MISSISSIPPI LEGISLATURE
REGULAR SESSION 2007

By: Representative Moak
To: Public Health and Human Services

HOUSE BILL NO. 286

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

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

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

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

(3) Electronic monitoring conducted under this section:

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

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

(c) Must protect the privacy rights of other residents and visitors to the institution to the extent reasonably possible.
(4) An institution may not refuse to admit an individual to residency in the institution and may not remove a resident from the institution because of a request to conduct electronic monitoring.

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

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

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

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

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

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

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

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

(11) An administrator of an institution who knowingly refuses to admit an individual to residency in the institution, or who knowingly allows the removal of a resident from the institution, because of a request to conduct electronic monitoring under this section is guilty of a misdemeanor.
(12) (a) A person who intentionally hampers, obstructs, tampers with, or destroys an electronic monitoring device installed in a resident's room in accordance with this section or a tape or recording made by the device is guilty of a misdemeanor.

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

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

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

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2007.