
SUBSTITUTE HOUSE BILL 2173

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Health Care & Wellness (originally sponsored by Representatives Schual-Berke and Moeller)

READ FIRST TIME 2/28/07.

1 AN ACT Relating to electronic monitoring in long-term care
2 facilities; amending RCW 18.51.009, 18.20.180, and 70.128.125; and
3 adding a new section to chapter 70.129 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.129 RCW
6 to read as follows:

7 (1) The following definitions apply to this section:

8 (a) "Department" means the department of social and health
9 services.

10 (b) "Facility" means a nursing home that is licensed under chapter
11 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an
12 adult family home licensed under chapter 70.128 RCW.

13 (c) "Electronic monitoring" means the recording or transmission of
14 a series of photographs, a motion picture film, a videotape, a series
15 of digital images, or any other recording or transmission of images,
16 whether or not it includes an audio component, but does not include
17 images captured by a still camera.

18 (d) "Resident" means an individual receiving services in a

1 facility, or, if the person is incompetent, that resident's attorney in
2 fact, guardian, or other legal representative acting within the scope
3 of his or her authority.

4 (2) A resident has the right to install and use an electronic
5 monitoring device in the resident's room, provided that:

6 (a) The resident has obtained consent in writing from any roommate
7 who shares the room as sleeping quarters;

8 (b) The resident has provided written notice to the facility on a
9 form developed by the department under subsection (6) of this section
10 of the resident's intent to install the monitoring device;

11 (c) The resident pays for all installation and maintenance costs of
12 the electronic monitoring;

13 (d) The resident complies with any other conditions imposed by
14 rules adopted by the department; and

15 (e) The electronic monitoring conforms to any limitation placed on
16 the monitoring as the condition of the consent given by a roommate and
17 conforms to the requirements outlined in subsection (6) of this
18 section.

19 (3) A facility shall:

20 (a) At the time of a new resident's admission or, for current
21 residents, within six months of the effective date of this act, provide
22 the resident with the form required under subsection (6) of this
23 section notifying the resident of the option to authorize or refuse to
24 consent to electronic monitoring in the resident's room;

25 (b) Maintain the signed and dated form on file at the facility;

26 (c) Provide reasonable physical accommodation for the installation
27 and use of the electronic monitoring device, including providing a
28 reasonably secure place to mount the device and access to power
29 sources;

30 (d) Permit a resident to install electronic monitoring when in
31 compliance with this act;

32 (e) Post a notice at the main entrance to the facility stating in
33 large, easy-to-read type that the rooms of some residents may be
34 monitored electronically by or on behalf of the residents; and

35 (f) Post a notice outside of the room of any resident who has
36 requested authorization to install electronic monitoring under
37 subsection (2) of this section. The notice shall state that the room
38 may be monitored electronically.

1 (4) A facility shall not refuse to admit an individual to residency
2 or remove a resident because of the resident's request to install
3 electronic monitoring or because electronic monitoring is being
4 conducted by or on behalf of a resident in compliance with this act.

5 (5) If a roommate objects to monitoring, a facility may move the
6 resident who requested monitoring to a different room in order to
7 accommodate the request.

8 (6) The department shall develop a form for use by a resident to
9 notify a facility of the resident's intent to install a device capable
10 of electronic monitoring. The form must state:

11 (a) That a resident is entitled to install and use an electronic
12 monitoring device consistent with this section;

13 (b) That the resident should contact the department if the facility
14 refuses to permit the monitoring or if the facility fails to make
15 reasonable physical accommodations necessary for installation and use
16 of the electronic monitoring device;

17 (c) The basic procedures that must be followed to install and use
18 electronic monitoring in compliance with this section, including the
19 requirement of obtaining written consent from other residents who share
20 the room; and

21 (d) That a roommate authorizing monitoring may condition consent to
22 include but not be limited to the following: Placing restrictions on
23 the direction in which the camera may face, prohibiting the use of
24 audio recording, or requiring obstruction of the device under specific
25 circumstances as required to protect the dignity of the roommate.

26 (7) The placement and use of an electronic monitoring device in the
27 room of a resident under authority of this section may not be covert.
28 Placement and use of an electronic monitoring device is covert if the
29 placement and use of the device is not open and obvious and the
30 resident has not notified the facility of the use and installation of
31 the device.

32 (8) Subject to applicable rules of evidence and procedure, a tape
33 or recording created in compliance with the provisions of this act may
34 be admitted into evidence in a civil or criminal court action or
35 administrative proceeding.

36 (9) Nothing in this section authorizes an individual to install or
37 use electronic monitoring in a manner that is not consistent with or
38 violates chapter 9.73 RCW.

1 **Sec. 2.** RCW 18.51.009 and 1994 c 214 s 22 are each amended to read
2 as follows:

3 RCW 70.129.007, 70.129.105, section 1 of this act, and 70.129.150
4 through 70.129.170 apply to this chapter and persons regulated under
5 this chapter.

6 **Sec. 3.** RCW 18.20.180 and 1994 c 214 s 21 are each amended to read
7 as follows:

8 RCW 70.129.005 through 70.129.030, 70.129.040(1), section 1 of this
9 act, and 70.129.050 through 70.129.170 apply to this chapter and
10 persons regulated under this chapter.

11 **Sec. 4.** RCW 70.128.125 and 1994 c 214 s 24 are each amended to
12 read as follows:

13 RCW 70.129.005 through 70.129.030, 70.129.040(1), section 1 of this
14 act, and 70.129.050 through 70.129.170 apply to this chapter and
15 persons regulated under this chapter.

--- END ---