

**House File 537 - Introduced**

HOUSE FILE 537

BY FRY, A. MEYER, and BODEN

**A BILL FOR**

1 An Act relating to the requirements for authorized electronic  
2 monitoring in nursing facilities, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135C.49 Definitions.

2 As used in this subchapter, unless the context otherwise  
3 requires:

4 1. "*Electronic monitoring*" means the placement and use of an  
5 electronic monitoring device by a resident in the resident's  
6 room in accordance with this subchapter.

7 2. "*Electronic monitoring device*" means a video camera that  
8 livestream broadcasts video only that is placed in a resident's  
9 room and is used to monitor the resident or activities in the  
10 room. "*Electronic monitoring device*" does not include video  
11 phone calls or video conferencing where a resident either  
12 initiates or joins a call or conference.

13 3. "*Resident*" means an individual admitted to a nursing  
14 facility in a manner prescribed in section 135C.23.

15 4. "*Resident representative*" means one of the following in  
16 the order of priority listed, to the extent the person may  
17 reasonably be identified and located:

18 a. The attorney in fact designated to make treatment  
19 decisions for the resident in accordance with chapter 144B.

20 b. The guardian of the resident if one has been appointed  
21 pursuant to chapter 633.

22 Sec. 2. NEW SECTION. 135C.50 Electronic monitoring.

23 1. A resident, or a resident representative when acting  
24 on behalf of a resident, may conduct electronic monitoring  
25 of the resident's room through the use of an electronic  
26 monitoring device placed in the resident's room pursuant to  
27 this subchapter.

28 2. A nursing facility or resident of the nursing facility  
29 shall not engage in electronic monitoring or the use of  
30 electronic monitoring devices in a resident's room without the  
31 written permission of the nursing facility and the consent of  
32 the resident or resident representative when consenting on  
33 behalf of a resident.

34 3. Nothing in this section precludes the use of electronic  
35 monitoring otherwise allowed by law.

1     Sec. 3. NEW SECTION. 135C.51 Consent to electronic  
2 monitoring.

3     1. Except as otherwise provided in this subchapter,  
4 a resident must consent to electronic monitoring in the  
5 resident's room in writing on a notification and consent  
6 form prescribed by the department. If the resident has  
7 not affirmatively objected to electronic monitoring and  
8 the resident's health care professional determines that the  
9 resident lacks the ability to understand and appreciate the  
10 nature and consequences of electronic monitoring, the resident  
11 representative may consent on behalf of the resident. For  
12 purposes of this subsection, a resident affirmatively objects  
13 when the resident orally, visually, or through the use of  
14 auxiliary aids or services declines electronic monitoring. The  
15 resident's response shall be documented on the notification and  
16 consent form.

17     2. Prior to a resident representative consenting on behalf  
18 of a resident, the resident shall be asked if the resident  
19 wants electronic monitoring to be conducted. The resident  
20 representative shall explain all of the following to the  
21 resident:

22     *a.* The type of electronic monitoring device to be used.

23     *b.* The standard conditions or restrictions that may be  
24 placed on the electronic monitoring device's use including as  
25 specified in the list of standard conditions or restrictions  
26 contained in the notification and consent form completed by the  
27 resident as provided in section 135C.54.

28     *c.* The resident's ability to decline all electronic  
29 monitoring.

30     3. A resident, or resident representative when consenting  
31 on behalf of the resident, shall consent to electronic  
32 monitoring with the standard conditions or restrictions  
33 contained in the notification and consent form completed by the  
34 resident as provided in section 135C.54.

35     4. Prior to implementing electronic monitoring, a resident,

1 or resident representative when acting on behalf of the  
2 resident, shall obtain the written consent on the notification  
3 and consent form of any other resident who is a roommate  
4 residing in the shared room. A roommate's or roommate's  
5 resident representative's written consent shall comply with the  
6 requirements of this section.

7 5. Any resident, or resident representative when acting on  
8 behalf of the resident, conducting electronic monitoring shall  
9 immediately remove or disable an electronic monitoring device  
10 prior to a new resident who will be a roommate moving into a  
11 shared room, unless the resident or resident representative  
12 conducting electronic monitoring obtains the new roommate's or  
13 new roommate's resident representative's written consent as  
14 provided under this section prior to the new roommate moving  
15 into the shared room. Upon obtaining the new roommate's or new  
16 roommate's resident representative's signed notification and  
17 consent form and submitting the form to the nursing facility  
18 as required under section 135C.53, the resident or resident  
19 representative may resume electronic monitoring.

