



General Assembly

February Session, 2020

**Raised Bill No. 5208**

LCO No. 1560



Referred to Committee on AGING

Introduced by:  
(AGE)

***AN ACT DETERRING ABUSE IN NURSING HOMES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2020*) (a) For purposes of this  
2 section: (1) "Ombudsman" means the Office of the Long-Term Care  
3 Ombudsman established pursuant to section 17a-405 of the general  
4 statutes; (2) "electronic monitoring" means the placement and use of an  
5 electronic monitoring device by a resident in the resident's room or  
6 private living unit in accordance with this section; (3) "electronic  
7 monitoring device" means a camera or other device that captures,  
8 records, or broadcasts audio, video, or both, that is placed in a resident's  
9 room or private living unit and is used to monitor the resident or  
10 activities in the room or private living unit; (4) "nursing home facility"  
11 has the same meaning as provided in section 19a-490 of the general  
12 statutes; (5) "resident" means a resident of a nursing home facility; and  
13 (6) "resident representative" means (A) a court-appointed guardian, (B)  
14 a health care representative appointed pursuant to section 19a-575a of  
15 the general statutes, or (C) a person who is not an agent of the nursing  
16 home facility and who is designated in a written document signed by  
17 the resident and included in the resident's records on file with the

18 nursing home facility.

19 (b) A resident may install an electronic monitoring device in the  
20 resident's room or private living unit provided: (1) The purchase,  
21 installation, maintenance, operation and removal of the device is at the  
22 expense of the resident, (2) the resident and any roommate of the  
23 resident sign a written consent form pursuant to subsection (c) of this  
24 section, and (3) except as provided in subsection (e) of this section, the  
25 consent form is filed with the nursing home facility not less than  
26 fourteen days before installation of the electronic monitoring device.

27 (c) No electronic monitoring device shall be installed in a resident's  
28 room or living unit unless the resident and any roommate of the  
29 resident, or a resident representative, has signed a consent form that  
30 includes, but is not limited to:

31 (1) (A) The signed consent of the resident and any roommate of the  
32 resident; or (B) the signed consent of a resident representative if the  
33 resident or roommate lacks the physical capacity to sign the form but  
34 has verbally consented or a treating health care professional certifies the  
35 resident lacks the mental capacity to sign the form. If a person other than  
36 the resident or the resident's roommate signs the consent form, the form  
37 must document the following:

38 (i) The date the resident or any roommate was asked if the resident  
39 or roommate wants electronic monitoring to be conducted,

40 (ii) Who was present when the resident or roommate was asked if he  
41 or she consented to electronic monitoring,

42 (iii) An acknowledgment that the resident or roommate did not  
43 affirmatively object to electronic monitoring, and

44 (iv) The source of the authority allowing the resident representative  
45 of the resident or roommate of the resident to sign the consent form on  
46 behalf of the roommate or resident.

47 (2) A waiver of liability for the nursing home facility for any breach

48 of privacy involving the resident's use of an electronic monitoring  
49 device unless such breach of privacy occurred because of unauthorized  
50 use of the device or a recording made by the device by nursing home  
51 facility staff.

52 (3) The type of electronic monitoring device to be used.

53 (4) A list of conditions or restrictions that the resident or any  
54 roommate of the resident may elect to place on the use of the electronic  
55 monitoring device, including, but not limited to: (A) Prohibiting audio  
56 recording, (B) prohibiting video recording, (C) prohibiting broadcasting  
57 of audio or video, (D) turning off the electronic monitoring device or  
58 blocking the visual recording component of the electronic monitoring  
59 device for the duration of an exam or procedure by a health care  
60 professional, (E) turning off the electronic monitoring device or blocking  
61 the visual recording component of the electronic monitoring device  
62 while the resident or any roommate of the resident is dressing or  
63 bathing, and (F) turning off the electronic monitoring device for the  
64 duration of a visit with a spiritual advisor, ombudsman, attorney,  
65 financial planner, intimate partner or other visitor.

66 (5) A statement of the circumstances under which a recording may be  
67 disseminated.

68 (6) A signature box for documenting that the resident or roommate  
69 has consented or withdrawn consent to electronic monitoring.

70 (d) The ombudsman, within available appropriations, shall make  
71 available on the ombudsman's Internet web site a downloadable copy  
72 of a standard form containing all of the provisions required in  
73 subsection (c) of this section. Nursing home facilities shall (1) make the  
74 consent form available to residents and inform residents of their option  
75 to conduct electronic monitoring of their rooms or private living units,  
76 (2) maintain a copy of the consent form in the resident's records, and (3)  
77 place a notice in a conspicuous place near the entry to the nursing home  
78 facility stating that some rooms and living areas may be subject to  
79 electronic monitoring.

80 (e) Notwithstanding subdivision (3) of subsection (b) of this section,  
81 a resident or resident representative may install an electronic  
82 monitoring device without submitting the consent form to a nursing  
83 home facility if: (1) The resident or the resident representative  
84 reasonably fears retaliation against the resident by the nursing home  
85 facility for recording or reporting alleged maltreatment of the resident  
86 by nursing home facility staff, submits a completed consent form to the  
87 ombudsman and submits a report to the ombudsman, the  
88 Commissioner of Social Services or police, with evidence from an  
89 electronic monitoring device that suspected maltreatment has occurred;  
90 (2) the nursing home facility has failed to respond for more than two  
91 business days to a written communication from the resident or resident  
92 representative about a concern that prompted the resident's desire for  
93 installation of an electronic monitoring device and the resident or a  
94 resident representative has submitted a consent form to the  
95 ombudsman; or (3) the resident or resident representative has already  
96 submitted a report to the ombudsman, Commissioner of Social Services  
97 or police regarding concerns about the resident's safety or well-being  
98 that prompted the resident's desire for electronic monitoring and the  
99 resident or resident representative has submitted a consent form to the  
100 ombudsman.

101 (f) If a resident is conducting electronic monitoring and a new  
102 roommate moves into the room or living unit, the resident shall cease  
103 use of the electronic monitoring device unless and until the new  
104 roommate signs the consent form and the resident or resident  
105 representative files the completed form with the roommate's consent to  
106 electronic monitoring with the nursing home facility. If any roommate  
107 of a resident wishing to use electronic monitoring refuses to sign the  
108 consent form, the nursing home facility shall reasonably accommodate  
109 the resident's request to move into a private room or a room with a  
110 roommate who will consent to such monitoring. The resident requesting  
111 the accommodation shall pay any difference in price if the new room is  
112 more costly than the resident's previous room.

113 (g) Subject to applicable rules of evidence and procedure, any video

114 or audio recording created through electronic monitoring under this  
115 section may be admitted into evidence in a civil, criminal or  
116 administrative proceeding. For purposes of section 1-210 of the general  
117 statutes, (1) a consent form signed by a resident or a resident's  
118 representative requesting electronic monitoring, or (2) a recording from  
119 a resident's electronic monitoring device shall not be considered a public  
120 record.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	New section

**Statement of Purpose:**

To allow nursing home residents or their representatives to install electronic monitoring devices in their rooms, provided any roommates agree in writing to the use of such devices and liability for any breach of privacy related to the resident's use of such device is waived for nursing homes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*