

[Third 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:**

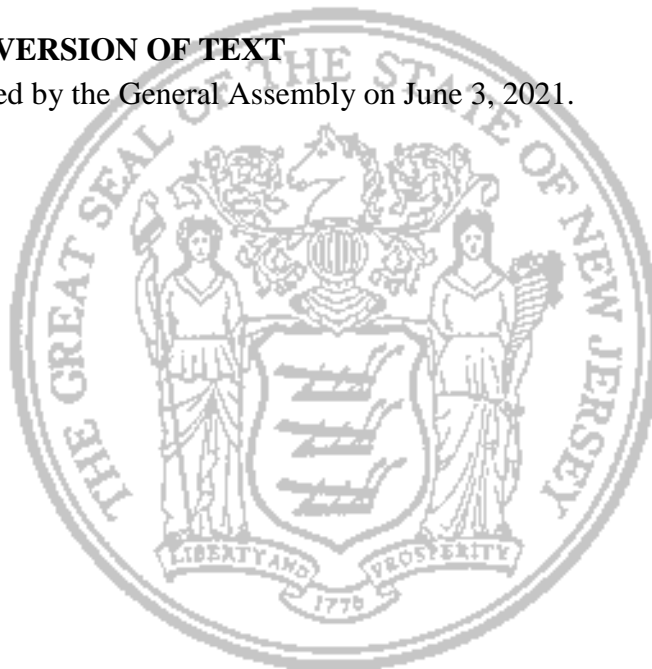
**Assemblymen DePhillips, Rooney, Assemblywoman Stanfield,  
Assemblymen McGuckin, Catalano, Chiaravalloti and Caputo**

**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 amended by the General Assembly on June 3, 2021.



**(Sponsorship Updated As Of: 6/21/2021)**

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. <sup>1</sup>**[**This act shall be known, and may be cited, as “Billy Cray’s  
10 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, guardians,  
13 and other persons.

14 b. Group homes for individuals with developmental disabilities  
15 admirably enable these individuals to live more independently within a  
16 non-institutional setting; however, the lack of institutional controls and  
17 oversight at these homes ultimately makes it harder for the State, for  
18 individual group home operators, and for concerned family members  
19 to promptly identify and respond to wrongdoing that may be  
20 committed by caregivers, guardians, group home employees, and other  
21 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 all  
31 times, to the greatest extent practicable; however, just as is true of all  
32 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 agreeing  
36 to video surveillance, as deemed by the individual or the authorized  
37 representative to be appropriate. <sup>3</sup>The provisions of this act are  
38 consistent with federal regulations pertaining to community-based  
39 services, particularly regulations which protect an individual's right to  
40 privacy, dignity, respect, and freedom from coercion and restraint.<sup>3</sup>

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

**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:

<sup>1</sup>Assembly AHU committee amendments adopted December 10, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted March 17, 2021.

<sup>3</sup>Assembly floor amendments adopted June 3, 2021.

1 devices in the common areas of the group homes, and to individually  
2 decide whether to allow for the installation and use of video  
3 monitoring devices in the private residential room of each such  
4 resident, so that the treatment of such residents can be recorded and  
5 instances of abuse, neglect, or exploitation documented with video  
6 evidence.

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

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

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

33 <sup>2</sup>[h.] i.<sup>2</sup> This act is dedicated to William "Billy" Cray, a 33-  
34 year-old with developmental disabilities who, on a Sunday morning in  
35 <sup>3</sup>[January] August<sup>3</sup> 2017, was inexplicably found dead on the floor  
36 of his bedroom <sup>3</sup>closet<sup>3</sup> in a <sup>3</sup>[West Deptford] Somers Point<sup>3</sup> group  
37 home, operated by Devereux Advanced Behavioral Health New  
38 Jersey, where he resided. Billy Cray, who had suffered from  
39 institutional abuse since he was a child, was the son of Martha Cray, a  
40 dedicated and long-time advocate for persons with developmental  
41 disabilities. For many years, both preceding and following her son's  
42 death, Martha Cray has continued to work tirelessly to advance  
43 legislation protecting the rights and safety of individuals with  
44 developmental disabilities, particularly those residing in group homes.  
45 She was particularly instrumental in facilitating the passage of  
46 "Stephen Komminos' Law," P.L.2017, c.238 (C.30:6D-9.1), which  
47 provides for the heightened scrutiny of group homes by requiring more  
48 frequent, unannounced oversight visits, and which requires group

