENTATIVE MAY NOT ACCESS ANY VIDEO OR AUDIO
20 RECORDING CREATED THROUGH AUTHORIZED ELECTRONIC MONITORING WITHOUT THE
21 WRITTEN CONSENT OF THE RESIDENT OR THE RESIDENT'S AUTHORIZED
22 REPRESENTATIVE. THE FOLLOWING PERSONS MAY VIEW OR LISTEN TO THE IMAGES OR
23 SOUNDS THAT ARE DISPLAYED, BROADCAST OR RECORDED BY AN ELECTRONIC
24 MONITORING DEVICE INSTALLED AND USED PURSUANT TO THIS ARTICLE OR MAY
25 TEMPORARILY DISABLE OR TURN OFF THE DEVICE:

26 1. ANYONE TO WHOM THE RESIDENT OR AUTHORIZED REPRESENTATIVE GRANTS
27 PERMISSION.

28 2. A REPRESENTATIVE OF A LAW ENFORCEMENT AGENCY WHO IS CONDUCTING
29 AN INVESTIGATION.

30 3. A REPRESENTATIVE OF THE DEPARTMENT OF HEALTH SERVICES OR THE
31 DEPARTMENT OF ECONOMIC SECURITY, DIVISION OF ADULT PROTECTIVE SERVICES,
32 WHO IS CONDUCTING AN INVESTIGATION.

33 4. THE STATE LONG-TERM CARE OMBUDSMAN, WITH THE PERMISSION OF THE
34 RESIDENT OR AUTHORIZED REPRESENTATIVE.

35 5. AN ATTORNEY WHO IS REPRESENTING THE RESIDENT OR A ROOMMATE OF
36 THE RESIDENT AND WHO ACTS WITHIN THE SCOPE OF THAT REPRESENTATION.

37 C. AN EMPLOYEE OF THE FACILITY OR AN EMPLOYEE OF A CONTRACTOR
38 PROVIDING SERVICES AT THE FACILITY WHO IS THE SUBJECT OF PROPOSED
39 DISCIPLINARY ACTION BASED ON IMAGES, VIDEO OR SOUND OBTAINED BY THE
40 RESIDENT'S ELECTRONIC MONITORING MAY BE GIVEN ACCESS TO THAT MATERIAL FOR
41 PURPOSES OF DEFENDING AGAINST THE PROPOSED ACTION, CONSISTENT WITH THE
42 RULES OF EVIDENCE AND PROCEDURE IN THAT JURISDICTION, IF APPLICABLE. ANY
43 PERSON, INCLUDING AN EMPLOYEE OF THE FACILITY OR AN EMPLOYEE OF A
44 CONTRACTOR AGENCY, WHO VIEWS, HEARS, OBTAINS OR RECEIVES A RECORDING OR A
45 COPY OF THE RECORDING OF ANY MATERIAL OBTAINED THROUGH ELECTRONIC

1 MONITORING SHALL TREAT THE MATERIAL RECORDING OR COPY CONFIDENTIALLY AND
2 MAY NOT FURTHER DISSEMINATE IT TO ANY OTHER PERSON EXCEPT AS REQUIRED BY
3 LAW. ANY COPY OF THE RECORDING SHALL BE RETURNED TO THE FACILITY OR THE
4 RESIDENT WHO PROVIDED THE COPY WHEN IT IS NO LONGER NEEDED FOR PURPOSES OF
5 DEFENDING AGAINST A PROPOSED ACTION.

6 D. EXCEPT AS PROHIBITED BY ANY OTHER STATE OR FEDERAL LAW, A
7 RECORDING OR COPY OF A RECORDING MADE AS PROVIDED IN THIS ARTICLE MAY BE
8 DISSEMINATED ONLY BY THE RESIDENT OR THE RESIDENT'S AUTHORIZED
9 REPRESENTATIVE OR BY ANY RECIPIENT OF THE RECORDING FOR THE PURPOSE OF
10 ADDRESSING HEALTH, SAFETY OR WELFARE CONCERNS OF ONE OR MORE RESIDENTS.
11 A RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE MAY NOT POST OR
12 SHARE ANY VIDEO OR AUDIO RECORDING CREATED THROUGH AUTHORIZED ELECTRONIC
13 MONITORING ON A SOCIAL MEDIA PLATFORM OR WEBSITE WITHOUT THE CONSENT OF
14 EACH INDIVIDUAL WHO IS DEPICTED IN THE VIDEO OR AUDIO RECORDING.

