

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 616

By: Senator C. Penzo

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS LONG-TERM CARE FACILITY
RESIDENT MONITORING AND COMMUNICATIONS ACT; TO
ESTABLISH RESIDENT RIGHTS FOR ELECTRONIC MONITORING
AND COMMUNICATION IN LONG-TERM CARE FACILITIES; TO
DIRECT THE DEPARTMENT OF HUMAN SERVICES TO DEVELOP A
COMPREHENSIVE FRAMEWORK FOR RESIDENT MONITORING
SYSTEMS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS LONG-TERM CARE
FACILITY RESIDENT MONITORING AND
COMMUNICATIONS ACT; AND TO ESTABLISH
RESIDENT RIGHTS FOR ELECTRONIC
MONITORING AND COMMUNICATION IN LONG-
TERM CARE FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 10, is amended to add an
additional subchapter to read as follows:

Subchapter 26 – Arkansas Long-Term Care Facility Resident Monitoring and
Communications Act

20-10-2601. Title.

1 This subchapter shall be known and may be cited as the "Arkansas Long-
2 Term Care Facility Resident Monitoring and Communications Act".

3
4 20-10-2602. Legislative findings.

5 The General Assembly finds that:

6 (1) The safety and welfare of long-term care facility residents
7 need to be protected;

8 (2) Communication with loved ones is beneficial to a long-term
9 care facility resident's safety, welfare, and overall quality of life;

10 (3) Electronic monitoring and communication of long-term care
11 facility residents is not prohibited by state law;

12 (4) State law currently provides no guidance to long-term care
13 facilities or the Department of Human Services regarding electronic
14 monitoring and communication of long-term care facility residents;

15 (5) The privacy of long-term care facility residents, including
16 any roommates and others who may enter their residence, is of the highest
17 priority;

18 (6) Residents and their families or legal representatives should
19 be allowed to use both video and audio monitoring systems, and other emerging
20 technologies, to facilitate safe and ethical observation of residents within
21 long-term care settings; and

22 (7) A comprehensive legislative and regulatory framework is
23 necessary to ensure that the rights of residents are respected while
24 balancing provider responsibilities and privacy considerations.

25
26 20-10-2603. Definitions.

27 As used in this subchapter:

28 (1) "Authorized electronic monitoring and communication" means
29 the placement of one (1) or more electronic monitoring devices in the room of
30 a long-term care facility resident and making recordings or conducting audio
31 or video communication with such devices after notifying the long-term care
32 facility of the resident's or the resident's guardian's or legal
33 representative's intent to conduct electronic monitoring and communication;

34 (2) "Electronic monitoring device" means a camera, microphone,
35 or other instrument used to broadcast, record, or communicate audio or visual
36 activity occurring in a room, including video cameras, audio devices, or any

emerging technology designed to enable communication or monitoring, but not to intercept wire or unauthorized electronic communications;

(3) "Long-term care facility" means:

(A) A nursing home;

(B) A residential care facility;

(C) A post-acute head injury retraining and residential facility;

(D) An intermediate care facility for individuals with developmental disabilities;

(E) An assisted living facility; or

(F) A facility that provides long-term medical or personal care;

(4) "Resident" means a person who resides in a long-term care facility;

(5) "Resident's room" means a room in a long-term care facility that is used as a resident's private living quarters; and

(6) "Resident's roommate" means a person who resides in the same room with another resident.

20-10-2604. Authorized electronic monitoring and communications.

(a)(1) The Department of Human Services may adopt rules concerning authorized electronic monitoring and communication in a resident's room.

(2) Rules promulgated under this subsection shall include without limitation:

(A) That a resident or resident's guardian or legal representative may conduct authorized electronic monitoring and communication in the resident's room subject to this subchapter;

(B) That a long-term care facility shall not discharge, refuse to admit, or otherwise retaliate against a resident or the resident's representative for conducting or consenting to authorized electronic monitoring and communication;

(C) That a resident or the resident's guardian or legal representative who wishes to conduct authorized monitoring shall notify the long-term care facility using a form prescribed by the department;

(D) That if a resident resides in a shared room, monitoring may not be permitted without the written consent of the resident's

1 roommate or the resident's roommate's legal guardian or representative;

2 (E) How consent may be given, withheld, or withdrawn;

3 (F) Procedures for when a resident lacks capacity to
4 consent;

5 (G) That a resident or the resident's legal guardian or
6 representative may be required to release the long-term care facility from
7 civil liability related to authorized monitoring and communication, subject
8 to applicable laws; and

9 (H) That long-term care facilities may require electronic
10 monitoring devices to be placed in plain view.

11 (b) All monitoring devices shall comply with the National Fire
12 Protection Association 101 Life Safety Code or standards determined by the
13 department to be substantially equivalent.

14 (c) Unless otherwise required by state or federal law, a court or
15 agency shall not admit or consider recordings made under this section as
16 evidence or take action based on the recordings.

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18 20-10-2605. Comprehensive framework.

19 (a) The Department of Human Services shall develop a proposed
20 comprehensive framework to ensure and expand the rights of residents and
21 families to conduct authorized electronic monitoring and communication in
22 long-term care facilities.

23 (b) The Secretary of the Department of Human Services shall delegate
24 the development of the framework to the appropriate divisions within the
25 Department of Human Services.

26 (c) In developing the framework, the Department of Human Services
27 shall:

28 (1) Collaborate with other state agencies, including the
29 Department of Health;

30 (2) Consider laws, rules, and regulations in other states that
31 protect the right to conduct authorized electronic monitoring and
32 communication and prohibit interference by long-term care facility operators;

33 (3) Ensure the framework allows for both video and audio
34 devices, as well as the incorporation of emerging technologies for safe,
35 respectful monitoring and communication;

36 (4) Address issues including without limitation privacy,

1 consent, liability, safety, implementation, and oversight; and
2 (5) Recommend specific legislation and rules that safeguard
3 resident rights while ensuring compliance by facilities.
4

5 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. Reporting.

6 On or before July 1, 2026, the Department of Human Services shall
7 present its proposed comprehensive framework to:

8 (1) The Senate Committee on Public Health, Welfare, and Labor;
9 and

10 (2) The House Committee on Public Health, Welfare, and Labor.
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13 Referred requested by the Arkansas Senate

14 Prepared by: JMB/AMS
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