



Rep. Ann M. Williams

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10400HB4517ham001

LRB104 18029 BAB 35105 a

1 AMENDMENT TO HOUSE BILL 4517

2 AMENDMENT NO. _____. Amend House Bill 4517 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Authorized Electronic Monitoring in
5 Long-Term Care Facilities Act is amended by changing Sections
6 5, 15, 20, 25, 30, 40, 45, 55, and 60 as follows:

7 (210 ILCS 32/5)

8 Sec. 5. Definitions. As used in this Act:

9 "Authorized electronic monitoring" means the placement and
10 use of an electronic monitoring device by a resident in his or
11 her room in accordance with this Act.

12 "Department" means the Department of Public Health.

13 "Electronic monitoring device" means a surveillance
14 instrument with a fixed position video camera or an audio
15 recording device, or a combination thereof, that is installed
16 in a resident's room under the provisions of this Act and

1 broadcasts or records activity or sounds occurring in the
2 room.

3 "Establishment" means an assisted living establishment as
4 defined in the Assisted Living and Shared Housing Act.

5 "Facility" means an intermediate care facility for the
6 developmentally disabled licensed under the ID/DD Community
7 Care Act that has 30 beds or more, a facility licensed under
8 the MC/DD Act, a long-term care facility licensed under the
9 Nursing Home Care Act, or a facility that provides housing to
10 individuals with dementia, as defined in Section 3 of the
11 Alzheimer's Disease Assistance Act.

12 "Resident" means a person residing in a facility or
13 establishment.

14 "Resident's representative" has the meaning given to that
15 term in (1) Section 1-123 of the Nursing Home Care Act if the
16 resident resides in a facility licensed under the Nursing Home
17 Care Act, (2) Section 1-123 of the ID/DD Community Care Act if
18 the resident resides in a facility licensed under the ID/DD
19 Community Care Act, (3) Section 9-10 of the Assisted Living
20 and Shared Housing Act if the resident resides in an
21 establishment under the Assisted Living and Shared Housing
22 Act, or (4) ~~(3)~~ Section 1-123 of the MC/DD Act if the resident
23 resides in a facility licensed under the MC/DD Act.

24 "Room" means a resident's designated private or shared
25 living space, apartment, or living unit designed for personal
26 use and sleeping.

1 (Source: P.A. 101-160, eff. 7-26-19.)

2 (210 ILCS 32/15)

3 Sec. 15. Consent.

4 (a) Except as otherwise provided in this subsection, a
5 resident, a resident's plenary guardian of the person, or the
6 parent of a resident under the age of 18 must consent in
7 writing on a notification and consent form prescribed by the
8 Department to the authorized electronic monitoring in the
9 resident's room. If the resident has not affirmatively
10 objected to the authorized electronic monitoring and the
11 resident's physician determines that the resident lacks the
12 ability to understand and appreciate the nature and
13 consequences of electronic monitoring, the following
14 individuals may consent on behalf of the resident, in order of
15 priority:

16 (1) a health care agent named under the Illinois Power
17 of Attorney Act;

18 (2) a resident's representative, as defined in Section
19 5 of this Act;

20 (3) the resident's spouse;

21 (4) the resident's parent;

22 (5) the resident's adult child who has the written
23 consent of the other adult children of the resident to act
24 as the sole decision maker regarding authorized electronic
25 monitoring; or

1 (6) the resident's adult brother or sister who has the
2 written consent of the other adult siblings of the
3 resident to act as the sole decision maker regarding
4 authorized electronic monitoring.

5 (a-5) Prior to another person, other than a resident's
6 plenary guardian of the person, consenting on behalf of a
7 resident 18 years of age or older in accordance with this
8 Section, the resident must be asked by that person, in the
9 presence of a facility or establishment employee, if he or she
10 wants authorized electronic monitoring to be conducted. The
11 person must explain to the resident:

12 (1) the type of electronic monitoring device to be
13 used;

14 (2) the standard conditions that may be placed on the
15 electronic monitoring device's use, including those listed
16 in paragraph (7) of subsection (b) of Section 20;

17 (3) with whom the recording may be shared according to
18 Section 45; and

19 (4) the resident's ability to decline all recording.

