
HOUSE BILL 2173

State of Washington

60th Legislature

2007 Regular Session

By Representatives Schual-Berke and Moeller

Read first time 02/12/2007. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to electronic monitoring in long-term care
2 facilities; amending RCW 18.51.009 and 18.20.180; adding a new section
3 to chapter 70.129 RCW; adding a new section to chapter 70.128 RCW;
4 adding a new section to chapter 9.73 RCW; and prescribing penalties.

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

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

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

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

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

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

1 (d) "Resident" means an individual receiving services in a
2 facility, or, if the person is incompetent, that resident's attorney in
3 fact, guardian, or other legal representative acting within the scope
4 of his or her authority.

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

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

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

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

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

18 (3) A facility shall:

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

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

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

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

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

34 (f) Post a notice outside of the room of any resident who has
35 requested authorization to install electronic monitoring under
36 subsection (2) of this section. The notice shall state that the room
37 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) A facility may place a resident in a different room to
6 accommodate a request for electronic monitoring.

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

10 (a) That a resident is entitled to install and use an electronic
11 monitoring device under the authority of this act;

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

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

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

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

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

34 (9) The department may assess an administrative penalty as provided
35 under RCW 74.42.580 or 70.128.160 against a facility that violates any
36 provision of this section.

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 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.128 RCW
12 to read as follows:

13 Section 1 of this act applies to this chapter and persons regulated
14 under this chapter.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 9.73 RCW
16 to read as follows:

17 The provisions of this chapter do not apply to electronic
18 monitoring at a facility as authorized in section 1 of this act.

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