

**As Reported by the House Families, Aging, and Human Services
Committee**

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**

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 instrument with a fixed position video camera or an audio recording device, or a combination thereof, that is installed in a resident's room and broadcasts or records activities or sounds occurring in the room. 17
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(C) "Guardian" has the same meaning as in section 2111.01 of the Revised Code. 22
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(D) "Long-term care facility" has the same meaning as in section 3721.21 of the Revised Code. 24
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(E) "Resident" means an individual who resides in a long-term care facility. 26
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Sec. 3721.61. (A) Subject to section 3721.62 of the Revised Code, a resident or a resident's guardian or attorney in fact may authorize the installation and use of an electronic monitoring device in the resident's room in a long-term care facility. 28
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(B) The installation and use of an electronic monitoring device may be authorized only if both of the following conditions are met: 33
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(1) If a long-term care facility has prescribed a form described in section 3721.63 of the Revised Code, the resident or resident's guardian or attorney in fact completes the form and submits it to the facility. 36
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(2) The cost of the device and the cost of installing, maintaining, and removing the device, other than the cost of electricity for the device, is paid for by the resident or the resident's guardian or attorney in fact. 40
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(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 Code do not apply if an electronic monitoring device is installed by a law enforcement agency and used solely for a bona fide law enforcement purpose. 131
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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 is guilty of tampering with an electronic monitoring device, a misdemeanor of the first degree. 152
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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. 157