

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 587

By: Justice, Johnson  
(Constance) and Fields of  
the Senate

4 and

5 Wright and Pittman of the  
House

6  
7  
8  
9 An Act relating to public health; providing  
10 definitions; authorizing noncompulsory electronic  
11 recording of residents of nursing facilities;  
12 prohibiting certain restrictions on residents;  
13 prohibiting tampering with electronic recording  
14 devices; providing penalties for violations;  
15 requiring resident permission for disclosure of  
16 certain information; permitting certain information  
17 to be used for legal proceedings; providing for  
18 codification; and providing an effective date.

16 AUTHORS: Add the following House Coauthors: Sherrer, Hoskin,  
17 Shelton and McDaniel (Jeannie)

18 AUTHOR: Add the following Senate Coauthor: Coates

19 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
20 and insert

21 "An Act relating to public health; providing  
22 definitions; authorizing noncompulsory electronic  
23 recording of residents of nursing facilities;  
24 requiring written notice; prohibiting certain  
restrictions on residents; requiring certain  
posting; prohibiting tampering with electronic  
recording devices; providing penalties for

1 violations; requiring resident permission for  
2 disclosure of certain information; permitting  
3 certain information to be used for legal  
4 proceedings; requiring certain notification;  
5 requiring consent form; providing who may give  
6 consent; providing rights of other resident of a  
7 room; providing for additional information in form;  
8 requiring certain compliance; providing for  
9 codification; and providing an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1953.1 of Title 63, unless  
13 there is created a duplication in numbering, reads as follows:

14 As used in this act:

15 1. "Authorized electronic monitoring" means the placement of  
16 electronic monitoring devices in the common areas or room of a  
17 resident of a nursing facility and the tapes or recordings from such  
18 devices pursuant to the provisions of this act;

19 2. "Authorized electronic monitoring devices" means:

20 a. video surveillance cameras installed in the common  
21 areas or resident's room under the provisions of this  
22 act, or

23 b. audio devices installed in the room of a resident  
24 under the provisions of this act that are designed to  
acquire communications or other sounds occurring in  
the room;

1           3. "Nursing facility" means the term as defined in Section 1-  
2 1902 of Title 63 of the Oklahoma Statutes;

3           4. "Representative of a resident" means the term as is defined  
4 in Section 1-1902 of Title 63 of the Oklahoma Statutes;

5           5. "Resident" means the term as is defined in Section 1-1902 of  
6 Title 63 of the Oklahoma Statutes; and

7           6. "Unauthorized electronic monitoring" means electronic,  
8 mechanical, or other devices that do not meet the provisions of this  
9 act and that are specifically used for the nonconsensual  
10 interception of wire or electronic communications.

11           SECTION 2.        NEW LAW        A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1-1953.2 of Title 63, unless  
13 there is created a duplication in numbering, reads as follows:

14           A. A nursing facility shall provide written notice to each  
15 resident, or to the representative of a resident, that authorized  
16 electronic monitoring of a resident's room conducted under the  
17 provisions of this act is not compulsory and shall only be conducted  
18 with the written consent of the resident or the representative of  
19 the resident.

20           B. A nursing facility shall not refuse to admit an individual  
21 to residency in the facility and shall not remove a resident from a  
22 facility because of authorized electronic monitoring of a resident's  
23 room.

24

1 C. A nursing facility shall post at or near its main entrances  
2 a sign that clearly states that electronic monitoring and audio  
3 devices may be in use in the facility.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1-1953.3 of Title 63, unless  
6 there is created a duplication in numbering, reads as follows:

7 A. No person or entity shall intentionally hamper, obstruct,  
8 tamper with, or destroy an electronic monitoring device installed in  
9 a nursing facility.

10 B. Any person or entity that intentionally hampers, obstructs,  
11 tampers with, or destroys a recording or an electronic monitoring  
12 device installed in a nursing facility shall be subject to the  
13 penalties prescribed in Section 1993 of Title 21 of the Oklahoma  
14 Statutes.

15 C. No person or entity shall intercept a communication or  
16 disclose or use an intercepted communication of an electronic  
17 monitoring device placed or installed in a common area of a nursing  
18 facility without the express written consent of the facility, or,  
19 for an electronic monitoring device installed in a resident's room,  
20 the express written consent of the resident or the representative of  
21 the resident.

