

Senate Bill 134

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act gives long term care residents the right to have monitoring devices in their rooms. (Flesch Readability Score: 74.2).

Establishes the right of a resident of a long term care facility, residential care facility or adult foster home to use an electronic monitoring device in the resident's room or private living unit. Prescribes conditions and restrictions on the use of an electronic monitoring device. Authorizes the imposition of civil penalties for a violation of the right to use an electronic monitoring device.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to electronic monitoring devices in long term care facilities; creating new provisions;
3 amending ORS 441.710; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) As used in this section:

5
6 (a) **"Electronic monitoring device" means a camera or other device that captures, re-**
7 **records or broadcasts audio, video or both.**

8 (b) **"Facility" means a long term care facility licensed under ORS 441.025.**

9 (2) **A resident of a facility has a right to use an electronic monitoring device in the**
10 **resident's room or private living unit. A long term care facility shall inform residents of the**
11 **right to use an electronic monitoring device and make available the consent form described**
12 **in subsection (5) of this section.**

13 (3)(a) **Except as provided in subsection (6) of this section, before an electronic monitoring**
14 **device may be used in a resident's room or private living unit, the resident must provide**
15 **written consent on the consent form described in subsection (5) of this section.**

16 (b) **If the resident lacks capacity to provide consent, the resident's representative may**
17 **provide consent on the resident's behalf, unless the resident affirmatively objects. A resident**
18 **affirmatively objects when the resident orally, visually or through the use of auxiliary aids**
19 **or services declines the use of an electronic monitoring device.**

20 (4)(a) **If a resident shares a room or living unit, the resident's roommate must also pro-**
21 **vide written consent on the consent form described in subsection (5) of this section before**
22 **an electronic monitoring device may be used in the shared room or living unit.**

23 (b) **If the resident's roommate lacks capacity to provide consent, the roommate's repre-**
24 **sentative may provide consent on the roommate's behalf in the manner provided in sub-**
25 **section (3) of this section.**

26 (c) **If the resident's roommate declines the use of an electronic monitoring device, the**
27 **facility shall make reasonable efforts to accommodate the resident's desire to use an elec-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **tronic monitoring device, including by offering to move the resident to another shared room**
2 **or shared living unit or to a private room or living unit. If the facility is unable to accom-**
3 **modate the resident's request due to lack of space, the facility shall reevaluate the request**
4 **every two weeks until the request is fulfilled. A facility is not required to provide a private**
5 **room or living unit to a resident who is unable to pay.**

6 **(5) A consent form for the use of an electronic monitoring device under this section must**
7 **include, at a minimum, the following information:**

8 **(a)(A) The signed consent of the resident and, if applicable, the resident's roommate; or**

9 **(B) If the resident's or roommate's representative is providing consent on the resident's**
10 **or roommate's behalf:**

11 **(i) The representative's signed consent;**

12 **(ii) An acknowledgement that the resident or roommate did not affirmatively object; and**

13 **(iii) A statement of the source of authority allowing the representative to sign the con-**
14 **sent form on the resident's or roommate's behalf;**

15 **(b) The type of electronic monitoring device to be used;**

16 **(c) A list of conditions or restrictions that the resident or roommate may elect to place**
17 **on the use of the electronic monitoring device, including:**

18 **(A) Prohibiting audio recording;**

19 **(B) Prohibiting video recording;**

20 **(C) Prohibiting broadcasting of audio or video;**

21 **(D) Turning off the electronic monitoring device or blocking the visual recording com-**
22 **ponent of the electronic monitoring device during an examination or procedure by a health**
23 **care professional;**

24 **(E) Turning off the electronic monitoring device or blocking the visual recording com-**
25 **ponent of the electronic monitoring device while dressing or bathing is being performed;**

26 **(F) Turning off the electronic monitoring device during a visit with a spiritual adviser,**
27 **ombudsman, attorney, financial planner, intimate partner or other visitor; and**

