

MONITORING EQUIPMENT IN A CARE FACILITY

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill adds provisions to the Health Care Facility Licensing and Inspection Act related to monitoring devices installed in assisted living facilities.

Highlighted Provisions:

This bill:

▶ allows a resident of an assisted living facility to install a video or audio monitoring device in the resident's room under certain conditions ~~H→~~ **and** ~~←H~~ ;

▶ prohibits an assisted living facility from denying an individual admission to the facility or discharging a resident from the facility solely because the individual or resident wants to operate or install a monitoring device in the individual's or resident's room ~~H→~~ [~~;~~ **and**

~~—→ provides that a facility, resident, or resident's legal representative may not be held civilly or criminally liable for operating or installing a monitoring device in accordance with certain requirements] ←H .~~

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

H.B. 124



- 28 [26-21-301](#), Utah Code Annotated 1953
- 29 [26-21-302](#), Utah Code Annotated 1953
- 30 [26-21-303](#), Utah Code Annotated 1953
- 31 [26-21-304](#), Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26-21-301** is enacted to read:

35 **Part 3. Assisted Living Facility Surveillance Act**

36 **26-21-301. Title.**

37 This part is known as the "Assisted Living Facility Surveillance Act."

38 Section 2. Section **26-21-302** is enacted to read:

39 **26-21-302. Definitions.**

40 As used in this part:

41 (1) "Facility" means an assisted living facility.

42 (2) "Legal representative" means an individual who is legally authorized to make
43 health care decisions on behalf of another individual.

44 (3) (a) "Monitoring device" means:

45 (i) a video surveillance camera; or

46 (ii) a microphone or other device that captures audio.

47 (b) "Monitoring device" does not include:

48 (i) a device that is specifically intended to intercept wire, electronic, or oral
49 communication without notice to or the consent of a party to the communication; or

50 (ii) a device that is connected to the Internet or that is set up to transmit data via an
51 electronic communication.

52 (4) "Resident" means an individual who receives health care from a facility.

53 (5) "Room" means a resident's private or shared primary living space.

54 (6) "Roommate" means:

55 (a) an individual sharing a room with a resident; or

56 (b) the individual's legal representative.

57 Section 3. Section **26-21-303** is enacted to read:

58 **26-21-303. Monitoring device -- Installation, notice, and consent.**

59 (1) A resident or the resident's legal representative may operate or install a monitoring
 60 device in the resident's room if the resident or the resident's legal representative:

61 (a) notifies the resident's facility:

62 (i) that the resident or the resident's legal representative intends to operate or install a
 63 monitoring device in the resident's room;

64 (ii) of the specific location where the resident or the resident's legal representative will
 65 operate or install the monitoring device; and

66 (iii) of the technical specifications and capabilities of the monitoring device;

67 (b) obtains written consent from each of the resident's roommates that specifically
 68 states the hours when each roommate consents to the resident or the resident's legal
 69 representative operating the monitoring device; and

70 (c) assumes all responsibility for any cost related to installing or operating the
 71 monitoring device.

72 ~~Ĥ→ [(2) Notwithstanding any provision of Title 76, Utah Criminal Code, or Title 77, Utah~~
 73 ~~Code of Criminal Procedure, a facility, resident, or resident's legal representative is not civilly~~
 74 ~~or criminally liable for a privacy violation related to video or audio captured by a monitoring~~
 75 ~~device that the resident or the resident's legal representative operates in accordance with this~~
 76 ~~part.~~

77 ~~——(3)] (2) ←Ĥ~~ Notwithstanding any other provision of this part, an individual may not, under this
 78 part, operate a monitoring device in a facility without a court order:

79 (a) in secret; or

80 (b) with an intent to intercept a wire, electronic, or oral communication without notice
 81 to or the consent of a party to the communication.

82 Section 4. Section **26-21-304** is enacted to read:

83 **26-21-304. Monitoring device -- Facility admission, patient discharge, and posted**
 84 **notice.**

85 (1) A facility may not deny an individual admission to the facility for the sole reason
 86 that the individual or the individual's legal representative requests to install or operate a
 87 monitoring device in the individual's room.

88 (2) A facility may not discharge a resident for the sole reason that the resident or the
 89 resident's legal representative requests to install or operate a monitoring device in the

90 individual's room.

91 (3) A facility may require the resident or the resident's legal representative to place a
92 sign near the entrance of the resident's room that states that the room contains a monitoring
93 device.

Legislative Review Note
Office of Legislative Research and General Counsel