

[Second Reprint]

ASSEMBLY, No. 4013

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

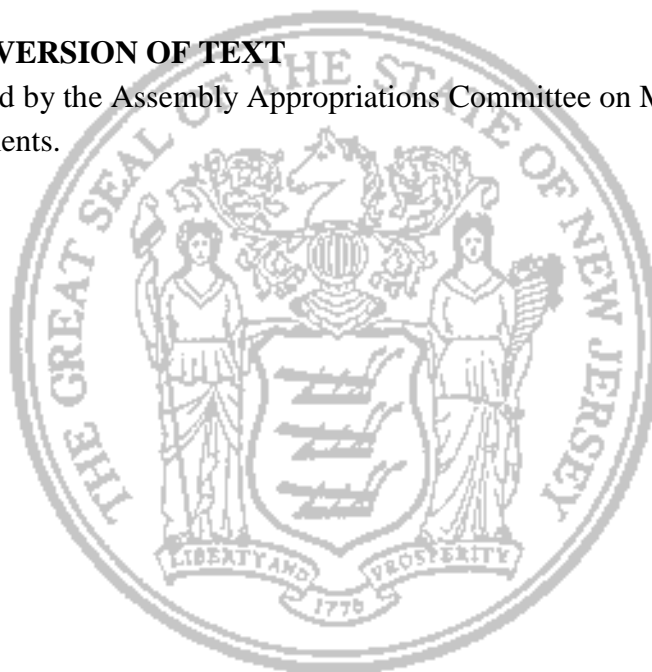
Assemblyman DePhillips, Assemblyman Rooney, Assemblywoman Stanfield, Assemblymen McGuckin, Catalano and Chiaravalloti

SYNOPSIS

Requires certain group homes to install electronic monitoring devices in common areas, upon request and with uniform resident consent, and to permit consensual use of such devices in private rooms.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 17, 2021, with amendments.



(Sponsorship Updated As Of: 12/14/2020)

1 AN ACT concerning the installation and use of electronic
2 monitoring devices at group homes for individuals with
3 developmental disabilities, and supplementing Title 30 of the
4 Revised Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. ¹**[This act shall be known, and may be cited, as “Billy**
10 **Cray’s Law.”]** The Legislature finds and declares the following:

11 a. Individuals with developmental disabilities are particularly
12 vulnerable to abuse, neglect, and exploitation by caregivers,
13 guardians, and other persons.

14 b. Group homes for individuals with developmental disabilities
15 admirably enable these individuals to live more independently
16 within a non-institutional setting; however, the lack of institutional
17 controls and oversight at these homes ultimately makes it harder for
18 the State, for individual group home operators, and for concerned
19 family members to promptly identify and respond to wrongdoing
20 that may be committed by caregivers, guardians, group home
21 employees, and other persons at the home.

22 c. The safety and quality of life of individuals with
23 developmental disabilities who receive care from group homes is of
24 paramount concern, and the use of video monitoring is a reasonable
25 means by which the State and concerned family members can better
26 ensure the prevention of, and the institution of a more proactive
27 response to, the abuse, neglect, and exploitation of group home
28 residents.

29 d. The rights of individuals with developmental disabilities,
30 including the right to privacy, should be respected and preserved at
31 all times, to the greatest extent practicable; however, just as is true
32 of all citizens, an individual with a developmental disability or the
33 individual’s authorized representative, as the case may be, may
34 consent to the waiver or limitation of the individual’s rights,
35 particularly the individual’s rights to privacy, by knowingly
36 agreeing to video surveillance, as deemed by the individual or the
37 authorized representative to be appropriate.

38 e. It is in the public interest for the State to provide for the
39 enhanced protection of individuals with developmental disabilities
40 who reside at group homes by enabling group home residents, or
41 their authorized representatives, to cooperatively and collectively
42 decide whether to allow for the installation and use of video
43 monitoring devices in the common areas of the group homes, and to
44 individually decide whether to allow for the installation and use of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHU committee amendments adopted December 10, 2020.

²Assembly AAP committee amendments adopted March 17, 2021.

1 video monitoring devices in the private residential room of each
2 such resident, so that the treatment of such residents can be
3 recorded and instances of abuse, neglect, or exploitation
4 documented with video evidence.

5 f. ²The use of video surveillance in group homes will enable
6 consenting residents and their authorized representatives to more
7 proactively and effectively review and ensure the propriety of care
8 that is being provided to such residents and will further enable the
9 State, licensed service providers, and whistleblowers to more easily
10 verify, and obtain evidence to substantiate or refute, allegations of
11 abuse, neglect, and exploitation occurring in group homes.

12 g. ² The State recognizes that each individual with
13 developmental disabilities is unique and has differing needs and
14 preferences, and that, while some group home residents and their
15 authorized representatives may consent to the use of video
16 surveillance to better ensure the residents' safety, others may refuse
17 to consent to such video surveillance.