20 For the purposes of this subsection, a resident
21 affirmatively objects when he or she orally, visually, or
22 through the use of auxiliary aids or services declines
23 authorized electronic monitoring. The resident's response must
24 be documented on the notification and consent form.

25 (b) A resident or roommate may consent to authorized
26 electronic monitoring with any conditions of the resident's

1 choosing, including, but not limited to, the list of standard
2 conditions provided in paragraph (7) of subsection (b) of
3 Section 20. A resident or roommate may request that the
4 electronic monitoring device be turned off or the visual
5 recording component of the electronic monitoring device be
6 blocked at any time.

7 (c) Prior to the authorized electronic monitoring, a
8 resident must obtain the written consent of any other resident
9 residing in the room on the notification and consent form
10 prescribed by the Department. Except as otherwise provided in
11 this subsection, a roommate, a roommate's plenary guardian of
12 the person, or the parent of a roommate under the age of 18
13 must consent in writing to the authorized electronic
14 monitoring in the resident's room. If the roommate has not
15 affirmatively objected to the authorized electronic monitoring
16 in accordance with subsection (a-5) and the roommate's
17 physician determines that the roommate lacks the ability to
18 understand and appreciate the nature and consequences of
19 electronic monitoring, the following individuals may consent
20 on behalf of the roommate, in order of priority:

21 (1) a health care agent named under the Illinois Power
22 of Attorney Act;

23 (2) a roommate's resident's representative, as defined
24 in Section 5 of this Act;

25 (3) the roommate's spouse;

26 (4) the roommate's parent;

1 (5) the roommate's adult child who has the written
2 consent of the other adult children of the resident to act
3 as the sole decision maker regarding authorized electronic
4 monitoring; or

5 (6) the roommate's adult brother or sister who has the
6 written consent of the other adult siblings of the
7 resident to act as the sole decision maker regarding
8 authorized electronic monitoring.

9 (c-5) Consent by a roommate under subsection (c)
10 authorizes the resident's use of any recording obtained under
11 this Act, as provided in Section 45 of this Act.

12 (c-7) Any resident previously conducting authorized
13 electronic monitoring must obtain consent from any new
14 roommate before the resident may resume authorized electronic
15 monitoring. If a new roommate does not consent to authorized
16 electronic monitoring and the resident conducting the
17 authorized electronic monitoring does not remove or disable
18 the electronic monitoring device, the facility or
19 establishment shall turn off the device.

20 (d) Consent may be withdrawn by the resident or roommate
21 at any time, and the withdrawal of consent shall be documented
22 in the resident's clinical record. If a roommate withdraws
23 consent and the resident conducting the authorized electronic
24 monitoring does not remove or disable the electronic
25 monitoring device, the facility or establishment may turn off
26 the electronic monitoring device.

1 (e) If a resident who is residing in a shared room wants to
2 conduct authorized electronic monitoring and another resident
3 living in or moving into the same shared room refuses to
4 consent to the use of an electronic monitoring device, the
5 facility or establishment shall make a reasonable attempt to
6 accommodate the resident who wants to conduct authorized
7 electronic monitoring. A facility or establishment has met the
8 requirement to make a reasonable attempt to accommodate a
9 resident who wants to conduct authorized electronic monitoring
10 when upon notification that a roommate has not consented to
11 the use of an electronic monitoring device in his or her room,
12 the facility or establishment offers to move either resident
13 to another shared room that is available at the time of the
14 request. If a resident chooses to reside in a private room in
15 order to accommodate the use of an electronic monitoring
16 device, the resident must pay the private room rate. If a
17 facility or establishment is unable to accommodate a resident
18 due to lack of space, the facility or establishment must
19 reevaluate the request every 2 weeks until the request is
20 fulfilled.

21 (Source: P.A. 99-430, eff. 1-1-16; 99-784, eff. 1-1-17.)

22 (210 ILCS 32/20)

23 Sec. 20. Notice to the facility or establishment.

24 (a) Authorized electronic monitoring may begin only after
25 a notification and consent form prescribed by the Department

1 has been completed and submitted to the facility or
2 establishment.

