

- B. This policy applies to all facilities licensed by the Division of Licensed Resources' (DLR) Office of Foster Care Licensing (OFCL).
- C. This policy covers the use of video cameras and auditory listening devices.
- D. This policy does not include restrictions for door monitors, window alarms, or other motion detectors.

5820. Policy

- A. Washington statutory (RCW 9.73.030) and constitutional law (U.S. Constitution Amendment 4; WA constitution, article 1, § 7) guarantee the right to privacy.
- B. The statute (RCW 9.73.030) governing the use of electronic eavesdropping devices prohibits any person from intercepting or recording any private conversation by electronic or other device, unless all persons engaged in the conversation consent to the interception or recording. Violation of this statute may result in criminal and civil sanctions.
 - 1. The Washington Constitution protects a person from government intrusion into the individual's private affairs or home without authority of law.
 - 2. The constitutional right to privacy may be invaded only if:
 - a. There is a necessary governmental purpose that justifies the intrusion; and
 - b. There is no less restrictive means available to accomplish that purpose.
- C. CA prohibits the use of video and auditory monitoring of a foster child in the child's foster/group homes unless (1) the Division of Licensed Resources (DLR) Director grants approval for the use of an electronic monitoring device in the specific foster home, and (2) the court approves implementation of the monitoring as part of the child's case plan.

5830. Definition

- A. "Electronic monitoring" means video monitoring or recording and auditory listening or recording used to either watch or listen to children as a way to monitor their behavior. "Electronic monitoring" does not include the use of listening devices to monitor:
 - 1. Infants and toddlers;
 - 2. Medically fragile or sick children;
 - 3. Video recording equipment to document actions of a child as directed in writing by the child's physician;
 - 4. Video recording for special events such as birthday parties or vacations; or
 - 5. The use of door or window alarms or motion detectors.

5840. Procedures

- A. In any case in which video or audio monitoring of a foster child is proposed, an exception to the Department's prohibition against electronic monitoring may be requested by the child's social worker.
- B. The social worker must assess the need for electronic monitoring for a specific child in a specific home by using the following steps:
 - 1. If the child does not have a therapist the social worker will:
 - a. Consult with supervisor to determine if there is sufficient evidence to justify obtaining the services of a therapist.

- b. The supervisor may convene a staffing meeting of key personnel to discuss the proposal and need for electronic monitoring in the foster home. Specifically the staffing:
 - i. Evaluates the consequences of acquiring the services of a therapist; and
 - ii. Determines if the child's circumstances require the need for electronic monitoring.
 - c. If the supervisor and/or the staffing determine a therapist is justified, a therapist is obtained to assess the child.
 - d. If it is determined the child's circumstances do not require the need for a therapist no further action is required.
2. The social worker will contact the child's therapist and convene a staffing of key personnel, including the therapist, to discuss the proposal and need for electronic monitoring in the foster home;
 - a. The therapist will determine the best method to meet the needs of the child and if there is a need for electronic monitoring. The therapist will provide a written recommendation for the child.
 - b. If the therapist determines electronic monitoring is unnecessary, no further action will be required.
 - c. The social worker sends a notice to the guardian ad litem, appropriate service providers, and the child's parents when electronic monitoring is recommended.
- C. Following receipt of the therapist's written recommendation of electronic monitoring of the child, the social worker, the recommending therapist, and the foster parents/group home staff must meet to consider and to document:
1. The reason(s) and need for the electronic monitoring of the child in the foster home;
 2. Whether less restrictive means of meeting the needs of the child are available;
 3. The least intrusive method and means of using electronic monitoring equipment to monitor the child, addressing:
 - a. A description of the equipment proposed to be used;
 - b. The location in the home where the equipment will be placed;
 - c. Who will monitor the child and how will the monitoring be accomplished.
 - d. The impact of the electronic monitoring on any other children in the foster home.
 4. If the final recommendation is for approval of electronic monitoring, the social worker must forward written documentation to the licensor of the foster/group home designated for the child. The documents will explain the decision-making factors described in paragraph 3, above.
 - a. The licensor must reply in writing to the child's social worker designating whether the home is appropriate for the plan established in the proposed policy waiver.
 - b. The licensor will clarify any concerns the licensor has about implementing the proposal in the designated foster/group home.
 5. The request for approval of an exception to this policy will be forwarded to the Division Director for final approval. The approval for the use of electronic monitoring equipment applies to a specific child in a specific foster home or facility.
- D. If the DLR Director approves electronic monitoring, the case plan for the child must include:
1. The reasons for the electronic monitoring;
 2. The therapist's goals;
 3. The timeframe for review or removal of the electronic monitoring equipment; and
 4. A description of the type of equipment to be used, and the manner in which it will be used.
- E. A court must make final approval of the use of electronic monitoring in a child's case plan.

- F. Following DLR Director approval and following court approval of the case plan, the social worker and the out-of-home care provider may implement the electronic monitoring of the child as set forth in the case plan.
- G. If a child moves to another foster/group home, the approval ends and the social worker must request another approval at the next home.