1	MONITORING EQUIPMENT IN A CARE FACILITY
2	2016 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Timothy D. Hawkes
5	Senate Sponsor: Evan J. Vickers
6 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	<ul> <li>allows a resident of an assisted living facility to install a video or audio monitoring</li> </ul>
14	device in the resident's room under certain conditions;
15	<ul> <li>prohibits an assisted living facility from denying an individual admission to the</li> </ul>
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	<ul> <li>provides that a facility, resident, or resident's legal representative may not be held</li> </ul>
20	civilly or criminally liable for operating or installing a monitoring device in
21	accordance with certain requirements.
22	Money Appropriated in this Bill:
23	None
24	Other Special Clauses:
25	None
26	<b>Utah Code Sections Affected:</b>
27	ENACTS:



H.B. 124 01-06-16 5:55 PM

<b>26-21-301</b> , Utah Code Annotated 1953
<b>26-21-302</b> , Utah Code Annotated 1953
<b>26-21-303</b> , Utah Code Annotated 1953
<b>26-21-304</b> , Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:
Section 1. Section <b>26-21-301</b> is enacted to read:
Part 3. Assisted Living Facility Surveillance Act
<u>26-21-301.</u> Title.
This part is known as the "Assisted Living Facility Surveillance Act."
Section 2. Section <b>26-21-302</b> is enacted to read:
<b>26-21-302.</b> Definitions.
As used in this part:
(1) "Facility" means an assisted living facility.
(2) "Legal representative" means an individual who is legally authorized to make
health care decisions on behalf of another individual.
(3) (a) "Monitoring device" means:
(i) a video surveillance camera; or
(ii) a microphone or other device that captures audio.
(b) "Monitoring device" does not include:
(i) a device that is specifically intended to intercept wire, electronic, or oral
communication without notice to or the consent of a party to the communication; or
(ii) a device that is connected to the Internet or that is set up to transmit data via an
electronic communication.
(4) "Resident" means an individual who receives health care from a facility.
(5) "Room" means a resident's private or shared primary living space.
(6) "Roommate" means:
(a) an individual sharing a room with a resident; or
(b) the individual's legal representative.
Section 3. Section 26-21-303 is enacted to read:
26-21-303. Monitoring device Installation, notice, and consent.

01-06-16 5:55 PM H.B. 124

59	(1) A resident or the resident's legal representative may operate or install a monitoring
60	device in the resident's room if the resident or the resident's legal representative:
61	(a) notifies the resident's facility:
62	(i) that the resident or the resident's legal representative intends to operate or install a
63	monitoring device in the resident's room;
64	(ii) of the specific location where the resident or the resident's legal representative wil
65	operate or 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 the resident's legal
69	representative operating 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 the resident's legal representative operates in accordance with this
76	part.
77	(3) Notwithstanding any other provision of this part, an individual may not, under this
78	part, operate a monitoring device in a facility without a court order:
79	(a) in secret; or
80	(b) with an intent to intercept a wire, electronic, or oral communication without notice
81	to or the consent of a party to the communication.
82	Section 4. Section <b>26-21-304</b> is enacted to read:
83	26-21-304. Monitoring device Facility admission, patient discharge, and posted
84	notice.
85	(1) A facility may not deny an individual admission to the facility for the sole reason
86	that the individual or the individual's legal representative requests to install or operate a
87	monitoring device in the individual's room.
88	(2) A facility may not discharge a resident for the sole reason that the resident or the
89	resident's legal representative requests to install or operate a monitoring device in the

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

Legislative Review Note Office of Legislative Research and General Counsel