20 6. The resident or roommate, or the resident representative  
21 or roommate's resident representative if the representative is  
22 consenting on behalf of the resident or roommate, may withdraw  
23 consent at any time and the withdrawal of consent shall be  
24 documented on the original consent form as provided under  
25 section 135C.53.

26 Sec. 4. NEW SECTION. 135C.52 Refusal of roommate to  
27 consent.

28 If a resident of a nursing facility who is residing in a  
29 shared room, or the resident representative of such a resident  
30 when acting on behalf of the resident, wants to conduct  
31 electronic monitoring and another resident living in or moving  
32 into the same shared room refuses to consent to the use of an  
33 electronic monitoring device, the nursing facility shall make  
34 a reasonable attempt to accommodate the resident who wants to  
35 conduct electronic monitoring. A nursing facility has met

1 the requirement to make a reasonable attempt to accommodate  
2 a resident or resident representative who wants to conduct  
3 electronic monitoring when, upon notification that a roommate  
4 has not consented to the use of an electronic monitoring device  
5 in the resident's room, the nursing facility offers to move one  
6 of the residents to another shared room that is available at  
7 the time of the request that accommodates the resident. If  
8 a resident chooses to reside in a private room in order to  
9 accommodate the use of an electronic monitoring device, the  
10 resident shall be subject to a private room rate. If a nursing  
11 facility is unable to accommodate a resident, the nursing  
12 facility shall reevaluate the request periodically until the  
13 request is fulfilled.

14 Sec. 5. NEW SECTION. 135C.53 Notice and consent form  
15 submitted to nursing facility.

16 1. Electronic monitoring may begin only after the resident  
17 or resident representative who intends to place an electronic  
18 monitoring device in the resident's room and any roommate, or  
19 roommate's resident representative, completes a notification  
20 and consent form and submits the form to the nursing facility.

21 2. Upon receipt of the required, completed notification and  
22 consent form, the nursing facility shall place the original  
23 form in the resident's file and a copy of the form in any  
24 roommate's file. The nursing facility shall provide a copy  
25 to the resident and the resident's roommate or the resident  
26 representative or roommate's resident representative, as  
27 applicable.

28 3. If a resident or roommate, or the resident representative  
29 or roommate's resident representative if the representative  
30 is consenting on behalf of the resident or roommate, chooses  
31 to withdraw consent to electronic monitoring, the nursing  
32 facility shall make available the original notification and  
33 consent form so that the original form may be updated. Upon  
34 receipt of the updated original form, the nursing facility  
35 shall place the updated original form in the resident's file.

1 The nursing facility shall provide a copy of the updated form  
2 to the resident and the resident's roommate or to the resident  
3 representative or roommate's resident representative, as  
4 applicable.

5 4. If a new roommate, or the new roommate's resident  
6 representative when consenting on behalf of the new roommate,  
7 does not consent to electronic monitoring and submit a  
8 completed notification and consent form to the nursing  
9 facility, and the resident or resident representative  
10 conducting the electronic monitoring does not remove or disable  
11 an existing electronic monitoring device, the nursing facility  
12 shall provide the resident or the resident representative, as  
13 applicable, a twenty-four-hour notice to remove or disable the  
14 electronic monitoring device. If the device is not removed  
15 or disabled within twenty-four hours of notification to the  
16 resident or resident representative, the nursing facility may  
17 disable or remove the electronic monitoring device.

18 5. If a roommate, or the roommate's resident representative  
19 when withdrawing consent on behalf of the roommate, submits an  
20 updated notification and consent form withdrawing consent and  
21 the resident or resident representative conducting electronic  
22 monitoring does not remove or disable the electronic monitoring  
23 device, the nursing facility shall provide the resident or  
24 resident representative a twenty-four-hour notice to remove or  
25 disable the electronic monitoring device. If the device is not  
26 removed or disabled within twenty-four hours of notification to  
27 the resident or resident representative, the nursing facility  
28 may disable or remove the electronic monitoring device.

29 **Sec. 6. NEW SECTION. 135C.54 Notification and consent form**  
30 **requirements.**

31 1. The notification and consent form completed by the  
32 resident shall include, at a minimum, all of the following  
33 information:

34 a. The resident's signed consent to electronic monitoring or  
35 the signature of the resident representative, if applicable.