18 ²[g.] h. ² Through the enactment of this act, it is the intent of
19 the Legislature to make video monitoring technology more readily
20 available in group home settings, while taking great care to strike
21 the important and delicate balance between protecting the privacy
22 rights and protecting the overall well-being of group home
23 residents. ²By increasing the availability of video monitoring
24 technology in group homes, the Legislature intends to: (1) make it
25 easier for residents and their authorized representatives to monitor
26 the residents' care, if they so choose; (2) make it easier for
27 concerned family members and whistleblowers to file and
28 substantiate complaints of abuse, neglect, exploitation, or other
29 improper care or treatment involving group home residents; and (3)
30 improve the ability of the State and of individual licensees to verify
31 and appropriately respond to such complaints.²

32 ²[h.] i. ² This act is dedicated to William "Billy" Cray, a 33-
33 year-old with developmental disabilities who, on a Sunday morning
34 in January 2017, was inexplicably found dead on the floor of his
35 bedroom in a West Deptford group home, operated by Devereux
36 Advanced Behavioral Health New Jersey, where he resided. Billy
37 Cray, who had suffered from institutional abuse since he was a
38 child, was the son of Martha Cray, a dedicated and long-time
39 advocate for persons with developmental disabilities. For many
40 years, both preceding and following her son's death, Martha Cray
41 has continued to work tirelessly to advance legislation protecting
42 the rights and safety of individuals with developmental disabilities,
43 particularly those residing in group homes. She was particularly
44 instrumental in facilitating the passage of "Stephen Komninos'
45 Law," P.L.2017, c.238 (C.30:6D-9.1), which provides for the
46 heightened scrutiny of group homes by requiring more frequent,
47 unannounced oversight visits, and which requires group homes to

1 provide prompt notice of injury to the parent or guardian of an
2 injured resident.

3 ²[i.] j.² Billy Cray's death is yet another reminder of why the
4 State needs to continue its work both to strengthen oversight of
5 group homes for individuals with developmental disabilities and to
6 further facilitate and enhance the ability of group home residents
7 and their family members or guardians, as the case may be, to take
8 affirmative steps to protect the rights and safety of residents and
9 promptly and appropriately respond to resident injuries and other
10 concerning incidents occurring in the group homes. By enabling
11 group home residents with developmental disabilities and their
12 authorized representatives to use video-based electronic monitoring
13 to protect against, provide documentary evidence of, and ensure a
14 prompt and adequate response to, any abuse, neglect, and
15 exploitation occurring in the group home, the Legislature can
16 further preserve the rights and safety of group home residents and
17 facilitate the proactive prevention of deaths like Billy Cray's.¹

18
19 2. As used in this act:

20 "Authorized representative" means a group home resident's
21 court-appointed guardian of the person or, if there is no guardian of
22 the person, the person who holds a valid power of attorney or is
23 otherwise legally authorized to act as the representative of the group
24 home resident for the purposes of making decisions related to the
25 resident's care and living arrangements. "Authorized
26 representative" does not include a caregiver or any other person
27 who is employed or contracted, on a paid or unpaid basis, by the
28 group home licensee.

29 ²"Commissioner" means the Commissioner of Human Services.²

30 "Common areas" means the living areas, dining areas, entrances,
31 outdoor areas, stairwells, and any other areas within a group home,
32 except bathrooms, which are commonly and communally accessible
33 to all residents, and are not dedicated for private use by a particular
34 resident.

35 "Division" means the Division of Developmental Disabilities in
36 the Department of Human Services.

37 ²"Department" means the Department of Human Services.

38 "Disclose" means the same as that term is defined by subsection
39 c. of section 1 of P.L.2003, c.206 (C.2C:14-9).²

40 "Electronic monitoring device" means a camera or other
41 electronic device that uses video, but not audio, recording
42 capabilities to monitor the activities taking place in the area where
43 the device is installed.

44 "Group home" means a living arrangement that is licensed by the
45 division, and is operated in a residence or residences leased or
46 owned by a licensee; which living arrangement either provides the
47 opportunity for multiple adults with developmental disabilities to
48 live together in a ²home, sharing in chores and the overall

1 management of the residence,¹ non-institutional, home-based
2 setting² or provides the opportunity for a single adult with
3 developmental disabilities and extreme behavioral difficulties to
4 live more independently², outside of an institution,² while ²still²
5 receiving full-time care²~~],~~² and in which on-site staff provides
6 supervision, training, or assistance, in a variety of forms and
7 intensity, as required to ²prevent or delay the institutionalization of
8 the individual or individuals residing in the home or to otherwise²
9 assist the individual or individuals as they move toward
10 independence. “Group home” does not include a living
11 arrangement that is dedicated for use by children with
12 developmental disabilities.

