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February 25, 2013

EE SUBSTITUTE

BILL NO. 587 By: Justice and Johns

Justice and Johnson
(Constance) of the Senate

and

Wright of the House

An Act relating to public health; providing definitions; authorizing noncompulsory electronic recording of residents of nursing facilities; prohibiting certain restrictions on residents; 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; providing for codification; and providing an effective date.

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 it creates a duplication in numbering, reads as follows:

used in this act:

"Authorized electronic monitoring" means the placement of electronic monitoring devices in the common areas or rooms of units of a nursing facility and recordings with the devices in accordance with the provisions of this act; and

1 2. "Electronic monitoring device" means video surveillance
2 cameras installed in the common areas or residents' rooms.

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

6 A. Authorized electronic monitoring of a resident's room
7 conducted under this act is not compulsory and shall only be
8 conducted with the consent of the resident, residents, or legal
9 representatives thereof.

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

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

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

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

1 C. No person or entity shall intercept a communication or
2 disclose or use an intercepted communication of an electronic
3 monitoring device placed or installed in a common area of a nursing
4 facility without the express consent of the facility, or, for an
5 electronic monitoring device installed in a resident's room, the
6 express consent of the resident or legal representatives thereof.

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

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

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

17 Nothing in this act shall be construed to prevent a resident or
18 resident's legal representative from placing an electronic
19 monitoring device in the resident's room at the expense of such
20 person and with the consent of all other residents, or legal
21 representatives thereof, living in the room.

22 SECTION 6. This act shall become effective November 1, 2013.

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
24 February 25, 2013 - DO PASS AS AMENDED