

1                   **ASSISTED LIVING FACILITY SURVEILLANCE ACT**

2                                   2014 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Roger E. Barrus**

5                   Senate Sponsor: \_\_\_\_\_

---

---

7   **LONG TITLE**

8   **General Description:**

9           This bill adds provisions to the Health Care Facility Licensing and Inspection Act  
10 related to monitoring devices installed in assisted living facilities.

11 **Highlighted Provisions:**

12           This bill:

13           ▶ allows a resident of an assisted living facility to install a video or audio monitoring  
14 device in the resident's room under certain conditions;

15           ▶ prohibits an assisted living facility from denying an individual admission to the  
16 facility or discharging a resident from the facility solely because the individual or  
17 resident wants to operate or install a monitoring device in the individual's or  
18 resident's room; and

19           ▶ provides that a facility, resident, or resident's legal guardian may not be held civilly  
20 or criminally liable for operating or installing a monitoring device in accordance  
21 with certain requirements.

22 **Money Appropriated in this Bill:**

23           None

24 **Other Special Clauses:**

25           None

26 **Utah Code Sections Affected:**

27 ENACTS:



- 28 [26-21-301](#), Utah Code Annotated 1953
- 29 [26-21-302](#), Utah Code Annotated 1953
- 30 [26-21-303](#), Utah Code Annotated 1953
- 31 [26-21-304](#), Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26-21-301** is enacted to read:

35 **Part 3. Assisted Living Facility Surveillance Act**

36 **26-21-301. Definitions.**

37 This part is known as the "Assisted Living Facility Surveillance Act."

38 Section 2. Section **26-21-302** is enacted to read:

39 **26-21-302. Definitions.**

40 As used in this part:

- 41 (1) "Facility" means an assisted living facility.
- 42 (2) "Guardian" means an individual who is legally authorized to make health care  
 43 decisions on behalf of another individual.
- 44 (3) (a) "Monitoring device" means:  
 45 (i) a video surveillance camera; or  
 46 (ii) a microphone or other device that captures audio.
- 47 (b) "Monitoring device" does not include:  
 48 (i) a device that is specifically intended to intercept wire, electronic, or oral  
 49 communications without notice to or the consent of a party to the communication; or  
 50 (ii) a device that is connected to the Internet or that is set up to transmit data via an  
 51 electronic communication.
- 52 (4) "Resident" means an individual who receives health care from a facility.
- 53 (5) "Room" means a resident's private or shared primary living space.
- 54 (6) "Roommate" means an individual sharing a room with a resident or the individual's  
 55 guardian.

56 Section 3. Section **26-21-303** is enacted to read:

57 **26-21-303. Monitoring device -- Installation, notice, and consent.**

- 58 (1) A resident or resident's guardian may operate or install a monitoring device in the

59 resident's room if the resident or guardian:

60 (a) notifies the resident's facility:

61 (i) that the resident or guardian intends to operate or install a monitoring device in the  
62 resident's room;

63 (ii) of the specific location where the resident or guardian will operate or install the  
64 monitoring device; and

65 (iii) of the technical specifications and capabilities of the monitoring device;

66 (b) obtains written consent from each of the resident's roommates that specifically  
67 states the hours when each roommate consents to the resident or guardian operating the  
68 monitoring device; and

69 (c) assumes all responsibility for any cost related to installing or operating the  
70 monitoring device.

71 (2) Notwithstanding any provision of Title 76, Utah Criminal Code, or Title 77, Utah  
72 Code of Criminal Procedure, a facility, resident, or resident's guardian is not civilly or  
73 criminally liable for a privacy violation related to video or audio captured by a monitoring  
74 device that the resident or guardian operates in accordance with this part.

75 (3) Notwithstanding any other provision of this part, an individual may not, under this  
76 part, operate a monitoring device in a facility without a court order:

77 (a) in secret; or

78 (b) with an intent to intercept a wire, electronic, or oral communication without notice  
79 to or the consent of a party to the communication.

80 Section 4. Section **26-21-304** is enacted to read:

81 **26-21-304. Monitoring device -- Facility admission, patient discharge, and posted**  
82 **notice.**

83 (1) A facility may not deny an individual admission to the facility for the sole reason  
84 that the individual or individual's guardian requests to install or operate a monitoring device in  
85 the individual's room.

86 (2) A facility may not discharge a resident for the sole reason that the resident or the  
87 resident's guardian requests to install or operate a monitoring device in the individual's room.

88 (3) A facility may require the resident or the resident's guardian to place a sign near the  
89 entrance of the resident's room that states that the room contains a monitoring device.

---

---

**Legislative Review Note**  
**as of 2-7-14 2:10 PM**

**Office of Legislative Research and General Counsel**