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

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

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 <sup>2</sup>"Commissioner" means the Commissioner of Human Services.<sup>2</sup>

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 <sup>2</sup>"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).<sup>2</sup>

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 <sup>2</sup>home, sharing in chores and the overall

1 management of the residence,] non-institutional, home-based  
2 setting<sup>2</sup> or provides the opportunity for a single adult with  
3 developmental disabilities and extreme behavioral difficulties to  
4 live more independently<sup>2</sup>, outside of an institution,<sup>2</sup> while still<sup>2</sup>  
5 receiving full-time care<sup>2</sup> [, ]<sup>2</sup> and in which on-site staff provides  
6 supervision, training, or assistance, in a variety of forms and  
7 intensity, as required to prevent or delay the institutionalization of  
8 the individual or individuals residing in the home or to otherwise<sup>2</sup>  
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 <sup>2</sup>[ ]<sup>2</sup> responsible for providing  
15 services associated with the operation of ]<sup>2</sup>, contracted, or otherwise  
16 authorized to operate<sup>2</sup> a group home <sup>2</sup>in the State<sup>2</sup>.

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 <sup>2</sup>collectively<sup>2</sup>  
41 consent to have electronic monitoring devices installed and used in  
42 the group home’s common areas pursuant to this section; <sup>2</sup>[and]<sup>2</sup>

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

6       b. A group home that installs and uses electronic monitoring  
7 devices in its common areas pursuant to the <sup>2</sup>collective<sup>2</sup> 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, <sup>2</sup>[in the future] following the installation of  
19 electronic monitoring devices in the group home's common areas<sup>2</sup>,  
20 the group home <sup>2</sup>[only]<sup>2</sup> allows residence <sup>2</sup>only<sup>2</sup> 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. <sup>1</sup>(1)<sup>1</sup> Any electronic monitoring devices installed pursuant  
28 to this section shall be unobstructed and recording at all times<sup>2</sup>],  
29 and any]. A licensee shall inspect the devices, and shall document  
30 the results of each inspection, on a weekly basis. Any<sup>2</sup> recordings  
31 produced by <sup>2</sup>[the]<sup>2</sup> devices <sup>2</sup>in the common areas<sup>2</sup> shall <sup>2</sup>remain  
32 the property of the licensee and shall<sup>2</sup> be retained <sup>2</sup>[by] in the  
33 possession of<sup>2</sup> the <sup>2</sup>[program] licensee<sup>2</sup> for a minimum period of  
34 <sup>1</sup>[45] <sup>1</sup>90 days. <sup>2</sup>[Each licensee shall inspect the devices, and shall  
35 document the results of each inspection, on a weekly basis.]<sup>2</sup>

36       <sup>1</sup>(2) A resident or the resident's authorized representative shall  
37 be authorized <sup>2</sup>], upon request submitted to the licensee,]<sup>2</sup> to access  
38 and review any footage that is recorded by an electronic monitoring  
39 device in the common areas of the group home <sup>2</sup>, 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<sup>2, 1</sup>

18       e. The Department of Human Services shall annually conduct  
19 an on-site device inspection at each group home<sup>2</sup>~~[,]~~<sup>2</sup> 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 <sup>2</sup>~~the] a~~<sup>2</sup>  
24 broader inspection <sup>2</sup>~~of each group home]~~<sup>2</sup> that <sup>2</sup>~~it]~~<sup>2</sup> is <sup>2</sup>~~required~~  
25 ~~to perform]~~ being performed thereby<sup>2</sup> under section 8 of P.L.2017,  
26 c.328 (C.30:11B-4.3) <sup>2</sup>or under any other applicable provision of  
27 law<sup>2</sup>.

