

By: Representative Bennett

To: Public Health and Human Services

HOUSE BILL NO. 577

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.** This act shall be known and may be cited as the  
 18 "Nursing Home Virtual Visitation Act."

19 **SECTION 2.** (1) An institution for the aged or infirm, as  
 20 defined in Section 43-11-1, shall permit a resident, the  
 21 resident's next of kin at the request of the resident, or the  
 22 resident's guardian to monitor the room of the resident through  
 23 the use of electronic monitoring devices.



24 (2) For purposes of this section, "electronic monitoring  
25 device" includes:

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

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

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

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

37 (5) Electronic monitoring conducted in this section:

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

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

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

44 (6) An institution may not refuse to admit an individual to  
45 residency in the institution and may not remove a resident from  
46 the institution because of a request to conduct electronic  
47 monitoring.



48 (7) Consent to the authorization for installation and use of  
49 a monitoring device shall include a release of liability for the  
50 nursing home for a violation of the resident's right to privacy  
51 insofar as the use of the monitoring device is concerned.

52 (8) A resident or a guardian may reverse a choice to have or  
53 not have a monitoring device installed and used at any time after  
54 notice of such reversal has been made to the nursing home.

55 (9) The form for the authorization of installation and use  
56 of an electronic monitoring device shall provide for all of the  
57 following:

58 (a) Consent of the resident or guardian authorizing the  
59 installation and use of the monitoring device;

60 (b) Notice to the nursing home of the resident's  
61 installation of a monitoring device and specifics as to the type,  
62 function and use of the device;

63 (c) Consent of any other resident sharing the same  
64 room, or that resident's guardian, to the installation and use of  
65 a monitoring device;

66 (d) Notice and release from liability for violation of  
67 privacy through the use of the monitoring device; and

68 (e) Waiver of the resident's right to privacy in  
69 connection with the use of the monitoring device.

70 (10) An institution shall make reasonable physical  
71 accommodation for electronic monitoring, including:



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

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

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

80 (12) If the monitoring device records activity visually, the  
81 recordings made by the device must include a record of the date  
82 and time.

83 (13) The resident must pay for the monitoring device and all  
84 installation and maintenance costs associated with the device.

85 (14) Each resident occupying the same room, or that  
86 resident's guardian, must give written consent for the  
87 installation of the monitoring device.

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

90 (16) If a resident who is residing in a shared room wishes  
91 to have a monitoring device installed in the room and another  
92 resident living in or moving into the same shared room refuses to  
93 consent to the use of the monitoring device, then the nursing home  
94 must make a reasonable attempt to accommodate the resident who  
95 wishes to have the monitoring device installed. A nursing home  
96 shall be deemed to have met this accommodation requirement when,



97 upon notification that a roommate has not consented to the use of  
98 an electronic monitoring device in his or her room, the facility  
99 offers to move either resident to another shared room that is  
100 available at the time of the request.

101 (17) If a resident chooses to reside in a private room in  
102 order to accommodate the use of an electronic monitoring device,  
103 the resident shall pay the private room rate. If a nursing home  
104 is unable to accommodate a resident due to the lack of space, the  
105 nursing home shall reevaluate the request at least once every two  
106 (2) weeks until the request is fulfilled.

107 (18) Compliance with the provisions of this section shall be  
108 a complete defense to any civil or criminal action brought against  
109 the resident, guardian or nursing home for the use or presence of  
110 a monitoring device.

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

116 (20) In any civil action against a nursing home, material  
117 obtained through the use of a monitoring device shall not be used  
118 if the device was installed or used without the knowledge of the  
119 nursing home, or installed or used without the prescribed form.

120 (21) An administrator of an institution who knowingly  
121 refuses to permit a resident, the resident's next of kin at the



122 request of the resident, or the resident's guardian to monitor the  
123 room of the resident in accordance with this section through the  
124 use of electronic monitoring devices is guilty of a misdemeanor.

125 (22) An administrator of an institution who knowingly  
126 refuses to admit an individual to residency in the institution, or  
127 who knowingly allows the removal of a resident from the  
128 institution, because of a request to conduct electronic monitoring  
129 under this section is guilty of a misdemeanor.

130 (23) A person who intentionally hampers, obstructs, tampers  
131 with, or destroys an electronic monitoring device installed in a  
132 resident's room in accordance with this section or a tape or  
133 recording made by the device is guilty of a misdemeanor.

134 (24) Any person who knowingly or willingly violates the  
135 provisions of subsection (22) shall be guilty of a misdemeanor  
136 and, upon conviction, punished by a fine of not less than One  
137 Thousand Dollars (\$1,000.00) nor more than Two Thousand Five  
138 Hundred Dollars (\$2,500.00).

139 (25) Any person who knowingly or willfully violates the  
140 provisions of subsection (23) shall be guilty of a felony and,  
141 upon conviction, punished by a fine of not more than Five Thousand  
142 Dollars (\$5,000.00) and shall be imprisoned for not more than six  
143 (6) months.

144 (26) The prohibition and penalties provided in this section  
145 shall not apply to the resident who owns the monitoring device or  
146 recording, or his or her guardian.



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

149           (28) On or before July 1, 2020, each nursing home licensed  
150 by the Mississippi State Department of Health shall provide to  
151 each resident of the nursing home or his or her guardian, a form  
152 prescribed by the department explaining the provisions of the  
153 Nursing Home Virtual Visitation Act, and giving each resident or  
154 guardian a choice to have a monitoring device installed in the  
155 room of the resident.

156           (29) Each nursing home shall retain a copy of each form  
157 completed in accordance with this section, and shall make all such  
158 forms accessible to the Mississippi State Department of Health.

159           **SECTION 3.** This act shall take effect and be in force from  
160 and after July 1, 2019.