3 (b) A resident shall notify the facility or establishment
4 in writing of his or her intent to install an electronic
5 monitoring device by providing a completed notification and
6 consent form prescribed by the Department that must include,
7 at minimum, the following information:

8 (1) the resident's signed consent to electronic
9 monitoring or the signature of the person consenting on
10 behalf of the resident in accordance with Section 15 of
11 this Act; if a person other than the resident signs the
12 consent form, the form must document the following:

13 (A) the date the resident was asked if he or she
14 wants authorized electronic monitoring to be conducted
15 in accordance with subsection (a-5) of Section 15;

16 (B) who was present when the resident was asked;
17 and

18 (C) an acknowledgement that the resident did not
19 affirmatively object; and

20 (2) the resident's roommate's signed consent or the
21 signature of the person consenting on behalf of the
22 resident in accordance with Section 15 of this Act, if
23 applicable, and any conditions placed on the roommate's
24 consent; if a person other than the roommate signs the
25 consent form, the form must document the following:

26 (A) the date the roommate was asked if he or she

1 wants authorized electronic monitoring to be conducted
2 in accordance with subsection (a-5) of Section 15;

3 (B) who was present when the roommate was asked;
4 and

5 (C) an acknowledgement that the roommate did not
6 affirmatively object; and

7 (3) the type of electronic monitoring device to be
8 used;

9 (4) any installation needs, such as mounting of a
10 device to a wall or ceiling;

11 (5) the proposed date of installation for scheduling
12 purposes;

13 (6) a copy of any contract for maintenance of the
14 electronic monitoring device by a commercial entity;

15 (7) a list of standard conditions or restrictions that
16 the resident or a roommate may elect to place on use of the
17 electronic monitoring device, including, but not limited
18 to:

19 (A) prohibiting audio recording;

20 (B) prohibiting broadcasting of audio or video;

21 (C) turning off the electronic monitoring device
22 or blocking the visual recording component of the
23 electronic monitoring device for the duration of an
24 exam or procedure by a health care professional;

25 (D) turning off the electronic monitoring device
26 or blocking the visual recording component of the

1 electronic monitoring device while dressing or bathing
2 is performed; and

3 (E) turning the electronic monitoring device off
4 for the duration of a visit with a spiritual advisor,
5 ombudsman, attorney, financial planner, intimate
6 partner, or other visitor; and

7 (8) any other condition or restriction elected by the
8 resident or roommate on the use of an electronic
9 monitoring device.

10 (c) A copy of the completed notification and consent form
11 shall be placed in the resident's and any roommate's clinical
12 record and a copy shall be provided to the resident and his or
13 her roommate, if applicable.

14 (d) The Department shall prescribe the notification and
15 consent form required in this Section no later than 60 days
16 after the effective date of this Act. If the Department has not
17 prescribed such a form by that date, the Office of the Attorney
18 General shall post a notification and consent form on its
19 website for resident use until the Department has prescribed
20 the form.

21 (Source: P.A. 99-430, eff. 1-1-16.)

22 (210 ILCS 32/25)

23 Sec. 25. Cost and installation.

24 (a) A resident choosing to conduct authorized electronic
25 monitoring must do so at his or her own expense, including

1 paying purchase, installation, maintenance, and removal costs.

2 (b) If a resident chooses to install an electronic
3 monitoring device that uses Internet technology for visual or
4 audio monitoring, that resident is responsible for contracting
5 with an Internet service provider.

6 (c) The facility or establishment shall make a reasonable
7 attempt to accommodate the resident's installation needs,
8 including, but not limited to, allowing access to the
9 facility's or establishment's telecommunications or equipment
10 room. A facility or establishment has the burden of proving
11 that a requested accommodation is not reasonable.

12 (d) The electronic monitoring device must be placed in a
13 conspicuously visible location in the room.

14 (e) A facility or establishment may not charge the
15 resident a fee for the cost of electricity used by an
16 electronic monitoring device.

17 (f) All electronic monitoring device installations and
18 supporting services shall comply with the requirements of the
19 edition of the National Fire Protection Association (NFPA) 101
20 Life Safety Code in force at the time of installation and shall
21 remain in compliance with that or any subsequent edition of
22 NFPA 101 enforced pursuant to Part 483 of Title 42 of the Code
23 of Federal Regulations.