1 If a resident representative signs the consent form, the form  
2 shall document all of the following:

3 (1) The date the resident was asked if the resident wants  
4 electronic monitoring to be conducted.

5 (2) Any person present when the resident was asked.

6 (3) An acknowledgment that the resident did not  
7 affirmatively object.

8 (4) The source of authority allowing the resident  
9 representative to sign the notification and consent form on the  
10 resident's behalf, including any court order, as applicable.

11 *b.* The resident's roommate's signed consent or the signature  
12 of the roommate's resident representative, if applicable. If a  
13 roommate's resident representative signs the consent form, the  
14 form shall document all of the following:

15 (1) The date the roommate was asked if the roommate wants  
16 electronic monitoring to be conducted.

17 (2) Any person present when the roommate was asked.

18 (3) An acknowledgment that the roommate did not  
19 affirmatively object.

20 (4) The source of authority allowing the resident  
21 representative to sign the notification and consent form on the  
22 roommate's behalf, including any court order, as applicable.

23 *c.* The type of electronic monitoring device to be used.

24 *d.* Any installation needs, such as mounting a device to a  
25 wall or ceiling, and the costs associated with installation  
26 and use, which are to be paid by the resident or the resident  
27 representative, and the resident's liability for potential  
28 damage and repairs due to installation.

29 *e.* Fourteen days' notice of the proposed date of  
30 installation for scheduling purposes.

31 *f.* A copy of any contract for maintenance of the electronic  
32 monitoring device by a commercial entity.

33 *g.* A list of standard conditions or restrictions for the use  
34 of the electronic monitoring device including but not limited  
35 to all of the following:

- 1 (1) Prohibiting audio recording.
- 2 (2) Prohibiting video recording.
- 3 (3) Turning off the electronic monitoring device or  
4 blocking the visual recording component of the electronic  
5 monitoring device for the duration of an exam or procedure by a  
6 health care professional.
- 7 (4) Turning off the electronic monitoring device or  
8 blocking the visual recording component of the electronic  
9 monitoring device while dressing or bathing is performed.
- 10 (5) Turning off the electronic monitoring device for  
11 the duration of a visit with a spiritual adviser, ombudsman,  
12 attorney, financial planner, intimate partner, or other  
13 visitor.
- 14 (6) Prohibiting drop-in video access.
- 15 (7) Requiring visual verification when the electronic  
16 monitoring device is in use.
- 17 (8) Requiring conspicuously visible placement of the  
18 electronic monitoring device inside the resident's room.
- 19 (9) Prohibiting that the electronic monitoring device from  
20 being placed outside the resident's living quarters.
- 21 *h.* A signature box to document if the resident or roommate  
22 withdraws consent.
- 23 2. A nursing facility shall make the notification and  
24 consent form available to the residents and inform residents of  
25 the option to conduct electronic monitoring of the resident's  
26 room.
- 27 **Sec. 7. NEW SECTION. 135C.55 Cost and installation.**
- 28 1. A resident who chooses to conduct electronic monitoring  
29 shall do so at the resident's own expense, including payment  
30 of any purchase, installation, maintenance, removal costs, and  
31 costs for returning the resident's room to preinstallation  
32 condition.
- 33 2. If a resident chooses to place an electronic monitoring  
34 device that uses internet technology for visual monitoring, the  
35 resident shall be responsible for contracting with an internet



1 service provider.

2 3. The nursing facility shall make a reasonable attempt to  
3 accommodate the resident's installation needs.

4 4. All electronic monitoring device installations and  
5 supporting services shall comply with all applicable building  
6 codes.

7 5. A nursing facility shall not charge a resident a fee  
8 for the costs of electricity used by the electronic monitoring  
9 device.

10 Sec. 8. NEW SECTION. 135C.56 **Notice to visitors.**

11 1. If electronic monitoring is being conducted, a nursing  
12 facility shall post a sign at each nursing facility entrance  
13 accessible to visitors that states "Electronic monitoring  
14 devices may be present in the rooms of residents to observe  
15 persons and activities".

16 2. A nursing facility shall post a sign clearly and  
17 conspicuously at the entrance to a resident's room where  
18 electronic monitoring is being conducted. The notice shall  
19 state "This room is electronically monitored".

20 3. The nursing facility is responsible for installing and  
21 maintaining the signage required in this section.

22 Sec. 9. NEW SECTION. 135C.57 **Obstruction of electronic  
23 monitoring devices.**

24 A person shall not knowingly hamper, obstruct, tamper  
25 with, or destroy an electronic monitoring device placed in  
26 a resident's room without the permission of the resident or  
27 resident representative, as applicable.

