

Senate File 2327 - Introduced

SENATE FILE 2327
BY BISIGNANO

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:

unofficial

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
5 an electronic monitoring device by a resident or resident
6 representative in the resident's room in accordance with this
7 subchapter.

8 2. "*Electronic monitoring device*" means a video camera only
9 capable of video livestream broadcasts, video recording, or both,
10 and that is placed in a resident's room for the purpose of
11 monitoring the resident or activities in the room. "*Electronic*
12 *monitoring device*" does not include video phone calls or video
13 conferencing where a resident either initiates or joins a call or
14 conference.

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

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

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

22 b. The attorney in fact designated to make treatment
23 decisions for the resident in accordance with chapter 144B.

24 Sec. 2. NEW SECTION. **135C.50 Electronic monitoring.**

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

29 2. A nursing facility or resident of the nursing facility
30 shall not engage in electronic monitoring or the use of
31 electronic monitoring devices in a resident's room without the
32 written consent of the resident or resident representative when
33 consenting on 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, a
4 resident must consent to electronic monitoring in the resident's
5 room in writing on a notification and consent form prescribed
6 by the department. If the resident has not affirmatively
7 objected to electronic monitoring and the resident's health
8 care professional determines that the resident lacks the ability
9 to understand and appreciate the nature and consequences of
10 electronic monitoring, the resident representative may consent
11 on behalf of the resident. For purposes of this subsection,
12 a resident affirmatively objects when the resident orally,
13 visually, or through the use of auxiliary aids or services
14 declines electronic monitoring. The resident's response shall be
15 documented on the notification and consent form.

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

21 a. The type of electronic monitoring device to be used.

22 b. The standard conditions or restrictions that may be placed
23 on the electronic monitoring device's use including as specified
24 in the list of standard conditions or restrictions contained in
25 the notification and consent form completed by the resident as
26 provided in section 135C.55.

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

29 3. A resident, or resident representative when consenting on
30 behalf of the resident, shall consent to electronic monitoring
31 with the standard conditions or restrictions contained in the
32 notification and consent form completed by the resident as
33 provided in section 135C.55.

34 4. A nursing facility employee may be present to witness the
35 completion of the written notification and consent form and to

1 answer any questions relating to conducting electronic monitoring
2 in a resident's room.

3 Sec. 4. NEW SECTION. **135C.52 Consent to electronic**
4 **monitoring — shared room.**

5 1. If a resident resides in a shared room, all of the
6 following shall apply:

7 a. The resident, or resident representative, as applicable,
8 shall request and obtain the written consent on the notification
9 and consent form of any existing roommate residing in the shared
10 room, prior to initiating electronic monitoring in the resident's
11 room.

12 b. The resident, or resident representative, as applicable,
13 who is currently conducting electronic monitoring in the
14 resident's room, shall immediately remove or disable an
15 electronic monitoring device prior to a new roommate moving into
16 a shared room, and shall not resume electronic monitoring unless
17 the resident or resident representative requests and obtains
18 written consent on the notification and consent form, of the new
19 roommate or the new roommate's resident representative.

20 2. a. An existing or new roommate, or the roommate's
21 resident representative, as applicable, shall have thirty
22 calendar days from receipt of the request for consent to
23 electronic monitoring to complete the notification and consent
24 form.

25 b. Failure of an existing or new roommate, or the roommate's
26 resident representative, to complete the notification and
27 consent form within the thirty-calendar-day period, shall be
28 considered an affirmative objection to the initiating or
29 resuming of electronic monitoring, and the resident or resident's
30 representative shall not initiate or resume electronic monitoring
31 in the resident's room.

32 3. After obtaining an existing or new roommate's, or the
33 roommate's resident representative's signed notification and
34 consent form and submitting the form to the nursing facility
35 as required under section 135C.54, the resident or resident

1 representative may initiate or resume electronic monitoring
2 of the resident's room only after the expiration of a
3 thirty-calendar-day waiting period commencing on the date the
4 signed notification and consent form is submitted to the nursing
5 facility.

6 4. The resident, the existing or new roommate, the
7 resident's resident representative, or the roommate's resident
8 representative, as applicable, may withdraw consent to electronic
9 monitoring at any time and the withdrawal of consent shall be
10 documented on the original notification and consent form.

