

Representative Roger E. Barrus proposes the following substitute bill:

ASSISTED LIVING FACILITY SURVEILLANCE ACT

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ allows a resident of an assisted living facility to install a video or audio monitoring device in the resident's room under certain conditions;
- ▶ prohibits an assisted living facility from denying an individual admission to the facility or discharging a resident from the facility solely because the individual or resident wants to operate or install a monitoring device in the individual's or resident's room; and
- ▶ provides that a facility, resident, or resident's legal representative may not be held civilly or criminally liable for operating or installing a monitoring device in accordance with certain requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

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) "Legal representative" means an individual who is legally authorized to make
43 health care 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:

55 (a) an individual sharing a room with a resident; or

56 (b) the individual's legal representative.

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

58 **26-21-303. Monitoring device -- Installation, notice, and consent.**

59 (1) A resident or resident's legal representative may operate or install a monitoring
60 device in the resident's room if the resident or legal representative:

61 (a) notifies the resident's facility:

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

64 (ii) of the specific location where the resident or legal representative will operate or
65 install the monitoring device; and

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

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

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

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

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

78 (a) in secret; or

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

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

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

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

87 (2) A facility may not discharge a resident for the sole reason that the resident or the

88 resident's legal representative requests to install or operate a monitoring device in the
89 individual's room.

90 (3) A facility may require the resident or the resident's legal representative to place a
91 sign near the entrance of the resident's room that states that the room contains a monitoring
92 device.