

1 **SENATE FLOOR VERSION**

2 February 24, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1739

5 By: Leewright

6 An Act relating to long-term care facilities;
7 **creating the "Barbara E. Hoover Act"**; amending
8 Sections 1, 2, 3, 5 and 6, Chapter 204, O.S.L. 2013
9 (63 O.S. Supp. 2019, Sections 1-1953.1, 1-1953.2, 1-
10 1953.3, 1-1953.5 and 1-1953.6), which relate to
11 electronic monitoring in long-term care facilities;
12 broadening certain provisions to apply to assisted
13 living centers and continuum of care facilities;
14 updating statutory references; renumbering Sections
15 1, 2, 3, as amended by Sections 1, 2 and 3 of this
16 act, 4, 5, 6, as amended by Sections 4 and 5 of this
17 act and 7, Chapter 204, O.S.L. 2013 (63 O.S. Supp.
18 2019, Sections 1-1953.1, 1-1953.2, 1-1953.3, 1-
19 1953.4, 1-1953.5, 1-1953.6 and 1-1953.7), which
20 relate to electronic monitoring in long-term care
21 facilities; providing for recodification; **providing**
22 **for noncodification**; and providing an effective date.

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

24 **SECTION 1. NEW LAW A new section of law not to be**
codified in the Oklahoma Statutes reads as follows:

25 This act shall be known and may be cited as the "Barbara E.
26 Hoover Act".

27 **SECTION 2. AMENDATORY** Section 1, Chapter 204, O.S.L.
28 2013 (63 O.S. Supp. 2019, Section 1-1953.1), is amended to read as
29 follows:

1 Section 1-1953.1. As used in ~~this act~~ Section 1-1953.1 et seq.
2 of this title:

3 1. "Assisted living center" shall have the same meaning as
4 provided by Section 1-890.2 of this title;

5 2. "Authorized electronic monitoring" means the placement of
6 electronic monitoring devices in the common areas or room of a
7 resident of a nursing facility, assisted living center or continuum
8 of care facility and the tapes or recordings from such devices
9 pursuant to the provisions of ~~this act~~ Section 1-1953.1 et seq. of
10 this title;

11 ~~2.~~ 3. "Authorized electronic monitoring devices" means:

- 12 a. video surveillance cameras installed in the common
13 areas or resident's room under the provisions of ~~this~~
14 ~~act~~ Section 1-1953.1 et seq. of this title, or
15 b. audio devices installed in the room of a resident
16 under the provisions of ~~this act~~ Section 1-1953.1 et
17 seq. of this title that are designed to acquire
18 communications or other sounds occurring in the room;

19 ~~3.~~ 4. "Continuum of care facility" shall have the same meaning
20 as provided by Section 1-890.2 of this title;

21 5. "Nursing facility" means the term as defined in Section 1-
22 1902 of Title 63 of the Oklahoma Statutes;

23 ~~4.~~ 6. "Representative of a resident" means ~~the term as is~~
24 ~~defined in Section 1-1902 of Title 63 of the Oklahoma Statutes a~~

1 court-appointed guardian or, if there is no court-appointed
2 guardian, the parent of a minor, a relative, or other person,
3 designated in writing by the resident; provided, that any owner,
4 operator, administrator or employee of a facility subject to the
5 provisions of the Nursing Home Care Act, the Continuum of Care and
6 Assisted Living Act, the Residential Care Act, or the Group Homes
7 for the Developmentally Disabled or Physically Handicapped Persons
8 Act shall not be appointed guardian or limited guardian of a
9 resident of the nursing facility, assisted living center or
10 continuum of care facility unless the owner, operator, administrator
11 or employee is the spouse of the resident, or a relative of the
12 resident within the second degree of consanguinity and is otherwise
13 eligible for appointment;

14 ~~5. 7.~~ "Resident" means ~~the term as is defined in Section 1-1902~~
15 ~~of Title 63 of the Oklahoma Statutes~~ a person residing in a nursing
16 facility, assisted living center or continuum of care facility; and

17 ~~6. 8.~~ "Unauthorized electronic monitoring" means electronic,
18 mechanical, or other devices that do not meet the provisions of ~~this~~
19 ~~act~~ Section 1-1953.1 et seq. of this title and that are specifically
20 used for the nonconsensual interception of wire or electronic
21 communications.

22 SECTION 3. AMENDATORY Section 2, Chapter 204, O.S.L.
23 2013 (63 O.S. Supp. 2019, Section 1-1953.2), is amended to read as
24 follows:

1 Section 1-1953.2. A. A nursing facility, assisted living
2 center or continuum of care facility shall provide written notice to
3 each resident, or to the representative of a resident, that
4 authorized electronic monitoring of a resident's room conducted
5 under the provisions of ~~this act~~ Section 1-1953.1 et seq. of this
6 title is not compulsory and shall only be conducted with the written
7 consent of the resident or the representative of the resident.

8 B. A nursing facility, assisted living center or continuum of
9 care facility shall not refuse to admit an individual to residency
10 in the facility or center and shall not remove a resident from a
11 facility or center because of authorized electronic monitoring of a
12 resident's room.

13 C. A nursing facility, assisted living center or continuum of
14 care facility shall post at or near its main entrances a sign that
15 clearly states that electronic monitoring and audio devices may be
16 in use in the facility or center.

17 SECTION 4. AMENDATORY Section 3, Chapter 204, O.S.L.
18 2013 (63 O.S. Supp. 2019, Section 1-1953.3), is amended to read as
19 follows:

20 Section 1-1953.3. A. No person or entity shall intentionally
21 hamper, obstruct, tamper with, or destroy an electronic monitoring
22 device installed in a nursing facility, assisted living center or
23 continuum of care facility.