11 Sec. 5. NEW SECTION. **135C.53 Refusal of roommate to consent**
12 **— accommodations.**

13 1. If a resident is residing in a shared room, and the
14 resident or resident representative, when acting on behalf of
15 the resident, wants to initiate or resume electronic monitoring
16 but an existing or new roommate refuses to consent to the
17 electronic monitoring as required under section 135C.52, the
18 nursing facility shall make a reasonable attempt to accommodate
19 the resident or resident representative who wants to conduct
20 electronic monitoring.

21 2. A nursing facility has met the requirement to make
22 a reasonable attempt to accommodate a resident or resident
23 representative who wants to initiate or resume electronic
24 monitoring under subsection 1 when, upon notification of the
25 nursing facility by a resident or resident representative that
26 an existing or new roommate has refused to consent to electronic
27 monitoring in the shared room, the nursing facility offers to
28 move the resident or roommate to another shared room that is
29 available at the time of the request that accommodates the
30 resident or roommate.

31 3. If a resident chooses to reside in a private room in order
32 to accommodate the use of an electronic monitoring device, the
33 resident shall be subject to the private room rate.

34 4. If a nursing facility is unable to accommodate a
35 resident's request to conduct electronic monitoring under this

1 section, the nursing facility shall reevaluate the request
2 periodically until the request is fulfilled.

3 Sec. 6. NEW SECTION. **135C.54 Notice and consent form**
4 **submitted to nursing facility.**

5 1. Electronic monitoring of a resident's room may be
6 conducted only after all of the following conditions are met:

7 a. (1) If the resident resides in a private room, the
8 resident, or the resident representative when acting on behalf
9 of the resident, completes a notification and consent form and
10 submits the signed and completed form to the nursing facility.

11 (2) If the resident resides in a shared room, the resident
12 or the resident representative when acting on behalf of
13 the resident, and any roommate or the roommate's resident
14 representative, completes notification and consent forms and
15 submit the signed and completed forms to the nursing facility.

16 b. Any required waiting period prior to the initiating or
17 resuming of electronic monitoring has expired.

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

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

1 roommate's resident representative, as applicable.

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

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

27 Sec. 7. NEW SECTION. **135C.55 Notification and consent form**
28 **requirements.**

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

32 a. The resident's signed consent to electronic monitoring or
33 the signature of the resident representative, if applicable.
34 If a resident representative signs the notification and consent
35 form, the form shall document all of the following:

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

3 (2) The name of any person present when the resident was
4 asked.

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

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

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

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

16 (2) The name of any person present when the roommate was
17 asked.

18 (3) An acknowledgment that the roommate did not affirmatively
19 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 and
26 use, which are to be paid by the resident or the resident
27 representative, and the resident's liability for potential damage
28 and repairs due to installation.

29 e. Fourteen days' notice of the proposed date of installation
30 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 to
35 all of the following:

1 (1) Prohibiting audio recording.

2 (2) Prohibiting video recording.

3 (3) Turning off the electronic monitoring device or blocking
4 the lens of the electronic monitoring device for the duration of
5 an exam or procedure by a health care professional.

6 (4) Turning off the electronic monitoring device or blocking
7 the lens of the electronic monitoring device while dressing or
8 bathing is performed.

9 (5) Turning off the electronic monitoring device for the
10 duration of a visit with a spiritual adviser, ombudsman,
11 attorney, financial planner, intimate partner, or other visitor.

12 (6) Prohibiting drop-in video access.

13 (7) Requiring visual verification when the electronic
14 monitoring device is in use.

15 (8) Requiring conspicuously visible placement of the
16 electronic monitoring device inside the resident's room.

17 (9) Prohibiting the electronic monitoring device from being
18 placed outside the resident's living quarters.

19 h. A signature box to document if the resident or roommate
20 withdraws consent.

21 2. A nursing facility shall make the notification and consent
22 form available to residents and inform residents of the option to
23 conduct electronic monitoring of the resident's room.