28 Sec. 10. NEW SECTION. 135C.58 **Immunity from liability —  
29 license discipline — inadmissability of recordings.**

30 1. A nursing facility is not civilly or criminally liable  
31 for the disclosure of an unlawful recording captured by an  
32 electronic monitoring device.

33 2. A nursing facility is not civilly or criminally liable  
34 for a violation of a resident's right to privacy arising out  
35 of any electronic monitoring conducted in accordance and in

1 compliance with this subchapter.

2 3. The resident and resident representative, as applicable,  
3 are responsible for complying with local, state, and federal  
4 privacy laws and for firewall protections to prevent images  
5 that may violate obscenity laws from being inadvertently shown  
6 on the internet via the electronic monitoring device.

7 4. A nursing facility that knowingly violates this  
8 subchapter shall be subject to licensee discipline.

9 5. If a resident fails to comply with the nursing facility  
10 policies and residency agreement relating to the use of an  
11 electronic monitoring device, nursing facility staff may  
12 report the failure to the office of long-term care ombudsman  
13 and law enforcement, as applicable. Continued failure by a  
14 resident to comply with such nursing facility policies and  
15 residency agreement may constitute grounds for termination of a  
16 resident's residency agreement.

17 6. Audio or video recordings obtained in violation of this  
18 chapter are inadmissible in a regulatory or other disciplinary  
19 proceeding.

20 Sec. 11. NEW SECTION. 135C.59 Resident protections.

21 1. A nursing facility shall not do any of the following:

22 a. Refuse to admit a potential resident or remove a resident  
23 because the nursing facility disagrees with the potential  
24 resident's or the resident's decisions regarding electronic  
25 monitoring, whether the decision is made by a resident or a  
26 resident representative acting on behalf of the resident.

27 b. Retaliate or discriminate against any resident for  
28 consenting or refusing to consent to electronic monitoring.

29 c. Prevent the placement or use of an electronic monitoring  
30 device by a resident who has provided the nursing facility  
31 with the notification and consent form as required under this  
32 subchapter.

33 2. Any contractual provision prohibiting, limiting,  
34 or otherwise modifying the rights and obligations in this  
35 subchapter is contrary to public policy and is void and

1 unenforceable.

2 Sec. 12. NEW SECTION. 135C.60 Report to department.

3 A nursing facility shall report to the department, in a  
4 manner prescribed by the department, the number of electronic  
5 monitoring device notification and consent forms received by  
6 the nursing facility on an annual basis.

7 Sec. 13. Section 633.635, subsection 3, Code 2023, is  
8 amended by adding the following new paragraph:

9 NEW PARAGRAPH. d. Consenting to electronic monitoring  
10 conducted in accordance with chapter 135C.

11 Sec. 14. DIRECTIVE TO DEPARTMENT OF INSPECTIONS AND  
12 APPEALS. The department of inspections and appeals shall  
13 prescribe by rule pursuant to chapter 17A the notification and  
14 consent form described in this Act, and shall make the form  
15 available on the department's internet site.

16 Sec. 15. CODE EDITOR DIRECTIVE. The Code editor may codify  
17 the provisions of this Act as a new subchapter of chapter 135C  
18 entitled "Electronic Monitoring".

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with  
21 the explanation's substance by the members of the general assembly.

22 This bill provides for authorized electronic monitoring in  
23 nursing facilities.

24 The bill provides that a nursing facility resident or a  
25 resident representative, as applicable, may conduct electronic  
26 monitoring of the resident's room through the use of electronic  
27 monitoring devices placed in the resident's room pursuant  
28 to the bill. The bill specifies the consents that must be  
29 obtained for a resident to conduct electronic monitoring in the  
30 resident's room, including from any roommate; the process to  
31 be followed if a roommate refuses to consent; the provision  
32 of notification to the nursing facility; the notification and  
33 consent form requirements; the responsibility for costs and  
34 installation relating to the electronic monitoring; notice  
35 to visitors; prohibited obstruction of electronic monitoring

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1 devices; immunity from liability, licensee discipline, and  
2 inadmissability of recordings related to violations of the  
3 bill; resident protections; and reporting requirements. The  
4 bill also directs the department of inspections and appeals  
5 to prescribe the notification and consent form described in  
6 the bill and to make the form available on the department's  
7 internet site.