15 E. THE RESIDENT OR RESIDENT'S AUTHORIZED REPRESENTATIVE SHALL
16 PROVIDE A COPY OF ANY VIDEO OR AUDIO RECORDING TO ANY AUTHORIZED PARTY
17 INVOLVED IN A CIVIL, CRIMINAL OR ADMINISTRATIVE PROCEEDING ON REASONABLE
18 REQUEST BY A PARTY OF ANY PROCEEDING RELATED TO OR ARISING OUT OF HEALTH,
19 SAFETY OR WELFARE CONCERNS OF ONE OR MORE RESIDENTS THAT IS RECORDED,
20 DISCOVERED OR CAPTURED IN THE ELECTRONIC MONITORING VIDEO OR AUDIO MADE
21 DURING THE TIME PERIOD THAT THE CONDUCT AT ISSUE IN THE PROCEEDING
22 ALLEGEDLY OCCURRED.

23 F. SUBJECT TO APPLICABLE RULES OF EVIDENCE AND PROCEDURE, ANY VIDEO
24 OR AUDIO RECORDING CREATED THROUGH ELECTRONIC MONITORING UNDER THIS
25 SECTION MAY BE ADMITTED INTO EVIDENCE IN A CIVIL, CRIMINAL OR
26 ADMINISTRATIVE PROCEEDING.

27 36-447.59. Facilities; resident protections; contracts

28 A. A FACILITY MAY NOT:

29 1. REMOVE A CURRENT RESIDENT OR REFUSE TO ADMIT A POTENTIAL
30 RESIDENT OR OTHERWISE DISCRIMINATE OR RETALIATE AGAINST A RESIDENT OR
31 POTENTIAL RESIDENT BECAUSE OF THE RESIDENT'S OR POTENTIAL RESIDENT'S
32 DECISION TO CONDUCT ELECTRONIC MONITORING OF THE RESIDENT'S ROOM.

33 2. RETALIATE OR DISCRIMINATE AGAINST ANY RESIDENT FOR CONSENTING OR
34 REFUSING TO CONSENT TO ELECTRONIC MONITORING.

35 3. INFLUENCE OR ATTEMPT TO INFLUENCE ANY ROOMMATE TO OBJECT OR
36 WITHDRAW CONSENT FOR THE PURPOSE OF OBFUSCATING A RESIDENT'S CHOICE TO
37 HAVE ELECTRONIC MONITORING OR MOVE OR ATTEMPT TO MOVE INTO A RESIDENT'S
38 ROOM A NEW ROOMMATE WHO THE FACILITY KNOWS WILL OR IS LIKELY TO OBJECT TO
39 MONITORING FOR THE PURPOSE OF OBFUSCATING THE RESIDENT'S CHOICE TO HAVE
40 ELECTRONIC MONITORING.

41 B. A CONTRACT THAT PROHIBITS, LIMITS OR OTHERWISE MODIFIES THE
42 RIGHTS AND OBLIGATIONS UNDER THIS ARTICLE IS CONTRARY TO PUBLIC POLICY AND
43 IS VOID AND UNENFORCEABLE.

1 36-447.60. Facilities; employees; protections; policies
2 A. A FACILITY MAY NOT BE HELD LIABLE FOR ANY BREACH OF PRIVACY OR
3 DATA SECURITY RELATED TO ANY ELECTRONIC MONITORING DEVICE INSTALLED BY A
4 RESIDENT OR THE RESIDENT'S AUTHORIZED REPRESENTATIVE.
5 B. A FACILITY IS NOT RESPONSIBLE FOR MAINTAINING, REPAIRING OR
6 REPLACING ANY ELECTRONIC MONITORING DEVICE INSTALLED BY A RESIDENT OR THE
7 RESIDENT'S AUTHORIZED REPRESENTATIVE UNLESS THE DAMAGE IS CAUSED BY
8 FACILITY STAFF.
9 C. A FACILITY MAY NOT BE HELD RESPONSIBLE FOR ANY ELECTRONIC
10 MONITORING DEVICE THAT DOES NOT WORK DURING A POWER OUTAGE.
11 D. EACH FACILITY SHALL HAVE A POLICY OR PROCEDURE TO NOTIFY
12 EMPLOYEES THAT ELECTRONIC MONITORING MAY BE TAKING PLACE IN A RESIDENT'S
13 PRIVATE LIVING SPACE. EACH FACILITY SHALL HAVE A POLICY OR PROCEDURE
14 REGARDING EMPLOYEES WHO REFUSE TO ENTER THE LIVING QUARTERS OF A RESIDENT
15 THAT CONTAINS AN ELECTRONIC MONITORING DEVICE INSTALLED PURSUANT TO THIS
16 ARTICLE.
17 36-447.61. Civil penalty
18 THE DEPARTMENT MAY ASSESS A CIVIL PENALTY PURSUANT TO SECTION
19 36-431.01 AGAINST A FACILITY THAT VIOLATES THIS ARTICLE.
20 36-447.62. Rulemaking
21 THE DEPARTMENT SHALL ADOPT ANY RULES NECESSARY TO IMPLEMENT THIS
22 ARTICLE.