13 “Licensee” means an individual, partnership, or corporation that
14 is licensed by the division, and is ²~~]~~²responsible for providing
15 services associated with the operation of~~],~~ contracted, or otherwise
16 authorized to operate² a group home ²in the State².

17 “Private room” means the private bedroom of a group home
18 resident.

19 “Private single occupancy room” means a private room that is
20 occupied by only a single group home resident.

21 “Private double occupancy room” means a private room that is
22 occupied by two or more group home residents.

23

24 3. a. A group home that does not have electronic monitoring
25 devices already installed in the group home’s common areas shall
26 be required to install electronic monitoring devices in those
27 common areas, upon the collective request of the residents and the
28 residents’ authorized representatives, if all of the residents of the
29 group home and their authorized representatives agree to have such
30 electronic monitoring devices installed and expressly consent to the
31 installation and use of such devices. A licensee shall not require
32 current residents to consent to the installation and use of electronic
33 monitoring devices in the common areas as a condition of their
34 continued residency in the group home. Each licensee operating a
35 group home that does not have electronic monitoring devices
36 already installed in the common areas shall:

37 (1) within six months after the group home adopts an internal
38 electronic monitoring policy pursuant to section 5 of this act, take
39 affirmative action to determine whether the residents of the group
40 home and their authorized representatives want and ²collectively²
41 consent to have electronic monitoring devices installed and used in
42 the group home’s common areas pursuant to this section; ²~~]~~²

43 (2) annually provide written notice to all residents and their
44 authorized representatives informing them of their right to
45 ²collectively² request ²and consent to² the installation and use of
46 electronic monitoring devices in the group home’s common areas,
47 as provided by this section²; and

1 (3) install new electronic monitoring devices in the common
2 areas, and comply with the provisions of paragraphs (1) and (2) of
3 subsection b. of this section, within one year after receiving a
4 collective request from residents or their authorized representatives,
5 as provided by this subsection².

6 b. A group home that installs and uses electronic monitoring
7 devices in its common areas pursuant to the ²collective² agreement,
8 request, and consent of the residents, as provided by this section,
9 shall:

10 (1) require each person employed by the group home to provide
11 express written consent to the use of the electronic monitoring
12 devices in the group home's common areas, as a condition of the
13 person's employment;

14 (2) ensure that a prominent written notice is posted at the
15 entrance and exit doors to the home informing visitors that they will
16 be subject to electronic video monitoring while present in the home;
17 and

18 (3) ensure that, ²[in the future] following the installation of
19 electronic monitoring devices in the group home's common areas²,
20 the group home ²[only]² allows residence ²only² by those
21 individuals who consent to the ongoing use of electronic monitoring
22 devices in the group home's common areas.

23 c. An individual's refusal to agree and consent to the use of
24 electronic monitoring devices in a group home's common areas
25 shall not be used as a basis to prevent the timely placement of the
26 individual in appropriate housing without surveillance.

27 d. ¹(1)¹ Any electronic monitoring devices installed pursuant
28 to this section shall be unobstructed and recording at all times²],
29 and any]. A licensee shall inspect the devices, and shall document
30 the results of each inspection, on a weekly basis. Any² recordings
31 produced by ²[the]² devices ²in the common areas² shall ²remain
32 the property of the licensee and shall² be retained ²[by] in the
33 possession of² the ²[program] licensee² for a minimum period of
34 ¹[45] 90¹ days. ²[Each licensee shall inspect the devices, and shall
35 document the results of each inspection, on a weekly basis.]²

36 ¹(2) A resident or the resident's authorized representative shall
37 be authorized ²], upon request submitted to the licensee,]² to access
38 and review any footage that is recorded by an electronic monitoring
39 device in the common areas of the group home ², provided that the
40 person first submits a request indicating either that the resident has
41 experienced, or that the resident or authorized representative has
42 witnessed, an incident of abuse, neglect, or exploitation occurring in
43 the common areas. A group home licensee may require that a
44 resident or the resident's authorized representative remain on the
45 premises of the group home when accessing and reviewing footage
46 recorded in the common areas, as provided by this paragraph.

1 (3) A group home employee shall maintain the confidentiality of
2 each recording that is retained by the licensee pursuant to this
3 subsection and shall not disclose any such recording to any person
4 who is not authorized, by paragraph (2) of this subsection or by
5 other applicable law, to receive or review the recording. Any group
6 home employee who, in violation of the provisions of this
7 paragraph, discloses a recording to a person not authorized by law
8 to receive or review it shall be guilty of a crime of the fourth
9 degree.