28       f. <sup>2</sup>~~Nothing 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]~~ All 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 subsection<sup>2</sup>.

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,<sup>1</sup> provide '【written notice to】<sup>1</sup> the  
46 '【relevant】<sup>1</sup> resident<sup>1</sup>,<sup>1</sup> or the resident's authorized  
47 representative, <sup>1</sup>as appropriate, with written notice<sup>1</sup> 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.

1 g. All of the costs associated with installation and maintenance  
2 of an electronic monitoring device in the private room of a resident  
3 shall be paid by the resident who requested the monitoring, or by  
4 the authorized representative thereof.

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

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

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

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

1       (5) Nothing in this subsection shall be deemed to prohibit a  
2 resident or the authorized representative thereof from disclosing a  
3 recording produced in the resident's private room, upon request or  
4 otherwise, to a State or local law enforcement agency or officer or  
5 to any other person who is authorized by law to investigate,  
6 prosecute, or take other official remedial action in response to  
7 alleged incidents of abuse, neglect, exploitation, or other improper  
8 care or treatment occurring in the private room.

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

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

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

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

39       b. An internal electronic monitoring policy established  
40 pursuant to this section shall:

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

1 collectively request the removal of, electronic monitoring devices  
2 from the common areas, as provided by subsection g. of section 3 of  
3 this act; and (d) when transferring a resident whose request for  
4 electronic monitoring in a private double-occupancy room cannot  
5 be accommodated, due either to conditions imposed or the  
6 declination or revocation of consent by the resident's roommate, as  
7 provided by subsection d. and paragraph (2) of subsection i. of  
8 section 4 of this act<sup>2</sup>;

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

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

19 (4)<sup>2</sup> describe the procedures and protocols that are to be used in  
20 the review of footage recorded by electronic monitoring devices in  
21 the group <sup>2</sup>[home's common areas] home<sup>2</sup>. The procedures and  
22 protocols adopted pursuant to this paragraph shall, at a  
23 minimum<sup>2</sup>[,]: (a)<sup>2</sup> reflect the requirements of subsection c. of this  
24 section; <sup>2</sup>[and

25 (3)] (b)<sup>2</sup> identify the persons who will have access to footage  
26 recorded by electronic monitoring devices installed in the group  
27 home's common areas and private rooms<sup>2</sup>[, and the circumstances  
28 under which recorded footage will be subject to review by such  
29 persons]; and

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

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

1 representative who is in possession of potentially relevant footage  
2 related to an incident of abuse, neglect, or exploitation, as provided  
3 by this subsection, shall be required to turn over the pertinent  
4 recording or recordings to the licensee, upon request, for  
5 transmission to the division in accordance with the provisions of  
6 this subsection. However, nothing in this subsection shall be  
7 deemed to authorize the licensee to review, or to make copies of,  
8 any footage contained on any such recordings, absent the express  
9 written consent of the resident or authorized representative<sup>2</sup>.

10  
11 6. a. The division shall:

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

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

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

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

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

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

1 subsection g. of section 3 of this act<sup>2</sup>. However, to the extent that a  
2 group home's common areas or private rooms do not contain  
3 electronic monitoring devices on the effective date of this act, the  
4 licensee shall comply with the provisions of section 3 and 4 of this  
5 act, as applicable, when installing and utilizing new electronic  
6 monitoring devices in such unmonitored areas.

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

15 b. A group home licensee shall not be subject to penalties,  
16 under this section, or <sup>2</sup>**[to]**<sup>2</sup> any other disciplinary action<sup>2</sup>**[,]**<sup>2</sup> for  
17 failing to comply with the requirements of section 3 or 4 of this act,  
18 as applicable, if the group home licensee establishes, through  
19 documentation or otherwise, that <sup>2</sup>**[electronic monitoring devices**  
20 were installed and being utilized in the group home's common areas  
21 or private rooms, or both, as of the effective date of this act] the  
22 licensee is exempt from compliance with those requirements<sup>2</sup>, as  
23 provided by section 7 of this act <sup>2</sup>**[**, and that the group home is,  
24 therefore, exempt from compliance with the requirements of section  
25 3 or section 4 of this act, as appropriate]<sup>2</sup>.

