

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1739

By: Leewright

AS INTRODUCED

An Act relating to long-term care facilities; amending Sections 1, 2, 3, 5 and 6, Chapter 204, O.S.L. 2013 (63 O.S. Supp. 2019, Sections 1-1953.1, 1-1953.2, 1-1953.3, 1-1953.5 and 1-1953.6), which relate to electronic monitoring in long-term care facilities; broadening certain provisions to apply to assisted living centers and continuum of care facilities; updating statutory references; renumbering Sections 1, 2, 3, as amended by Sections 1, 2 and 3 of this act, 4, 5, 6, as amended by Sections 4 and 5 of this act and 7, Chapter 204, O.S.L. 2013 (63 O.S. Supp. 2019, Sections 1-1953.1, 1-1953.2, 1-1953.3, 1-1953.4, 1-1953.5, 1-1953.6 and 1-1953.7), which relate to electronic monitoring in long-term care facilities; providing for recodification; and providing an effective date.

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

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

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

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

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

7 ~~2.~~ 3. "Authorized electronic monitoring devices" means:

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

15 ~~3.~~ 4. "Continuum of care facility" shall have the same meaning
16 as provided by Section 1-890.2 of this title;

17 5. "Nursing facility" means the term as defined in Section 1-
18 1902 of Title 63 of the Oklahoma Statutes;

19 ~~4.~~ 6. "Representative of a resident" means ~~the term as is~~
20 ~~defined in Section 1-1902 of Title 63 of the Oklahoma Statutes~~ a
21 court-appointed guardian or, if there is no court-appointed
22 guardian, the parent of a minor, a relative, or other person,
23 designated in writing by the resident; provided, that any owner,
24 operator, administrator or employee of a facility subject to the

1 provisions of the Nursing Home Care Act, the Continuum of Care and
2 Assisted Living Act, the Residential Care Act, or the Group Homes
3 for the Developmentally Disabled or Physically Handicapped Persons
4 Act shall not be appointed guardian or limited guardian of a
5 resident of the nursing facility, assisted living center or
6 continuum of care facility unless the owner, operator, administrator
7 or employee is the spouse of the resident, or a relative of the
8 resident within the second degree of consanguinity and is otherwise
9 eligible for appointment;

10 ~~5. 7.~~ "Resident" means ~~the term as is defined in Section 1-1902~~
11 ~~of Title 63 of the Oklahoma Statutes~~ a person residing in a nursing
12 facility, assisted living center or continuum of care facility; and

13 ~~6. 8.~~ "Unauthorized electronic monitoring" means electronic,
14 mechanical, or other devices that do not meet the provisions of ~~this~~
15 ~~act~~ Section 1-1953.1 et seq. of this title and that are specifically
16 used for the nonconsensual interception of wire or electronic
17 communications.

18 SECTION 2. AMENDATORY Section 2, Chapter 204, O.S.L.
19 2013 (63 O.S. Supp. 2019, Section 1-1953.2), is amended to read as
20 follows:

21 Section 1-1953.2. A. A nursing facility, assisted living
22 center or continuum of care facility shall provide written notice to
23 each resident, or to the representative of a resident, that
24 authorized electronic monitoring of a resident's room conducted

1 under the provisions of ~~this act~~ Section 1-1953.1 et seq. of this
2 title is not compulsory and shall only be conducted with the written
3 consent of the resident or the representative of the resident.

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

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

13 SECTION 3. AMENDATORY Section 3, Chapter 204, O.S.L.
14 2013 (63 O.S. Supp. 2019, Section 1-1953.3), is amended to read as
15 follows:

16 Section 1-1953.3. A. No person or entity shall intentionally
17 hamper, obstruct, tamper with, or destroy an electronic monitoring
18 device installed in a nursing facility, assisted living center or
19 continuum of care 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, assisted living center or
23 continuum of care facility shall be subject to the penalties
24 prescribed in Section 1993 of Title 21 of the Oklahoma 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, assisted living center or continuum of care facility
5 without the express written consent of the facility, or, for an
6 electronic monitoring device installed in a resident's room, the
7 express written consent of the resident or the representative of the
8 resident.

9 SECTION 4. AMENDATORY Section 5, Chapter 204, O.S.L.
10 2013 (63 O.S. Supp. 2019, Section 1-1953.5), is amended to read as
11 follows:

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

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

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

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

19 SECTION 5. AMENDATORY Section 6, Chapter 204, O.S.L.
20 2013 (63 O.S. Supp. 2019, Section 1-1953.6), is amended to read as
21 follows:

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

1 center or continuum of care facility on the consent form prescribed
2 by the State Department of Health.

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

8 C. Consent may be given only:

- 9 1. By the resident or any other resident in the room; or
10 2. By the representative of the resident or representative of
11 any other resident in the room.

12 D. Another resident in the room may:

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

18 E. Except as provided for in ~~Section 7 of this act~~ Section 1-
19 1953.7 of this title, authorized electronic monitoring may begin
20 only after the required consent forms specified in ~~this act~~ Section
21 1-1953.1 et seq. of this title have been completed and returned to
22 the nursing facility, assisted living center or continuum of care
23 facility and placed on file with the administrator of such facility
24 or center.

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

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

10 H. The Department shall prescribe the forms required by ~~this~~
11 ~~act~~ Section 1-1953.1 et seq. of this title no later than November 1,
12 2013, and shall make such forms available on its website.

13 SECTION 6. RECODIFICATION Section 1, Chapter 204, O.S.L.
14 2013 (63 O.S. Supp. 2019, Section 1-1953.1), as amended by Section 1
15 of this act, shall be recodified as Section 1-1956.1 of Title 63 of
16 the Oklahoma Statutes, unless there is created a duplication in
17 numbering.

18 SECTION 7. RECODIFICATION Section 2, Chapter 204, O.S.L.
19 2013 (63 O.S. Supp. 2019, Section 1-1953.2), as amended by Section 2
20 of this act, shall be recodified as Section 1-1956.2 of Title 63 of
21 the Oklahoma Statutes, unless there is created a duplication in
22 numbering.

23 SECTION 8. RECODIFICATION Section 3, Chapter 204, O.S.L.
24 2013 (63 O.S. Supp. 2019, Section 1-1953.3), as amended by Section 3
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1 of this act, shall be recodified as Section 1-1956.3 of Title 63 of
2 the Oklahoma Statutes, unless there is created a duplication in
3 numbering.

4 SECTION 9. RECODIFICATION Section 4, Chapter 204, O.S.L.
5 2013 (63 O.S. Supp. 2019, Section 1-1953.4), shall be recodified as
6 Section 1-1956.4 of Title 63 of the Oklahoma Statutes, unless there
7 is created a duplication in numbering.

8 SECTION 10. RECODIFICATION Section 5, Chapter 204,
9 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.5), as amended by
10 Section 4 of this act, shall be recodified as Section 1-1956.5 of
11 Title 63 of the Oklahoma Statutes, unless there is created a
12 duplication in numbering.

13 SECTION 11. RECODIFICATION Section 6, Chapter 204,
14 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.6), as amended by
15 Section 5 of this act, shall be recodified as Section 1-1956.6 of
16 Title 63 of the Oklahoma Statutes, unless there is created a
17 duplication in numbering.

18 SECTION 12. RECODIFICATION Section 7, Chapter 204,
19 O.S.L. 2013 (63 O.S. Supp. 2019, Section 1-1953.7), shall be
20 recodified as Section 1-1956.7 of Title 63 of the Oklahoma Statutes,
21 unless there is created a duplication in numbering.

22 SECTION 13. This act shall become effective November 1, 2020.
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