24 Sec. 8. NEW SECTION. **135C.56 Cost and installation.**

25 1. A resident who chooses to conduct electronic monitoring
26 shall do so at the resident's own expense, including payment of
27 any purchase, installation, maintenance, removal costs, and costs
28 for returning the resident's room to preinstallation condition.

29 2. If a resident chooses to place an electronic monitoring
30 device that uses internet technology for visual monitoring, the
31 resident shall be responsible for contracting with an internet
32 service provider.

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

35 4. All electronic monitoring device installations and

1 supporting services shall comply with all applicable building
2 codes.

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

6 Sec. 9. NEW SECTION. **135C.57 Notice to visitors.**

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

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

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

18 Sec. 10. NEW SECTION. **135C.58 Obstruction of electronic
19 monitoring devices.**

20 A person shall not knowingly hamper, obstruct, tamper with, or
21 destroy an electronic monitoring device placed in a resident's
22 room without the permission of the resident or resident
23 representative, as applicable.

24 Sec. 11. NEW SECTION. **135C.59 Immunity from liability —
25 licensee discipline — inadmissibility of recordings.**

26 1. A nursing facility is not civilly or criminally liable for
27 the disclosure of an unlawful recording captured by an electronic
28 monitoring device.

29 2. A nursing facility is not civilly or criminally liable for
30 a violation of a resident's right to privacy arising out of any
31 electronic monitoring conducted in accordance and in compliance
32 with this subchapter.

33 3. The resident and resident representative, as applicable,
34 are responsible for complying with local, state, and federal
35 privacy laws and for firewall protections to prevent images that

1 may violate obscenity laws from being inadvertently shown on the
2 internet via the electronic monitoring device.

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

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

13 Sec. 12. NEW SECTION. **135C.60 Resident protections.**

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

15 a. Refuse to admit a potential resident or remove a resident
16 because the nursing facility disagrees with the potential
17 resident's or the resident's decisions regarding electronic
18 monitoring, whether the decision is made by a resident or a
19 resident representative acting on behalf of the resident.

20 b. Retaliate or discriminate against any resident for
21 consenting or refusing to consent to electronic monitoring.

22 c. Prevent the placement or use of an electronic monitoring
23 device by a resident who has provided the nursing facility
24 with any notification and consent form as required under this
25 subchapter.

26 2. Any contractual provision prohibiting, limiting, or
27 otherwise modifying the rights and obligations in this subchapter
28 is contrary to public policy and is void and unenforceable.

29 Sec. 13. NEW SECTION. **135C.61 Report to the department.**

30 A nursing facility shall report to the department, during
31 the nursing facility's recertification survey, the number of
32 electronic monitoring device notification and consent forms
33 received by the nursing facility.

34 Sec. 14. Section 633.635, subsection 3, Code 2026, is amended
35 by adding the following new paragraph:

1 NEW PARAGRAPH. d. Consenting to electronic monitoring
2 conducted in accordance with chapter 135C.

3 Sec. 15. DIRECTIVE TO DEPARTMENT OF INSPECTIONS, APPEALS, AND
4 LICENSING. The department of inspections, appeals, and licensing
5 shall prescribe by rule pursuant to chapter 17A the notification
6 and consent form described in this Act, and shall make the form
7 available on the department's internet site.

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

11 EXPLANATION

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

14 This bill provides for authorized electronic monitoring in
15 nursing facilities.

16 The bill provides that a nursing facility resident or a
17 resident representative, as applicable, may conduct electronic
18 monitoring of the resident's room through the use of electronic
19 monitoring devices placed in the resident's room pursuant to the
20 bill. The bill specifies the consents that must be obtained for
21 a resident to conduct electronic monitoring in the resident's
22 room, including from any roommate; the process to be followed
23 if a roommate refuses to consent; the provision of notification
24 to the nursing facility; the notification and consent form
25 requirements; the responsibility for costs and installation
26 relating to the electronic monitoring; notice to visitors;
27 prohibited obstruction of electronic monitoring devices; immunity
28 from liability, and licensee discipline; resident protections;
29 and reporting requirements. The bill also directs the department
30 of inspections and appeals to prescribe the notification and
31 consent form described in the bill and to make the form available
32 on the department's internet site.