

Representative Karianne Lisonbee proposes the following substitute bill:

VULNERABLE POPULATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill concerns protections for vulnerable populations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions relating to a monitoring device in the room of a resident of an assisted living facility and includes ~~§~~→ **[nursing home]** **certain other** ←~~§~~ facilities;
- ▶ requires fingerprint background checks for certain individuals who will have direct access to patients in certain health care facilities;
- ▶ requires certain facilities to report certain incidents of abuse, neglect, or exploitation to the Department of Health and Human Services (department), the Division of Child and Family Services, Adult Protective Services, or a law enforcement agency;
- ▶ requires, with an automatic repeal provision, the department to collect and compile all reported incidents of abuse, neglect, or exploitation at certain facilities and annually report the information to the Health and Human Services Interim Committee;
- ▶ prohibits inmates from receiving certain training while incarcerated; and
- ▶ makes technical and conforming changes.

4th Sub. H.B. 495



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 This bill provides a coordination clause.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **26B-2-236**, as renumbered and amended by Laws of Utah 2023, Chapter 305

34 **26B-2-238**, as renumbered and amended by Laws of Utah 2023, Chapter 305

35 **26B-2-240**, as renumbered and amended by Laws of Utah 2023, Chapter 305

36 **63I-2-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,

37 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023,

38 Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter

39 329

40 **64-13-48**, as enacted by Laws of Utah 2022, Chapter 144

41 ENACTS:

42 **26B-2-243**, Utah Code Annotated 1953

43 **Utah Code Sections Affected By Coordination Clause:**

44 **26B-2-240**, as renumbered and amended by Laws of Utah 2023, Chapter 305



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

47 Section 1. Section **26B-2-236** is amended to read:

48 **26B-2-236. Monitoring device -- Installation, notice, and consent -- Admission**
49 **and discharge -- Liability.**

50 (1) As used in this section:

51 (a) "Facility" means ~~§~~ :

51a (i) ~~§~~ an assisted living facility ~~§~~ ; ~~§~~ or

51b ~~§~~ (ii) a secure memory care unit inside of:

51c (A) ~~§~~ a nursing care facility ~~§~~ [:] ; or

51d (B) any other medical or mental health facility. ~~§~~

52 (b) "Legal representative" means an individual who is legally authorized to make
53 health care decisions on behalf of another individual.

54 ~~(b)~~ (c) (i) "Monitoring device" means:

55 (A) a video surveillance camera; or

56 (B) a microphone or other device that captures audio.

88 device in the individual's room.

89 (c) A facility shall prohibit all employees of a facility from deactivating, repositioning,
90 or otherwise interfering with the operation of a monitoring device in an individual's room.

91 ~~§~~ [f] ~~←§~~ ~~§~~ [c] (d) ~~←§~~ ~~§~~ [An assisted living] A ~~←§~~ facility may require the resident
91a or the resident's legal

92 representative to place a sign near the entrance of the resident's room that states that the room
93 contains a monitoring device. ~~§~~ [j] ~~←§~~

94 ~~§~~ [(5) Upon the request of a resident or the resident's legal representative, a facility may
95 not inform the employees of the facility of the presence of the monitoring device in the
96 individual's room:

97 ~~— [(5)] (6) (5) ←§~~ Notwithstanding any other provision of this part, an individual may not,
97a under

98 this part, operate a monitoring device in [an assisted living] a facility without a court order:

99 (a) in secret; or

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

102 Section 2. Section **26B-2-238** is amended to read:

103 **26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.**

104 As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

105 (1) "Clearance" means approval by the department under Section 26B-2-239 for an
106 individual to have direct patient access.

107 (2) "Covered body" means a covered provider, covered contractor, or covered
108 employer.

109 (3) "Covered contractor" means a person that supplies covered individuals, by contract,
110 to a covered employer or covered provider.

111 (4) "Covered employer" means an individual who:

112 (a) engages a covered individual to provide services in a private residence to:

113 (i) an aged individual, as defined by department rule; or

114 (ii) a disabled individual, as defined by department rule;

115 (b) is not a covered provider; and

116 (c) is not a licensed health care facility within the state.

117 (5) "Covered individual":

118 (a) means an individual:

243 (ii) fingerprints.

244 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed
245 in another state according to the closest matching crime under Utah law, regardless of how the
246 crime is classified in the state where the crime was committed.

247 (6) The Department of Public Safety, the Administrative Office of the Courts, the
248 Division of Professional Licensing, and any other state agency or political subdivision of the
249 state:

250 (a) shall allow the department to review the information the department may review
251 under Subsection (3); and

252 (b) except for the Department of Public Safety, may not charge the department for
253 access to the information.

254 (7) The department shall adopt measures to protect the security of the information it
255 reviews under Subsection (3) and strictly limit access to the information to department
256 employees responsible for processing an application for clearance.

257 (8) The department may disclose personal identification information specified under
258 Subsection (4)(b) to other divisions and offices within the department to verify that the subject
259 of the information is not identified as a perpetrator or offender in the information sources
260 described in Subsections (3)(d) through (f).

261 (9) The department may establish fees, in accordance with Section 63J-1-504, for an
262 application for clearance, which may include:

263 (a) the cost of obtaining and reviewing information under Subsection (3);

264 (b) a portion of the cost of creating and maintaining the Direct Access Clearance
265 System database under Section 26B-2-241; and

266 (c) other department costs related to the processing of the application and the ongoing
267 review of information pursuant to Subsection (4)(a) to determine whether clearance should be
268 retained.

269 Section 4. Section **26B-2-243** is enacted to read:

270 **26B-2-243. Data collection and reporting requirements concerning incidents of**
271 **abuse, neglect, or exploitation.**

272 (1) As used in this section, "facility" means ~~§~~→ **[an assisted living facility or a nursing care**
273 **facility]** **the same as that term is defined in Section 26B-2-236** ←~~§~~ .