

HB0124S01 compared with HB0124

~~{deleted text}~~ shows text that was in HB0124 but was deleted in HB0124S01.

inserted text shows text that was not in HB0124 but was inserted into HB0124S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Timothy D. Hawkes proposes the following substitute bill:

MONITORING EQUIPMENT IN A CARE FACILITY

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

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~~

HB0124S01 compared with HB0124

~~civilly or criminally liable for~~ certain liability protections related to operating or installing a monitoring device in ~~{accordance with certain requirements}~~ a resident's room.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-21-301, Utah Code Annotated 1953

26-21-302, Utah Code Annotated 1953

26-21-303, Utah Code Annotated 1953

26-21-304, Utah Code Annotated 1953

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

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

Part 3. Assisted Living Facility Surveillance Act

26-21-301. Title.

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

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

26-21-302. 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

HB0124S01 compared with HB0124

(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.

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

(a) notifies the resident's facility **in writing:**

(i) that the resident or the resident's legal representative, **if any:**

(A) intends to operate or install a monitoring device in the resident's room; and

(B) consents to a waiver agreement, if required by a facility;

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

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

(b) obtains written consent from each of the resident's roommates, **or their legal representative, if any,** that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and

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

(2) ~~{Notwithstanding any provision of Title 76, Utah Criminal Code, or Title 77, Utah Code of Criminal Procedure, a} A facility ~~{, resident, or resident's legal representative is}~~ **shall not be** civilly or criminally liable **to:**~~

(a) a resident or resident's roommate for ~~{a privacy violation related to video or audio captured by}~~ the operation of a monitoring device ~~{that}~~ **consistent with this part; and**

(b) any person other than the resident or ~~{the}~~ resident's ~~{legal representative operates in accordance with this part}~~ roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions

HB0124S01 compared with HB0124

of an employee or agent of the facility.

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

(a) in secret; or

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

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

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

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

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

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

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Legislative Review Note

Office of Legislative Research and General Counsel†