



General Assembly

February Session, 2020

Raised Bill No. 5444

LCO No. 2624



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING THE USE OF VIDEO CAMERAS IN THE ROOMS OF NONVERBAL NURSING HOME RESIDENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2020*) (a) For purposes of this
2 section: (1) "Ombudsman" means the Office of the Long-Term Care
3 Ombudsman established pursuant to section 17a-405 of the general
4 statutes; (2) "electronic monitoring" means the placement and use of an
5 electronic monitoring device by a nonverbal resident or his or her
6 resident representative in the resident's room or private living unit in
7 accordance with this section; (3) "electronic monitoring device" means a
8 camera or other device that captures, records or broadcasts audio, video,
9 or both, and may offer two-way communication over the Internet that
10 is placed in a nonverbal resident's room or private living unit and is
11 used to monitor the nonverbal resident or activities in the room or
12 private living unit; (4) "nursing home facility" has the same meaning as
13 provided in section 19a-490 of the general statutes; (5) "nonverbal
14 resident" means a resident of a nursing home facility who is unable to
15 verbally communicate due to physical or mental conditions, including,

16 but not limited to, Alzheimer's disease and dementia; and (6) "resident
17 representative" means (A) a court-appointed guardian, (B) a health care
18 representative appointed pursuant to section 19a-575a of the general
19 statutes, or (C) a person who is not an agent of the nursing home facility
20 and who is designated in a written document signed by the nonverbal
21 resident and included in the resident's records on file with the nursing
22 home facility.

23 (b) A nonverbal resident or his or her resident representative may
24 install an electronic monitoring device in the resident's room or private
25 living unit provided: (1) The purchase, installation, maintenance,
26 operation and removal of the device is at the expense of the resident, (2)
27 the resident and any roommate of the resident, or the respective resident
28 representatives, sign a written consent form pursuant to subsection (c)
29 of this section, (3) the resident or his or her resident representative
30 places a clear and conspicuous note on the door of the room or private
31 living unit that the room or private living area is subject to electronic
32 monitoring, and (4) the consent form is filed with the nursing home
33 facility not less than seven days before installation of the electronic
34 monitoring device except as provided in subsection (e) of this section.

35 (c) No electronic monitoring device shall be installed in a nonverbal
36 resident's room or living unit unless the resident and any roommate of
37 the resident, or a resident representative, has signed a consent form that
38 includes, but is not limited to:

39 (1) (A) The signed consent of the nonverbal resident and any
40 roommate of the resident; or (B) the signed consent of a resident
41 representative of the nonverbal resident or roommate if the nonverbal
42 resident or roommate lacks the physical or mental capacity to sign the
43 form. If a resident representative signs the consent form, the form must
44 document the following:

45 (i) The date the nonverbal resident or any roommate was asked if the
46 resident or roommate wants electronic monitoring to be conducted,

47 (ii) Who was present when the nonverbal resident or roommate was

48 asked if he or she consented to electronic monitoring,

49 (iii) An acknowledgment that the nonverbal resident or roommate
50 did not affirmatively object to electronic monitoring, and

51 (iv) The source of the authority allowing the resident representative
52 of the nonverbal resident or roommate to sign the consent form on
53 behalf of the nonverbal roommate or resident.

54 (2) A waiver of liability for the nursing home facility for any breach
55 of privacy involving the nonverbal resident's use of an electronic
56 monitoring device, unless such breach of privacy occurred because of
57 unauthorized use of the device or a recording made by the device by
58 nursing home facility staff.

59 (3) The type of electronic monitoring device to be used.

60 (4) A list of conditions or restrictions that the nonverbal resident or
61 any roommate of the resident may elect to place on the use of the
62 electronic monitoring device, including, but not limited to: (A)
63 Prohibiting audio recording, (B) prohibiting video recording, (C)
64 prohibiting broadcasting of audio or video, (D) turning off the electronic
65 monitoring device or blocking the visual recording component of the
66 electronic monitoring device for the duration of an exam or procedure
67 by a health care professional, (E) turning off the electronic monitoring
68 device or blocking the visual recording component of the electronic
69 monitoring device while the nonverbal resident or any roommate of the
70 resident is dressing or bathing, and (F) turning off the electronic
71 monitoring device for the duration of a visit with a spiritual advisor,
72 ombudsman, attorney, financial planner, intimate partner or other
73 visitor to the nonverbal resident or roommate of the resident.