24 (Source: P.A. 99-430, eff. 1-1-16; 99-784, eff. 1-1-17.)

1 Sec. 30. Notice to visitors.

2 (a) If a resident of a facility conducts authorized
3 electronic monitoring, a sign shall be clearly and
4 conspicuously posted at all building entrances accessible to
5 visitors. The notice must be entitled "Electronic Monitoring"
6 and must state, in large, easy-to-read type, "The rooms of
7 some residents may be monitored electronically by or on behalf
8 of the residents.". An assisted living establishment shall not
9 be required to post the notice described in this Section at
10 building entrances.

11 (b) A sign shall be clearly and conspicuously posted at
12 the entrance to a resident's room where authorized electronic
13 monitoring is being conducted. The notice must state, in
14 large, easy-to-read type, "This room is electronically
15 monitored."

16 (c) The facility or establishment is responsible for
17 installing and maintaining the signage required in this
18 Section.

19 (Source: P.A. 99-430, eff. 1-1-16.)

20 (210 ILCS 32/40)

21 Sec. 40. Obstruction of electronic monitoring devices.

22 (a) A person or entity is prohibited from knowingly
23 hampering, obstructing, tampering with, or destroying an
24 electronic monitoring device installed in a resident's room
25 without the permission of the resident or the individual who

1 consented on behalf of the resident in accordance with Section
2 15 of this Act.

3 (b) A person or entity is prohibited from knowingly
4 hampering, obstructing, tampering with, or destroying a video
5 or audio recording obtained in accordance with this Act
6 without the permission of the resident or the individual who
7 consented on behalf of the resident in accordance with Section
8 15 of this Act.

9 (c) A person or entity that violates this Section is
10 guilty of a Class B misdemeanor. A person or entity that
11 violates this Section in the commission of or to conceal a
12 misdemeanor offense is guilty of a Class A misdemeanor. A
13 person or entity that violates this Section in the commission
14 of or to conceal a felony offense is guilty of a Class 4
15 felony.

16 (d) It is not a violation of this Section if a person or
17 facility or establishment turns off the electronic monitoring
18 device or blocks the visual recording component of the
19 electronic monitoring device at the direction of the resident
20 or the person who consented on behalf of the resident in
21 accordance with Section 15 of this Act.

22 (Source: P.A. 99-430, eff. 1-1-16.)

23 (210 ILCS 32/45)

24 Sec. 45. Dissemination of recordings.

25 (a) A facility or establishment may not access any video

1 or audio recording created through authorized electronic
2 monitoring without the written consent of the resident or the
3 person who consented on behalf of the resident in accordance
4 with Section 15 of this Act.

5 (b) Except as required under the Freedom of Information
6 Act, a recording or copy of a recording made pursuant to this
7 Act may only be disseminated for the purpose of addressing
8 concerns relating to the health, safety, or welfare of a
9 resident or residents.

10 (c) The resident or person who consented on behalf of the
11 resident in accordance with Section 15 of this Act shall
12 provide a copy of any video or audio recording to parties
13 involved in a civil, criminal, or administrative proceeding,
14 upon a party's request, if the video or audio recording was
15 made during the time period that the conduct at issue in the
16 proceeding allegedly occurred.

17 (Source: P.A. 99-430, eff. 1-1-16.)

18 (210 ILCS 32/55)

19 Sec. 55. Report. Each facility or establishment shall
20 report to the Department, in a manner prescribed by the
21 Department, the number of authorized electronic monitoring
22 notification and consent forms received annually. The
23 Department shall report the total number of authorized
24 electronic monitoring notification and consent forms received
25 by facilities or establishment to the Office of the Attorney

1 General annually.

2 (Source: P.A. 99-430, eff. 1-1-16.)

3 (210 ILCS 32/60)

4 Sec. 60. Liability.

5 (a) A facility or establishment is not civilly or
6 criminally liable for the inadvertent or intentional
7 disclosure of a recording by a resident or a person who
8 consents on behalf of the resident for any purpose not
9 authorized by this Act.

10 (b) A facility or establishment is not civilly or
11 criminally liable for a violation of a resident's right to
12 privacy arising out of any electronic monitoring conducted
13 pursuant to this Act.

14 (Source: P.A. 99-430, eff. 1-1-16.)".