

Sc. 242.848. REPORTING ABUSE AND NEGLECT. (a) For purposes of the duty to report abuse or neglect under Section 260A.002 and the criminal penalty for the failure to report abuse or neglect under Section 260A.012, a person who is conducting electronic monitoring on behalf of a resident under this subchapter is considered to have viewed or listened to a tape or recording made by the electronic monitoring device on or before the 14th day after the date the tape or recording is made.

(b) If a resident who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring under this subchapter gives a tape or recording made by the electronic monitoring device to a person and directs the person to view or listen to the tape or recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the tape or recording is considered to have viewed or listened to the tape or recording on or before the seventh day after the date the person receives the tape or recording for purposes of the duty to report abuse or neglect under Section 260A.002 and of the criminal penalty for the failure to report abuse or neglect under Section 260A.012.

(c) A person is required to report abuse based on the person 's viewing of or listening to a tape or recording only if the incident of abuse is acquired on the tape or recording. A person is required to report neglect based on the person 's viewing of or listening to a tape or recording only if it is clear from viewing or listening to the tape or recording that neglect has occurred.

(d) If abuse or neglect of the resident is reported to the institution and the institution requests a copy of any relevant tape or recording made by an electronic monitoring device, the person who possesses the tape or recording shall provide the institution with a copy at the institution 's expense.

Added by Acts 2001, 77th Leg., ch. 1224, Sec. 1, eff. June 15, 2001. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 1.05(h), eff. September 28, 2011.

Sec. 242.849. USE OF TAPE OR RECORDING BY AGENCY OR COURT.

(a) Subject to applicable rules of evidence and procedure and the requirements of this section, a tape or recording created through the use of covert or authorized electronic monitoring described by this subchapter may be admitted into evidence in a civil or criminal court action or administrative proceeding.

(b) A court or administrative agency may not admit into evidence a tape or recording created through the use of covert or authorized electronic monitoring or take or authorize action based on the tape or recording unless:

(1) if the tape or recording is a video tape or recording, the tape or recording shows the time and date that the events acquired on the

tape or recording occurred;

(2) the contents of the tape or recording have not been edited or artificially enhanced; and

(3) if the contents of the tape or recording have been transferred from the original format to another technological format, the transfer was done by a qualified professional and the contents of the tape or recording were not altered.

(c) A person who sends more than one tape or recording to the department shall identify for the department each tape or recording on which the person believes that an incident of abuse or evidence of neglect may be found. The executive commissioner may adopt rules encouraging persons who send a tape or recording to the department to identify the place on the tape or recording that an incident of abuse or evidence of neglect may be found.

Added by Acts 2001, 77th Leg., ch. 1224, Sec. 1, eff. June 15, 2001. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0666, eff. April 2, 2015.