74 (5) An acknowledgment that the nonverbal resident, roommate or the
75 respective resident representative shall be responsible for operating the
76 electronic monitoring device in accordance with the conditions and
77 restrictions listed in subdivision (4) of this subsection unless the
78 resident, roommate or the respective resident representative have

79 signed a written agreement with the nursing home facility under which
80 nursing home facility staff operate the electronic monitoring device for
81 this purpose. Such agreement may contain a waiver of liability for the
82 nursing home facility related to the operation of the device by nursing
83 home facility staff.

84 (6) A statement of the circumstances under which a recording may be
85 disseminated.

86 (7) A signature box for documenting that the nonverbal resident or
87 roommate of the resident, or the respective resident representative, has
88 consented to electronic monitoring or withdrawn consent.

89 (d) The ombudsman, within available appropriations, shall make
90 available on the ombudsman's Internet web site a downloadable copy
91 of a standard form containing all of the provisions required under
92 subsection (c) of this section. Nursing home facilities shall (1) make the
93 consent form available to nonverbal residents and inform such residents
94 and the respective resident representatives of their option to conduct
95 electronic monitoring of their rooms or private living units, (2) maintain
96 a copy of the consent form in the nonverbal resident's records, and (3)
97 place a notice in a conspicuous place near the entry to the nursing home
98 facility stating that some rooms and living areas may be subject to
99 electronic monitoring.

100 (e) Notwithstanding subdivision (4) of subsection (b) of this section,
101 a nonverbal resident or his or her resident representative may install an
102 electronic monitoring device without submitting the consent form to a
103 nursing home facility if: (1) The nonverbal resident or the resident
104 representative (A) reasonably fears retaliation against the nonverbal
105 resident by the nursing home facility for recording or reporting alleged
106 abuse or neglect of the resident by nursing home facility staff, (B)
107 submits a completed consent form to the ombudsman, and (C) submits
108 a report to the ombudsman, the Commissioner of Social Services, the
109 Commissioner of Public Health or police, with evidence from an
110 electronic monitoring device that suspected abuse or neglect of the

111 nonverbal resident has occurred; (2) (A) the nursing home facility has
112 failed to respond for more than two business days to a written
113 communication from the nonverbal resident or his or her resident
114 representative about a concern that prompted the resident's desire for
115 installation of an electronic monitoring device, and (B) the nonverbal
116 resident or his or her resident representative has submitted a consent
117 form to the ombudsman; or (3) (A) the nonverbal resident or his or her
118 resident representative has already submitted a report to the
119 ombudsman, Commissioner of Social Services, Commissioner of Public
120 Health or police regarding concerns about the nonverbal resident's
121 safety or well-being that prompted the resident's desire for electronic
122 monitoring, and (B) the nonverbal resident or his or her resident
123 representative has submitted a consent form to the ombudsman.

124 (f) If a nonverbal resident is conducting electronic monitoring and a
125 new roommate moves into the room or living unit, the nonverbal
126 resident shall cease use of the electronic monitoring device unless and
127 until the new roommate signs the consent form and the nonverbal
128 resident or his or her resident representative files the completed form
129 with the roommate's consent to electronic monitoring with the nursing
130 home facility. If any roommate of a nonverbal resident wishing to use
131 electronic monitoring refuses to sign the consent form, the nursing home
132 facility shall reasonably accommodate the nonverbal resident's request
133 to move into a private room or a room with a roommate who has agreed
134 to consent to such monitoring, if available, not later than thirty days
135 after the request. The nonverbal resident requesting the accommodation
136 shall pay any difference in price if the new room is more costly than the
137 resident's previous room.

138 (g) Subject to applicable rules of evidence and procedure, any video
139 or audio recording created through electronic monitoring under this
140 section may be admitted into evidence in a civil, criminal or
141 administrative proceeding.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	New section

Statement of Purpose:

To allow nonverbal nursing home residents or their representatives to install electronic monitoring devices in their rooms, provided any roommates agree in writing to the use of such devices and liability for any breach of privacy related to the resident's use of such device is waived for nursing homes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]