10 (4) Nothing in this subsection shall be deemed to prohibit a
11 group home employee from disclosing a recording produced in the
12 common areas, upon request or otherwise, to a State or local law
13 enforcement agency or officer or to any other person who is
14 authorized by law to investigate, prosecute, or take other official
15 remedial action in response to alleged instances of abuse, neglect,
16 exploitation, or other improper care or treatment occurring in the
17 common areas^{2, 1}

18 e. The Department of Human Services shall annually conduct
19 an on-site device inspection at each group home^{2, 1} in order to
20 ensure that any electronic monitoring devices installed in the
21 common areas are functioning properly, as required by subsection
22 d. of this section. The department may elect to conduct the on-site
23 device inspection required by this subsection as part of ²the a²
24 broadier inspection ²of each group home² that ²it² is ²required
25 to perform ²being performed thereby² under section 8 of P.L.2017,
26 c.328 (C.30:11B-4.3) ²or under any other applicable provision of
27 law².

28 f. ²Nothing in this section shall be deemed to prohibit a group
29 home licensee from installing and utilizing electronic monitoring
30 devices in the group home's common areas, pursuant to the group
31 home's internal policies, in cases where the group home's residents
32 have not submitted a collective request for such monitoring ²All of
33 the costs associated with the installation and use of electronic
34 monitoring devices in the common areas of a group home, as
35 authorized by this section, shall be paid by the licensee.

36 g. A group home that has electronic monitoring devices
37 installed in the common areas shall remove those electronic
38 monitoring devices from service, as provided by this subsection, if
39 all of the residents of the group home and their authorized
40 representatives collectively agree to, and request, the removal of the
41 electronic monitoring devices from the common areas. Each
42 licensee operating a group home that has electronic monitoring
43 devices installed in the common areas shall:

44 (1) if the electronic monitoring devices were already in
45 operation as of the effective date of this act, take affirmative action,
46 within six months after the effective date of this act, to determine
47 whether the residents of the group home and their authorized
48 representatives want, and collectively agree, to have the existing

1 electronic monitoring devices removed from the common areas. If
2 the residents do not collectively agree to the removal of the devices,
3 the licensee shall be authorized to: (a) continue using such devices
4 in the common areas, in accordance with the group home's internal
5 policies, as provided by section 7 of this act; and (b) accept, as new
6 residents, only those persons who consent to the ongoing use of the
7 devices in the common areas;

8 (2) if the electronic monitoring devices were not in operation as
9 of the effective date of this act or were in operation, but were
10 removed from service pursuant to the collective agreement of
11 residents, as provided by paragraph (1) of this subsection, provide
12 written notice to all residents and their authorized representatives,
13 within 10 days after electronic monitoring devices are newly placed
14 into operation in the common areas pursuant to this section, and
15 annually thereafter, informing the residents and their authorized
16 representatives of their right to collectively request the removal of
17 existing electronic monitoring devices from the group home's
18 common areas; and

19 (3) remove any existing electronic monitoring devices from
20 service in the common areas within one year after a collective
21 request therefor is submitted by residents pursuant to this
22 subsection².

23
24 4. a. A group home for individuals with developmental
25 disabilities shall permit electronic monitoring devices to be
26 installed and used in a resident's private room, as provided by this
27 section, for the purposes of monitoring the resident's in-room care,
28 treatment, and living conditions. Each licensee shall:

29 (1) within six months after the effective date of this act, and
30 annually thereafter, provide written notice to all residents, and to
31 their authorized representatives, informing them of their right to
32 install and use electronic monitoring devices in the residents'
33 private rooms, as provided by this section, and articulating the
34 notice requirements that are to be satisfied, pursuant to subsection
35 b. of this section, before an electronic monitoring device may be
36 installed and used in a private single occupancy room, and the
37 consent requirements that are to be satisfied, pursuant to subsection
38 c. of this section, before an electronic monitoring device may be
39 installed and used in a private double occupancy room;

40 (2) ensure that reasonable accommodations are made, as
41 necessary, to enable the authorized use of electronic monitoring
42 devices in private rooms, as provided by this section; and

43 (3) 'whenever a resident or the resident's authorized
44 representative seeks to install an electronic monitoring device in the
45 resident's private room,'¹ provide '【written notice to】'
46 '【relevant】' resident'【.】'¹ or the resident's authorized
47 representative, 'as appropriate, with written notice'¹ of any
48 applicable installation or building construction requirements or

1 restrictions with which the resident must comply when installing
2 and using an electronic monitoring device in the private room.
3 Such notice shall be provided within 10 days after the licensee
4 receives notice of the resident's intent to install electronic
5 monitoring devices in a single occupancy room under subsection b.
6 of this section or within 10 days after the licensee receives a
7 resident's request for electronic monitoring of a double occupancy
8 room under subsection c. of this section.

9 b. (1) The installation and use of electronic monitoring devices
10 in a private single occupancy room: (a) shall be noncompulsory;
11 and (b) may be done by the resident or the resident's authorized
12 representative, at any time, following the resident's provision of
13 notice to the licensee pursuant to paragraph (2) of this subsection.