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

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

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

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

39 b. The <sup>2</sup>**[Commissioner of Human Services]** commissioner<sup>2</sup>, in  
40 consultation with the assistant commissioner of the division, shall <sup>1</sup>:

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

46 <sup>1</sup>**[(1)] (a)**<sup>1</sup> a list of group homes that are currently using  
47 electronic monitoring devices in the common areas;

- 1       <sup>1</sup>[(2)] (b)<sup>1</sup> a list of group homes that have not installed  
2 electronic monitoring devices in the common areas;
- 3       <sup>1</sup>[(3)] (c)<sup>1</sup> to the extent known, a list of group homes that have  
4 failed to install and use electronic monitoring devices in the  
5 common areas upon the request of the residents, as provided by  
6 section 3 of this act, despite the licensee's receipt of uniform  
7 resident consent authorizing such monitoring, and an indication of  
8 the penalties that were imposed under section 8 of this act in  
9 response to such failures;
- 10       <sup>1</sup>[(4)] (d)<sup>1</sup> a list of group homes that are exempt from  
11 compliance with the provisions of section 3 or 4 of this act, as  
12 provided by section 7 of this act;
- 13       <sup>1</sup>[(5)] (e) a list of group homes that have authorized the use of  
14 electronic monitoring devices in the private rooms of one or more  
15 residents, and<sup>1</sup> an indication of the number and percentage of  
16 private single occupancy rooms <sup>1</sup>and private double occupancy  
17 rooms in each such facility<sup>1</sup> where electronic monitoring devices  
18 are installed and <sup>1</sup>being<sup>1</sup> used, as provided by <sup>1</sup>[(subsection)]  
19 subsections<sup>1</sup> b. <sup>1</sup>and c.<sup>1</sup> of section 4 of this act<sup>1</sup>, and the number  
20 and percentage of private double occupancy rooms where electronic  
21 monitoring devices are installed and used, as provided by  
22 subsection c. of section 4 of this act<sup>1</sup>;
- 23       <sup>2</sup>(f) a list of group homes that have removed electronic  
24 monitoring devices from the common areas, pursuant to the  
25 collective request of residents, as provided by subsection g. of  
26 section 3 of this act;
- 27       (g) to the extent known, a list of group homes that have failed to  
28 remove electronic monitoring devices from the common areas,  
29 pursuant to subsection g. of section 3 of this act, despite the  
30 licensee's receipt of a collective request from residents, and an  
31 indication of the penalties that were imposed under section 8 of this  
32 act in response to such failures;<sup>2</sup> and
- 33       <sup>1</sup>[(6)] <sup>2</sup>[(f)<sup>1</sup>] (h)<sup>2</sup> recommendations for legislative, executive,  
34 or other action that can be taken to improve compliance with the  
35 act's provisions, or to otherwise expand the consensual use of  
36 electronic monitoring devices in group homes<sup>1</sup>; and
- 37       (2) post, at a publicly accessible location on the<sup>2</sup>[(Department  
38 of Human Services')] department's<sup>2</sup> Internet website, the various  
39 lists of group homes produced under paragraph (1) of this  
40 subsection, and annually update the website to ensure that each list  
41 contains the most current data reported pursuant to this subsection.  
42 Each list posted online shall be searchable by location and by name  
43 of group home<sup>1</sup>.
- 44       c. The Ombudsman for Individuals with Intellectual or  
45 Developmental Disabilities and Their Families shall include, in  
46 each of the ombudsman's annual reports prepared pursuant to  
47 section 3 of P.L.2017, c.269 (C.30:1AA-9.3), a section evaluating



1 the implementation of this act and providing recommendations for  
2 improvement.

3

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

9

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