

SECOND REGULAR SESSION

HOUSE BILL NO. 1709

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHNELTING.

2920H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 198, RSMo, by adding thereto one new section relating to digital surveillance systems in long-term care facilities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 198, RSMo, is amended by adding thereto one new section, to be known as section 198.605, to read as follows:

198.605. 1. As used in this section, the following terms mean:

- 2 **(1) "Business day", any day except Saturdays, Sundays, and federal and state**
3 **holidays;**
- 4 **(2) "Common area", any area of a facility that is generally accessible to all**
5 **residents and visitors including, but not limited to, hallways outside resident rooms;**
- 6 **(3) "Facility" or "long-term care facility", any residential care facility, assisted**
7 **living facility, intermediate care facility, or skilled nursing facility, as such terms are**
8 **defined in section 198.006;**
- 9 **(4) "Guardian", the same meaning given to the term in section 475.010;**
- 10 **(5) "Legal representative", a person authorized under a durable power of**
11 **attorney that complies with sections 404.700 to 404.737 to act on behalf of a resident of a**
12 **facility;**
- 13 **(6) "Resident", a person residing in a facility.**
- 14 **2. Every long-term care facility shall maintain and operate a digital surveillance**
15 **system on its premises in accordance with this section.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

16 **3. The digital surveillance system shall be equipped with cameras that provide**
17 **continuous, twenty-four-hour video and audio monitoring and recording of all common**
18 **areas in the facility.**

19 **4. The cameras shall be placed in such a way that the exterior of each entryway**
20 **into every resident's room is visible and monitored.**

21 **5. The video and audio recorded from the digital surveillance system shall be**
22 **retained for a period of time determined by rule of the department of health and senior**
23 **services.**

24 **6. (1) Within five business days of receiving a request, a facility shall provide a**
25 **copy of a video or audio recording to a resident or the resident's family member,**
26 **guardian, or legal representative who requests it in order to investigate alleged or actual**
27 **deficient care, abuse, neglect, or wrongful death of the resident.**

28 **(2) Except as provided in subdivision (3) of this subsection, the facility shall not**
29 **edit any video or audio recording before providing a copy of such recording under this**
30 **subsection.**

31 **(3) The facility may blur the face and body of any unclothed resident who**
32 **appears in a video or audio recording but is not the subject of the request.**

33 **7. Any person who requests a copy of a video or audio recording under this**
34 **section may bring a civil action in circuit court against a facility that fails to maintain**
35 **and operate a digital surveillance system as required under this section or that fails to**
36 **provide a copy of a video or audio recording in the manner required under this section.**

37 **8. Any video or audio recording created by the use of the digital surveillance**
38 **system required under this section may be admitted into evidence in a civil, criminal, or**
39 **administrative proceeding, provided its proponent can demonstrate that the recording is**
40 **authentic and that the substantive contents of the recording have not been materially**
41 **altered. Minor enhancements to quality or clarity, compression, or format changes**
42 **alone do not constitute material alteration.**

43 **9. No facility shall be civilly or criminally liable for activity or action arising out**
44 **of the use by any resident or any resident's family member, guardian, or legal**
45 **representative of any copy of a video or audio recording provided in accordance with**
46 **this section.**

47 **10. No facility shall be civilly or criminally liable for a violation of the Health**
48 **Insurance Portability and Accountability Act (HIPAA) or any resident's right to privacy**
49 **arising out of the required operation of the digital surveillance system under this**
50 **section.**

51 **11. Except for cases of abuse and neglect, no person shall release any copy of a**
52 **video or audio recording obtained under this section without the written permission of**

53 the resident or the resident's family member, guardian, or legal representative and the
54 facility.

55 **12. The department of health and senior services shall promulgate rules to**
56 **implement the provisions of this section. Any rule or portion of a rule, as that term is**
57 **defined in section 536.010, that is created under the authority delegated in this section**
58 **shall become effective only if it complies with and is subject to all of the provisions of**
59 **chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
60 **nonseverable and if any of the powers vested with the general assembly pursuant to**
61 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
62 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
63 **proposed or adopted after August 28, 2024, shall be invalid and void.**

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