14 (2) Any person who wishes to install and utilize electronic
15 monitoring devices in a resident's private single occupancy room
16 shall provide the licensee with a written notice of intent at least 15
17 days prior to installation of the devices, and shall comply with any
18 installation or building construction constraints that are identified
19 by the licensee in the notice that is provided to the resident pursuant
20 to paragraph (3) of subsection a. of this section.

21 (3) Any resident who provides a notice of intent to install
22 electronic monitoring devices in a private single occupancy room,
23 or who so installs such devices, shall be deemed to have implicitly
24 consented to electronic monitoring in the private room.

25 c. (1) The installation and use of electronic monitoring devices
26 in a private double occupancy room shall: (a) be noncompulsory;
27 (b) be conditioned upon the licensee's receipt of written consent to
28 such monitoring from all roommates of the resident who is
29 requesting the monitoring, or from the roommates' authorized
30 representative, as appropriate; and (c) to the extent practicable,
31 protect the privacy rights of all roommates of the resident who is
32 requesting the monitoring.

33 (2) The roommate of a resident who requests electronic
34 monitoring of a double occupancy room, or the roommate's
35 authorized representative, may place conditions on his or her
36 consent to the use of electronic monitoring devices within the
37 private double occupancy room, including conditions that require
38 the electronic monitoring devices to be pointed away from the
39 consenting roommate at all times during operation, or at certain
40 specified times. The roommate's consent to electronic monitoring,
41 and any conditions on a roommate's consent that are established
42 pursuant to this paragraph, shall be memorialized in an electronic
43 monitoring agreement that is executed between the consenting
44 roommate and the resident who requested the monitoring, or
45 between their authorized representatives, as appropriate. The
46 licensee, either through its own activities, or through the activities
47 of a third party, shall ensure that the conditions established in the
48 agreement are followed.

1 (3) Each resident, or the authorized representative thereof, who
2 wishes to install and use an electronic monitoring device in a
3 double occupancy private room, shall file with the licensee: (a) a
4 signed form, developed by the division, formally requesting and
5 giving the resident's express consent for the installation and use of
6 one or more electronic monitoring devices in the double occupancy
7 room; and (b) a copy of the electronic monitoring agreement that
8 has been executed between the resident and the resident's roommate
9 pursuant to paragraph (2) of this subsection, or, if the roommate or
10 the roommate's authorized representative has refused to consent to
11 electronic monitoring of the private room, a copy of the consent
12 declination form that has been signed by the roommate or the
13 roommate's authorized representative.

14 (4) The installation and use of electronic monitoring devices in a
15 private double occupancy room shall be done in compliance with
16 any installation or building construction constraints that are
17 identified by the licensee in the notice that is provided to the
18 resident pursuant to paragraph (3) of subsection a. of this section.

19 d. If a resident's roommate or the roommate's authorized
20 representative, as appropriate, refuses to consent to the installation
21 and use of an electronic monitoring device in a private double
22 occupancy room, or if the licensee is unable to ensure compliance
23 with the conditions on such installation and use that are imposed by
24 a consenting roommate or the roommate's authorized representative
25 in the agreement executed pursuant to paragraph (2) of subsection c.
26 of this section, the licensee shall, within a reasonable period of
27 time, and to the extent practicable, transfer the resident requesting
28 the installation of the device to a different private room, in order to
29 accommodate the resident's request for private monitoring. If a
30 request for private monitoring cannot be accommodated, the
31 resident or the resident's authorized representative may notify the
32 division, in which case, the division shall make every reasonable
33 attempt to timely transfer the resident to a group home that can
34 accommodate the request.

35 e. A licensee shall not refuse to admit an individual to a group
36 home, and shall not transfer or remove an individual from a group
37 home, except as otherwise provided by subsection d. of this section,
38 on the basis that the individual, or the individual's authorized
39 representative, has requested electronic monitoring of the
40 individual's private room, as authorized by this section.

41 f. A licensee shall ensure that a prominent written notice is
42 posted on the entry door to any private room wherein electronic
43 monitoring devices are installed and used pursuant to this section.
44 The notice shall indicate that an electronic monitoring device has
45 been installed in the room, and that visitors will be subject to
46 electronic video monitoring while present therein.

47 g. All of the costs associated with installation and maintenance
48 of an electronic monitoring device in the private room of a resident

1 shall be paid by the resident who requested the monitoring, or by
2 the authorized representative thereof.

3 ¹h. (1) Any recordings produced by an electronic monitoring
4 device that has been installed in a private room, pursuant to this
5 section, shall remain the property, and shall be retained in the
6 possession, of the resident or the authorized representative who
7 installed the electronic monitoring device in the private room.

8 (2) A licensee shall not be authorized to require a resident or the
9 resident's authorized representative, as a condition of installing or
10 using an electronic monitoring device in the resident's private
11 room, to turn over to the licensee, or to otherwise allow the licensee
12 to access or review, any recordings that are produced by the
13 electronic monitoring device in the private room.