1 B. Any person or entity that intentionally hampers, obstructs,
2 tampers with, or destroys a recording or an electronic monitoring
3 device installed in a nursing facility, assisted living center or
4 continuum of care facility shall be subject to the penalties
5 prescribed in Section 1993 of Title 21 of the Oklahoma Statutes.

6 C. No person or entity shall intercept a communication or
7 disclose or use an intercepted communication of an electronic
8 monitoring device placed or installed in a common area of a nursing
9 facility, assisted living center or continuum of care facility
10 without the express written consent of the facility, or, for an
11 electronic monitoring device installed in a resident's room, the
12 express written consent of the resident or the representative of the
13 resident.

14 SECTION 5. AMENDATORY Section 5, Chapter 204, O.S.L.
15 2013 (63 O.S. Supp. 2019, Section 1-1953.5), is amended to read as
16 follows:

17 Section 1-1953.5. A. A resident or the representative of a
18 resident may conduct authorized electronic monitoring of the
19 resident's room through the use of authorized electronic monitoring
20 devices placed in the room pursuant to the provisions of ~~this act~~
21 Section 1-1953.1 et seq. of this title at the expense of such person
22 or representative of the resident and with the written consent of
23 any other resident living in the room.

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

5 C. Nothing in ~~this act~~ Section 1-1953.1 et seq. of this title
6 shall be construed to prevent a resident or the representative of
7 the resident from placing an electronic monitoring device in the
8 resident's room at the expense of such person; however, if such
9 resident is sharing a room with any other resident, the resident or
10 the representative of the resident shall obtain written consent from
11 such other resident or the representative of the resident living in
12 the room and such consent shall be on a form prescribed by the State
13 Department of Health and shall be placed on file with the
14 administrator of the facility.

15 D. If a resident residing in a shared room, or the
16 representative of a resident residing in a shared room, desires to
17 utilize an authorized electronic monitoring device and another
18 resident living in such shared room refuses to consent to the use of
19 an authorized electronic monitoring device, the nursing facility,
20 assisted living center or continuum of care facility shall
21 accommodate the resident or the representative of the resident
22 desiring to utilize an authorized electronic monitoring device to
23 move to another room if the resident or resident's representative
24 requests such a room change within a reasonable amount of time.

SECTION 6. AMENDATORY Section 6, Chapter 204, O.S.L.

2013 (63 O.S. Supp. 2019, Section 1-1953.6), is amended to read as follows:

Section 1-1953.6. A. A resident or representative of a resident who wishes to conduct authorized electronic monitoring shall be required to notify the nursing facility, assisted living center or continuum of care 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.

1 E. Except as provided for in ~~Section 7 of this act~~ Section 1-
2 1953.7 of this title, authorized electronic monitoring may begin
3 only after the required consent forms specified in ~~this act~~ Section
4 1-1953.1 et seq. of this title have been completed and returned to
5 the nursing facility, assisted living center or continuum of care
6 facility and placed on file with the administrator of such facility
7 or center.

8 F. If authorized electronic monitoring is being conducted in
9 the room of a resident, another resident may not be moved into the
10 room unless the resident or representative of the resident has
11 consented to the use of existing electronic monitoring, in
12 accordance with ~~this act~~ Section 1-1953.1 et seq. of this title.

13 G. The Department may include other information that it
14 considers to be appropriate on any form it is required to prescribe
15 under the provisions of ~~this act~~ Section 1-1953.1 et seq. of this
16 title.

17 H. The Department shall prescribe the forms required by ~~this~~
18 ~~act~~ Section 1-1953.1 et seq. of this title no later than November 1,
19 2013, and shall make such forms available on its website.

20 SECTION 7. RECODIFICATION Section 1, Chapter 204, O.S.L.
21 2013 (63 O.S. Supp. 2019, Section 1-1953.1), as amended by Section 1
22 of this act, shall be recodified as Section 1-1956.1 of Title 63 of
23 the Oklahoma Statutes, unless there is created a duplication in
24 numbering.

1 SECTION 8. RECODIFICATION Section 2, Chapter 204, O.S.L.
2 2013 (63 O.S. Supp. 2019, Section 1-1953.2), as amended by Section 2
3 of this act, shall be recodified as Section 1-1956.2 of Title 63 of
4 the Oklahoma Statutes, unless there is created a duplication in
5 numbering.

6 SECTION 9. RECODIFICATION Section 3, Chapter 204, O.S.L.
7 2013 (63 O.S. Supp. 2019, Section 1-1953.3), as amended by Section 3
8 of this act, shall be recodified as Section 1-1956.3 of Title 63 of
9 the Oklahoma Statutes, unless there is created a duplication in
10 numbering.

11 SECTION 10. RECODIFICATION Section 4, Chapter 204,
12 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.4), shall be
13 recodified as Section 1-1956.4 of Title 63 of the Oklahoma Statutes,
14 unless there is created a duplication in numbering.

15 SECTION 11. RECODIFICATION Section 5, Chapter 204,
16 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.5), as amended by
17 Section 4 of this act, shall be recodified as Section 1-1956.5 of
18 Title 63 of the Oklahoma Statutes, unless there is created a
19 duplication in numbering.

20 SECTION 12. RECODIFICATION Section 6, Chapter 204,
21 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.6), as amended by
22 Section 5 of this act, shall be recodified as Section 1-1956.6 of
23 Title 63 of the Oklahoma Statutes, unless there is created a
24 duplication in numbering.

1 SECTION 13. RECODIFICATION Section 7, Chapter 204,
2 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.7), shall be
3 recodified as Section 1-1956.7 of Title 63 of the Oklahoma Statutes,
4 unless there is created a duplication in numbering.

5 SECTION 14. This act shall become effective November 1, 2020.

6 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
7 February 24, 2020 - DO PASS AS AMENDED
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