

By: Representative Moak

To: Public Health and Human
Services

HOUSE BILL NO. 329

1 AN ACT TO PROVIDE THAT INSTITUTIONS FOR THE AGED OR INFIRM
2 SHALL PERMIT A RESIDENT OR THE RESIDENT'S NEXT OF KIN OR GUARDIAN
3 TO MONITOR THE ROOM OF THE RESIDENT THROUGH THE USE OF ELECTRONIC
4 MONITORING DEVICES; TO PROVIDE THAT ELECTRONIC MONITORING MUST
5 PROTECT THE PRIVACY RIGHTS OF OTHER RESIDENTS AND VISITORS TO THE
6 EXTENT REASONABLY POSSIBLE; TO PROVIDE THAT AN INSTITUTION MAY NOT
7 REFUSE TO ADMIT AN INDIVIDUAL TO RESIDENCY IN THE INSTITUTION AND
8 MAY NOT REMOVE A RESIDENT FROM THE INSTITUTION BECAUSE OF A
9 REQUEST TO CONDUCT ELECTRONIC MONITORING; TO REQUIRE INSTITUTIONS
10 TO MAKE REASONABLE PHYSICAL ACCOMMODATION FOR ELECTRONIC
11 MONITORING; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THE
12 ACT BY ADMINISTRATORS OF INSTITUTIONS OR OTHER PERSONS; TO DIRECT
13 THE STATE BOARD OF HEALTH TO PROMULGATE RULES AND REGULATIONS TO
14 ENFORCE THE PROVISIONS OF THIS ACT; TO DEFINE "ELECTRONIC
15 MONITORING DEVICE"; AND FOR RELATED PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** (1) An institution for the aged or infirm, as
18 defined in Section 43-11-1, shall permit a resident, the
19 resident's next of kin at the request of the resident, or the
20 resident's guardian to monitor the room of the resident through
21 the use of electronic monitoring devices.

22 (2) The institution shall require a resident who conducts
23 electronic monitoring or the resident's guardian to post a notice
24 on the door of the resident's room. The notice must state that
25 the room is being monitored by an electronic monitoring device.

26 (3) Electronic monitoring conducted under this section:

27 (a) Is not compulsory and may be conducted only at the
28 request of the resident or the resident's guardian;

29 (b) Must be paid for by the resident or the resident's
30 guardian; and

31 (c) Must protect the privacy rights of other residents
32 and visitors to the institution to the extent reasonably possible.

33 (4) An institution may not refuse to admit an individual to
34 residency in the institution and may not remove a resident from
35 the institution because of a request to conduct electronic
36 monitoring.

37 (5) An institution shall make reasonable physical
38 accommodation for electronic monitoring, including:

39 (a) Providing a reasonably secure place to mount the
40 video surveillance camera or other monitoring device; and

41 (b) Providing access to power sources for the video
42 surveillance camera or other electronic monitoring device.

43 (6) An institution shall inform a resident or the resident's
44 guardian of the resident's right to conduct electronic monitoring.

45 (7) If electronic monitoring is conducted, the institution
46 may require the resident, the resident's next of kin, or the
47 resident's guardian to conduct the electronic monitoring in plain
48 view.

49 (8) An institution may require that a request to conduct
50 electronic monitoring be made in writing.

51 (9) Subject to applicable rules of evidence and procedure, a
52 tape or recording created through the use of electronic monitoring
53 conducted under this section may be admitted into evidence in a
54 civil or criminal court action or administrative proceeding.

55 (10) An administrator of an institution who knowingly
56 refuses to permit a resident, the resident's next of kin at the
57 request of the resident, or the resident's guardian to monitor the
58 room of the resident in accordance with this section through the
59 use of electronic monitoring devices is guilty of a misdemeanor.

60 (11) An administrator of an institution who knowingly
61 refuses to admit an individual to residency in the institution, or
62 who knowingly allows the removal of a resident from the
63 institution, because of a request to conduct electronic monitoring
64 under this section is guilty of a misdemeanor.

65 (12) (a) A person who intentionally hampers, obstructs,
66 tampers with, or destroys an electronic monitoring device
67 installed in a resident's room in accordance with this section or
68 a tape or recording made by the device is guilty of a misdemeanor.

69 (b) It is an affirmative defense to prosecution under
70 this subsection that the person took the action with the consent
71 of the resident on whose behalf the electronic monitoring device
72 was installed, the resident's guardian, or the resident's next of
73 kin if the next of kin was conducting the monitoring at the
74 request of the resident.

75 (13) The State Board of Health shall promulgate rules and
76 regulations to enforce the provisions of this section.

77 (14) For purposes of this section, "electronic monitoring
78 device" includes:

79 (a) Video surveillance cameras installed in the room of
80 a resident; and

81 (b) Audio devices installed in the room of a resident
82 designed to acquire communications or other sounds occurring in
83 the room.

84 **SECTION 2.** This act shall take effect and be in force from
85 and after July 1, 2004.