14 (3) Whenever an electronic monitoring device is proposed to be
15 installed in a private double occupancy room, pursuant to this
16 section, the consenting roommate or authorized representative
17 thereof, as the case may be, may elect to provide that, as a condition
18 of the installation and ongoing use of the device in the room, the
19 roommate and the roommate's authorized representative shall have
20 the right and ability to access and review any recordings that are
21 produced by the device, upon request submitted to the resident or
22 authorized representative who owns the device. This condition on
23 the installation and use of an electronic monitoring device in a
24 private double occupancy room, if elected by a consenting
25 roommate or the roommate's authorized representative, shall be
26 memorialized in the electronic monitoring agreement that is
27 executed pursuant to paragraph (2) of subsection c. of this section.
28 Any such electronic monitoring agreement shall also describe the
29 procedures or protocols that are to be used by the owner of the
30 device to ensure that the consenting roommate or the authorized
31 representative thereof, as the case may be, is provided with timely
32 access to all relevant footage recorded by the device, upon
33 submission of a request therefor.¹

34 ²(4) An authorized representative who installs an electronic
35 monitoring device in a private single-occupancy or double-
36 occupancy room, and each resident of a private double-occupancy
37 room where an electronic monitoring device has been installed,
38 shall maintain the confidentiality of each recording produced by the
39 installed device and shall not disclose any such recording to any
40 person who is not authorized by paragraph (3) of this subsection, by
41 subsection c. of section 5 of this act, or by other applicable law to
42 receive or review the recording. Any resident or authorized
43 representative who, in violation of the provisions of this paragraph,
44 discloses a recording to a person not authorized by law to receive or
45 review it shall be guilty of a crime of the fourth degree.

46 (5) Nothing in this subsection shall be deemed to prohibit a
47 resident or the authorized representative thereof from disclosing a
48 recording produced in the resident's private room, upon request or

1 otherwise, to a State or local law enforcement agency or officer or
2 to any other person who is authorized by law to investigate,
3 prosecute, or take other official remedial action in response to
4 alleged incidents of abuse, neglect, exploitation, or other improper
5 care or treatment occurring in the private room.

6 i. (1) A resident, or the authorized representative thereof, who
7 installs an electronic monitoring device in a private single-
8 occupancy room or private double-occupancy room, as provided by
9 this section, shall be authorized to remove the device from service
10 at any time following its installation. Any resident or authorized
11 representative who removes an electronic monitoring device
12 pursuant to this subsection shall provide written notice of such
13 removal, to the licensee, within 48 hours after the device is
14 removed from service.

15 (2) Whenever the roommate of a resident, or the roommate's
16 authorized representative, revokes the roommate's previously
17 granted consent for the use of electronic monitoring devices in a
18 private double-occupancy room, the licensee shall transfer the
19 resident who installed the devices to another private room, if
20 possible, or to another group home, if necessary, in accordance with
21 the provisions of subsection d. of this section, to accommodate the
22 resident's preexisting request for electronic monitoring.²

23
24 5. a. (1) Within 90 days after the effective date of this act, the
25 division, in consultation with the Ombudsman for Individuals with
26 Intellectual or Developmental Disabilities and Their Families, the
27 New Jersey Council on Developmental Disabilities, and the group
28 home provider community, shall establish and publish guidelines
29 for the development of internal policies pursuant to this section.

30 (2) Within 180 days after the publication of guidelines pursuant
31 to paragraph (1) of this subsection, each licensee shall develop and
32 submit to the division a written internal policy specifying the
33 procedures and protocols that are to be used by facility staff when
34 installing and utilizing electronic monitoring devices as provided by
35 this act.

36 b. An internal electronic monitoring policy established
37 pursuant to this section shall:

38 (1) describe the procedures and protocols that are to be used:
39 (a) when obtaining consent from residents and facility staff for the
40 use of electronic monitoring devices in a group home's common
41 areas, as provided by section 3 of this act; ²**[and]**² (b) when
42 obtaining consent from residents and roommates for the use of
43 electronic monitoring devices in private double occupancy rooms,
44 as provided by subsection c. of section 4 of this act²; (c) when
45 removing, and providing notice to residents about their right to
46 collectively request the removal of, electronic monitoring devices
47 from the common areas, as provided by subsection g. of section 3 of
48 this act; and (d) when transferring a resident whose request for

1 electronic monitoring in a private double-occupancy room cannot
2 be accommodated, due either to conditions imposed or the
3 declination or revocation of consent by the resident's roommate, as
4 provided by subsection d. and paragraph (2) of subsection i. of
5 section 4 of this act²;

6 (2) ²identify the make and model of electronic monitoring
7 devices that may be installed and used within the group home for
8 the purposes of this act. The policy shall authorize the use of
9 multiple types of electronic monitoring devices for these purposes;

