

HOUSE BILL No. 2232

By Committee on Children and Seniors

1-31

1 AN ACT concerning adult care homes; relating to electronic monitoring.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) As used in this section:

5 (1) "Adult care home" means the same as defined in K.S.A. 39-923,
6 and amendments thereto;

7 (2) "authorized electronic monitoring" means the placement of one or
8 more electronic monitoring devices in the room of an adult care home
9 resident and making recordings with such devices after notifying the adult
10 care home of the resident's intent to conduct electronic monitoring; and

11 (3) "electronic monitoring device" means a surveillance instrument
12 used to broadcast or record activity or sound occurring in a room,
13 including a video surveillance camera or an audio device designed to
14 acquire communications or other sounds occurring in the room, but not to
15 intercept wire or electronic communications.

16 (b) A resident shall be permitted to conduct authorized electronic
17 monitoring in the resident's room subject to the requirements of this
18 section.

19 (c) An adult care home shall not discharge or refuse to admit a
20 resident or person or otherwise retaliate against a resident or person based
21 on conducting or consenting to authorized electronic monitoring.

22 (d) A resident, or such resident's guardian or legal representative, who
23 wishes to conduct authorized electronic monitoring shall notify the adult
24 care home on a form prescribed by the secretary for aging and disability
25 services. Such form shall be maintained in such person's resident file at the
26 adult care home and shall require the resident, or such resident's guardian
27 or legal representative, to:

28 (1) Release the adult care home from any civil liability for a violation
29 of the resident's privacy rights in connection with the use of the electronic
30 monitoring device;

31 (2) if the electronic monitoring device is a video surveillance camera,
32 choose whether the camera will always be unobstructed or will be
33 obstructed in specified circumstances to protect the dignity of the resident;
34 and

35 (3) if the resident resides in a multi-resident room, obtain the consent
36 of other residents in the room on a form prescribed for this purpose by the

1 secretary.

2 (e) An adult care home shall make reasonable physical
3 accommodations for authorized electronic monitoring, including:

4 (1) Providing a reasonably secure place to mount the electronic
5 monitoring device;

6 (2) providing access to power sources for the electronic monitoring
7 device;

8 (3) making reasonable accommodations and exhausting all reasonable
9 options if a resident in a multi-resident room wishes to conduct electronic
10 monitoring pursuant to this section and the resident or residents with
11 whom the resident shares the room do not consent to the monitoring,
12 including offering to move the resident who wishes to conduct electronic
13 monitoring to another shared room that is available or becomes available;
14 and

15 (4) making reasonable accommodations and exhausting all reasonable
16 options if a resident wishes to conduct electronic monitoring and another
17 resident begins residing in the multi-resident room who does not consent
18 to the monitoring before moving the resident wishing to conduct electronic
19 monitoring.

20 (f) A resident, or such resident's guardian or legal representative, shall
21 pay all costs associated with installing and maintaining an electronic
22 monitoring device requested under this section.

23 (g) Each adult care home shall post a conspicuous notice at the
24 entrance to the adult care home stating that the rooms of some residents
25 may be monitored electronically by or on behalf of the room's resident or
26 residents.

27 (h) On or before a person's admission to an adult care home, such
28 person shall complete and sign a form prescribed by the secretary for
29 aging and disability services. Such form shall be maintained in such
30 person's resident file at the adult care home and shall state the following:

31 (1) That a person who places an electronic monitoring device in a
32 resident's room or discloses a recording made by such device may be
33 civilly liable for any unlawful violation of the privacy rights of another
34 person;

35 (2) that a resident, or such resident's guardian or legal representative,
36 is entitled to conduct authorized electronic monitoring under this section;

37 (3) the basic procedures required to request authorized electronic
38 monitoring;

39 (4) who may request authorized electronic monitoring;

40 (5) who may consent to authorized electronic monitoring; and

41 (6) restrictions that a resident may elect to place on electronic
42 monitoring conducted in the resident's room, including, but not limited to:

43 (A) Prohibiting video recording;

1 (B) prohibiting audio recording;

2 (C) turning off the device or blocking the visual recording component
3 of the device during an exam or procedure administered by a healthcare
4 professional;

5 (D) turning off the device or blocking the visual recording component
6 of the device while the resident is dressing or bathing; or

7 (E) turning off the device or blocking the visual recording component
8 of the device during a resident's visit with a spiritual adviser, ombudsman,
9 attorney, financial planner, intimate partner or other visitor; and

10 (7) any other information related to authorized electronic monitoring
11 that the secretary deems necessary or appropriate to include on such form.

12 (i) Any electronic monitoring device installed or operated pursuant to
13 this section shall comply with the requirements of the national fire
14 protection association 101 life safety code, or other standards determined
15 by the secretary for aging and disability as having substantially equivalent
16 requirements.

17 (j) (1) A person is prohibited from knowingly hindering, obstructing,
18 tampering with or destroying, without the consent of the resident or
19 individual who authorized electronic monitoring, an electronic monitoring
20 device installed in a resident's room in accordance with this section.

21 (2) A person is prohibited from knowingly hindering, obstructing,
22 tampering with or destroying, without the consent of the resident or
23 individual who authorized electronic monitoring, a video or audio
24 recording obtained in accordance with this section.

25 (3) (A) Any person who violates this subsection shall be guilty of a
26 class B nonperson misdemeanor.

27 (B) Any person who violates this subsection with the intent to
28 commit or conceal the commission of a misdemeanor offense shall be
29 guilty of a class A nonperson misdemeanor.

30 (C) Any person who violates this subsection with the intent to
31 commit or conceal the commission of a felony offense shall be guilty of a
32 severity level 4, nonperson felony.

33 (k) The secretary for aging and disability services shall adopt rules
34 and regulations as may be necessary to administer the provisions of this
35 section.

36 Sec. 2. This act shall take effect and be in force from and after its
37 publication in the statute book.