

# An Act

ENROLLED SENATE  
BILL NO. 587

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

and

Wright, Pittman, Sherrer,  
Hoskin, Shelton, McDaniel  
(Jeannie), Hamilton and  
Morrisette of the House

An Act relating to public health; providing definitions; authorizing noncompulsory electronic recording of residents of nursing facilities; requiring written notice; prohibiting certain restrictions on residents; requiring certain posting; prohibiting tampering with electronic recording devices; providing penalties for violations; requiring resident permission for disclosure of certain information; permitting certain information to be used for legal proceedings; requiring certain notification; requiring consent form; providing who may give consent; providing rights of other resident of a room; providing for additional information in form; requiring certain compliance; providing for codification; and providing an effective date.

SUBJECT: Electronic monitoring in nursing facilities

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

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

As used in this act:

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

2. "Authorized electronic monitoring devices" means:

- a. video surveillance cameras installed in the common areas or resident's room under the provisions of this act, or
- b. audio devices installed in the room of a resident under the provisions of this act that are designed to acquire communications or other sounds occurring in the room;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Nothing in this act shall be construed to prevent a resident or the representative of the resident from placing an electronic monitoring device in the resident's room at the expense of such person; however, if such resident is sharing a room with any other resident, the resident or the representative of the resident shall obtain written consent from such other resident or the representative of the resident living in the room and such consent shall be on a form prescribed by the State Department of Health and shall be placed on file with the administrator of the facility.

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

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

A. A resident or representative of a resident who wishes to conduct authorized electronic monitoring shall be required to notify

the nursing facility on the consent form prescribed by the State Department of Health.

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

C. Consent may be given only:

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

D. Another resident in the room may:

1. When the proposed electronic monitoring device is a video surveillance camera, condition consent on the camera being pointed away from the consenting resident; and
2. Condition consent on the use of an audio electronic monitoring device being limited or prohibited.

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

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

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

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

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

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

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

Passed the Senate the 29th day of April, 2013.

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Presiding Officer of the Senate

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

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

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_