10 (3) indicate how the licensee will ensure the proper installation,
11 positioning, and use of EMDs in a private double-occupancy room,
12 in a manner that is consistent with all conditions established by the
13 consenting roommate, and establish protocols and procedures to be
14 used by the licensee when an EMD in a private double-occupancy
15 room makes an unauthorized recording of the roommate; and

16 (4)² describe the procedures and protocols that are to be used in
17 the review of footage recorded by electronic monitoring devices in
18 the group ²["home's common areas"] home². The procedures and
19 protocols adopted pursuant to this paragraph shall, at a
20 minimum²[""]: (a)² reflect the requirements of subsection c. of this
21 section; ²and

22 (3)² identify the persons who will have access to footage
23 recorded by electronic monitoring devices installed in the group
24 home's common areas and private rooms²[""], and the circumstances
25 under which recorded footage will be subject to review by such
26 persons²[""]; and

27 (c) establish the standards that shall identify, at a minimum, the
28 types of information that will constitute incidents of abuse, neglect,
29 or exploitation, as required under paragraph (2) of subsection d. of
30 section 3 of this act to be submitted by a resident or the resident's
31 authorized representative in order to receive authorization to access
32 and review any footage that is recorded by an electronic monitoring
33 device in the common areas of the group home².

34 c. Whenever a licensee receives notice about a complaint,
35 allegation, or reported incident of abuse, neglect, or exploitation
36 occurring within the group home, the licensee shall forward to the
37 division, for appropriate review, any and all potentially relevant
38 footage recorded by electronic monitoring devices in²: (1)² the
39 ²common areas of the ²group ²["home's common areas"] home; (2)
40 the private room of the resident who is the alleged victim of the
41 abuse, neglect, or exploitation; and (3) any other private room
42 where the abuse, neglect, or exploitation is alleged to have
43 occurred. Notwithstanding the provisions of subsection h. of
44 section 4 of this act to the contrary, any resident or authorized
45 representative who is in possession of potentially relevant footage
46 related to an incident of abuse, neglect, or exploitation, as provided
47 by this subsection, shall be required to turn over the pertinent

1 recording or recordings to the licensee, upon request, for
2 transmission to the division in accordance with the provisions of
3 this subsection. However, nothing in this subsection shall be
4 deemed to authorize the licensee to review, or to make copies of,
5 any footage contained on any such recordings, absent the express
6 written consent of the resident or authorized representative².

7
8 6. a. The division shall:

9 (1) develop, and provide to each licensee, consent forms that are
10 to be filled out and signed by individuals who consent to, or
11 request, electronic monitoring under section 3 or subsection c. of
12 section 4 of this act, and consent declination forms that are to be
13 filled out and signed by individuals who refuse to consent to such
14 electronic monitoring; and

15 (2) develop, and post on its Internet website, standardized notice
16 of intent forms that a group home resident and the resident's
17 authorized representative may elect to use when providing a
18 licensee with a notice of intent to engage in electronic monitoring
19 of a private single occupancy room, as required by subsection b. of
20 section 4 of this act.

21 b. Consent forms and consent declination forms filed under
22 section 3 or subsection c. of section 4 of this act, and notices of
23 intent filed under subsection b. of section 4 of this act, shall be
24 retained by the licensee for a period of time to be determined by the
25 division.

26 c. When seeking to obtain consent from residents for electronic
27 monitoring, as required by this act, a licensee shall comply with
28 best practices that apply to professional interactions or
29 communications being undertaken with persons with developmental
30 disabilities, and particularly, with those persons who have difficulty
31 with communication or understanding.

32 d. The division may establish additional consent or consent
33 declination requirements, for the purposes of this act, as deemed by
34 the division to be necessary.

35
36 7. Notwithstanding the provisions of this act to the contrary, if,
37 as of the effective date of this act, a licensee has already installed
38 and is utilizing electronic monitoring devices in a group home's
39 common areas or private rooms, the licensee may continue to utilize
40 the devices so installed, in accordance with the licensee's written
41 internal policies; ²~~shall not be required to remove the devices from~~
42 ~~service; and~~² shall not be required to comply with the provisions
43 of this act in order to continue utilizing the previously ²~~[-]~~²
44 installed devices ²; and shall not be required to remove the existing
45 devices from service, except as provided by paragraph (1) of
46 subsection g. of section 3 of this act². However, to the extent that a
47 group home's common areas or private rooms do not contain
48 electronic monitoring devices on the effective date of this act, the

1 licensee shall comply with the provisions of section 3 and 4 of this
2 act, as applicable, when installing and utilizing new electronic
3 monitoring devices in such unmonitored areas.

4
5 8. a. Any licensee that fails to comply with the provisions of
6 this act shall be subject to a penalty of \$5,000 for the first offense,
7 and a penalty of \$10,000 for the second or subsequent offense, to be
8 collected with costs in a summary proceeding, pursuant to the
9 “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10
10 et seq.), as well as an appropriate administrative penalty, the
11 amount of which shall be determined by the division.