22 SECTION 4. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-1953.4 of Title 63, unless  
24 there is created a duplication in numbering, reads as follows:

1 Subject to the provisions of law, a tape or recording created  
2 through the use of authorized electronic monitoring pursuant to this  
3 act may be admitted into evidence in a civil or criminal court  
4 action or administrative proceeding.

5 SECTION 5. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-1953.5 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8 A. A resident or the representative of a resident may conduct  
9 authorized electronic monitoring of the resident's room through the  
10 use of authorized electronic monitoring devices placed in the room  
11 pursuant to the provisions of this act at the expense of such person  
12 or representative of the resident and with the written consent of  
13 any other resident living in the room.

14 B. A resident who conducts authorized electronic monitoring or  
15 the representative of the resident may post and maintain a notice at  
16 the entrance to the resident's room stating that the room is being  
17 monitored by an electronic monitoring device.

18 C. Nothing in this act shall be construed to prevent a resident  
19 or the representative of the resident from placing an electronic  
20 monitoring device in the resident's room at the expense of such  
21 person; however, if such resident is sharing a room with any other  
22 resident, the resident or the representative of the resident shall  
23 obtain written consent from such other resident or the  
24 representative of the resident living in the room and such consent

1 shall be on a form prescribed by the State Department of Health and  
2 shall be placed on file with the administrator of the facility.

3 D. If a resident residing in a shared room, or the  
4 representative of a resident residing in a shared room, desires to  
5 utilize an authorized electronic monitoring device and another  
6 resident living in such shared room refuses to consent to the use of  
7 an authorized electronic monitoring device, the nursing facility  
8 shall accommodate the resident or the representative of the resident  
9 desiring to utilize an authorized electronic monitoring device to  
10 move to another room if the resident or resident's representative  
11 requests such a room change within a reasonable amount of time.

12 SECTION 6. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 1-1953.6 of Title 63, unless  
14 there is created a duplication in numbering, reads as follows:

15 A. A resident or representative of a resident who wishes to  
16 conduct authorized electronic monitoring shall be required to notify  
17 the nursing facility on the consent form prescribed by the State  
18 Department of Health.

19 B. The consent form prescribed by the Department shall require  
20 the resident or the representative of a resident to obtain the  
21 consent of any other resident in the room or the representative of a  
22 resident, using the consent form prescribed for this purpose by the  
23 Department, if the resident resides in a room with another resident.

24 C. Consent may be given only:

1 1. By the resident or any other resident in the room; or

2 2. By the representative of the resident or representative of  
3 any other resident in the room.

4 D. Another resident in the room may:

5 1. When the proposed electronic monitoring device is a video  
6 surveillance camera, condition consent on the camera being pointed  
7 away from the consenting resident; and

8 2. Condition consent on the use of an audio electronic  
9 monitoring device being limited or prohibited.

10 E. Except as provided for in Section 7 of this act, authorized  
11 electronic monitoring may begin only after the required consent  
12 forms specified in this act have been completed and returned to the  
13 nursing facility and placed on file with the administrator of such  
14 facility.

15 F. If authorized electronic monitoring is being conducted in  
16 the room of a resident, another resident may not be moved into the  
17 room unless the resident or representative of the resident has  
18 consented to the use of existing electronic monitoring, in  
19 accordance with this act.

20 G. The Department may include other information that it  
21 considers to be appropriate on any form it is required to prescribe  
22 under the provisions of this act.

1 H. The Department shall prescribe the forms required by this  
2 act no later than November 1, 2013, and shall make such forms  
3 available on its website.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1-1953.7 of Title 63, unless  
6 there is created a duplication in numbering, reads as follows:

7 Any resident or the representative of the resident utilizing  
8 existing electronic monitoring devices prior to November 1, 2013,  
9 shall comply with all written consent and disclosure provisions of  
10 this act no later than January 1, 2014.

11 SECTION 8. This act shall become effective November 1, 2013."

12 Passed the House of Representatives the 22nd day of April, 2013.

13

14

15

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

16

17 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2013.

18

19

20

\_\_\_\_\_  
Presiding Officer of the Senate

21

22

23

24