12 b. A group home licensee shall not be subject to penalties,
13 under this section, or ²~~to~~² any other disciplinary action²~~,~~² for
14 failing to comply with the requirements of section 3 or 4 of this act,
15 as applicable, if the group home licensee establishes, through
16 documentation or otherwise, that ²~~electronic monitoring devices~~
17 were installed and being utilized in the group home’s common areas
18 or private rooms, or both, as of the effective date of this act the
19 licensee is exempt from compliance with those requirements², as
20 provided by section 7 of this act ²~~,~~ and that the group home is,
21 therefore, exempt from compliance with the requirements of section
22 3 or section 4 of this act, as appropriate².

23
24 9. a. Within five years after the effective date of this act, the
25 division shall prepare and submit to the Governor, and, pursuant to
26 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a
27 written report that:

28 (1) identifies best practices for the installation and use of
29 electronic monitoring devices under this act;

30 (2) identifies best practices and provides recommendations
31 regarding the obtaining of informed consent for electronic
32 monitoring, as provided by this act; and

33 (3) provides recommendations for the implementation of new
34 legislation, policies, protocols, and procedures related to the use of
35 electronic monitoring devices in group homes.

36 b. The ²~~Commissioner of Human Services~~ commissioner², in
37 consultation with the assistant commissioner of the division, shall¹:

38 (1)¹ annually prepare and submit to the Governor, and, pursuant
39 to section 2 of P.L.1991, c.164 (C.52:14-19.1 et seq.), to the
40 Legislature, a written report describing how this act has been
41 implemented in the State. Each annual report shall include, at a
42 minimum:

43 ¹~~[(1)]~~ (a)¹ a list of group homes that are currently using
44 electronic monitoring devices in the common areas;

45 ¹~~[(2)]~~ (b)¹ a list of group homes that have not installed
46 electronic monitoring devices in the common areas;

1 ¹[(3)] (c)¹ to the extent known, a list of group homes that have
 2 failed to install and use electronic monitoring devices in the
 3 common areas upon the request of the residents, as provided by
 4 section 3 of this act, despite the licensee's receipt of uniform
 5 resident consent authorizing such monitoring, and an indication of
 6 the penalties that were imposed under section 8 of this act in
 7 response to such failures;

8 ¹[(4)] (d)¹ a list of group homes that are exempt from
 9 compliance with the provisions of section 3 or 4 of this act, as
 10 provided by section 7 of this act;

11 ¹[(5)] (e) a list of group homes that have authorized the use of
 12 electronic monitoring devices in the private rooms of one or more
 13 residents, and¹ an indication of the number and percentage of
 14 private single occupancy rooms ¹and private double occupancy
 15 rooms in each such facility¹ where electronic monitoring devices
 16 are installed and ¹being¹ used, as provided by ¹[(subsection]
 17 subsections¹ b. ¹and c.¹ of section 4 of this act¹], and the number
 18 and percentage of private double occupancy rooms where electronic
 19 monitoring devices are installed and used, as provided by
 20 subsection c. of section 4 of this act¹;

21 ²(f) a list of group homes that have removed electronic
 22 monitoring devices from the common areas, pursuant to the
 23 collective request of residents, as provided by subsection g. of
 24 section 3 of this act;

25 (g) to the extent known, a list of group homes that have failed to
 26 remove electronic monitoring devices from the common areas,
 27 pursuant to subsection g. of section 3 of this act, despite the
 28 licensee's receipt of a collective request from residents, and an
 29 indication of the penalties that were imposed under section 8 of this
 30 act in response to such failures;² and

31 ¹[(6)] ²[(f)¹] (h)² recommendations for legislative, executive,
 32 or other action that can be taken to improve compliance with the
 33 act's provisions, or to otherwise expand the consensual use of
 34 electronic monitoring devices in group homes¹; and

35 (2) post, at a publicly accessible location on the²[(Department
 36 of Human Services'] department's² Internet website, the various
 37 lists of group homes produced under paragraph (1) of this
 38 subsection, and annually update the website to ensure that each list
 39 contains the most current data reported pursuant to this subsection.
 40 Each list posted online shall be searchable by location and by name
 41 of group home¹.

42 c. The Ombudsman for Individuals with Intellectual or
 43 Developmental Disabilities and Their Families shall include, in
 44 each of the ombudsman's annual reports prepared pursuant to
 45 section 3 of P.L.2017, c.269 (C.30:1AA-9.3), a section evaluating
 46 the implementation of this act and providing recommendations for
 47 improvement.

1 10. The Commissioner of Human Services, in consultation with
2 the assistant commissioner of the division, shall adopt rules and
3 regulations, pursuant to the “Administrative Procedure Act,”
4 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
5 effectuate the provisions of this act.

6
7 11. This act shall take effect on the first day of the third month
8 next following the date of enactment.