28 **(G) Any other condition or restriction elected by the resident or roommate;**

29 **(d) A statement of the circumstances under which a recording may be disseminated un-**
30 **der subsection (10) or (11) of this section; and**

31 **(e) A signature box for documenting a withdrawal of consent by the resident or**
32 **roommate.**

33 **(6) A resident may begin using an electronic monitoring device in the resident's room or**
34 **private living unit for up to 14 days without submitting the consent form described in sub-**
35 **section (5) of this section if:**

36 **(a) Suspected maltreatment of the resident has occurred;**

37 **(b) The resident or the resident's representative reasonably fears retaliation against the**
38 **resident by the facility if the resident requests the use of an electronic monitoring device;**
39 **or**

40 **(c) The facility has not timely responded to a written communication from the resident**
41 **or the resident's representative about a health, safety or welfare concern.**

42 **(7) A resident who chooses to use an electronic monitoring device under this section is**
43 **responsible for the costs of the device, including purchase, installation, maintenance and**
44 **removal.**

45 **(8) A facility shall post a sign at each facility entrance accessible to visitors that states**

1 that electronic monitoring devices, including security cameras and audio devices, may be
 2 present to record persons and activities.

3 (9) A facility may not:

4 (a) Refuse to admit a potential resident because the facility disagrees with the decision
 5 of the potential resident or the potential resident’s representative regarding the use of an
 6 electronic monitoring device;

7 (b) Move a resident because the facility disagrees with the decision of the resident or the
 8 resident’s representative regarding the use of an electronic monitoring device;

9 (c) Retaliate or discriminate against a resident for consenting or refusing to consent to
 10 the use of an electronic monitoring device; or

11 (d) Prevent or obstruct the use of an electronic monitoring device by a resident who has
 12 submitted the consent form described in subsection (5) of this section.

13 (10) Except as provided in subsection (11) of this section, a video or audio recording cre-
 14 ated by an electronic monitoring device used by a resident under this section:

15 (a) May not be:

16 (A) Accessed without the written consent of the resident or the resident’s representative;
 17 or

18 (B) Disseminated, except for the purposes of addressing health, safety or welfare con-
 19 cerns of a resident.

20 (b) Subject to applicable rules of evidence and procedure, may be admitted into evidence
 21 in a civil, criminal or administrative proceeding.

22 (11)(a) An employee of a facility or an employee of a contractor providing services at a
 23 facility who is the subject of a proposed disciplinary action based on evidence obtained by a
 24 resident’s electronic monitoring device shall be given access to the evidence for the purpose
 25 of defending against the proposed disciplinary action.

26 (b) An employee who obtains a recording under this subsection shall preserve the
 27 confidentiality of the recording and may not disseminate the recording to any other person.
 28 The employee shall return the recording to the facility or the resident when the recording
 29 is no longer needed for the purpose of defending against a proposed disciplinary action.

30 **SECTION 2.** Section 3 of this 2025 Act is added to and made a part of ORS 443.400 to
 31 443.455.

32 **SECTION 3.** (1) As used in this section:

33 (a) “Electronic monitoring device” means a camera or other device that captures, re-
 34 cords or broadcasts audio, video or both.

35 (b) “Facility” means a residential care facility.

36 (2) A resident of a facility has a right to use an electronic monitoring device in the
 37 resident’s room or private living unit. A long term care facility shall inform residents of the
 38 right to use an electronic monitoring device and make available the consent form described
 39 in subsection (5) of this section.

40 (3)(a) Except as provided in subsection (6) of this section, before an electronic monitoring
 41 device may be used in a resident’s room or private living unit, the resident must provide
 42 written consent on the consent form described in subsection (5) of this section.

43 (b) If the resident lacks capacity to provide consent, the resident’s representative may
 44 provide consent on the resident’s behalf, unless the resident affirmatively objects. A resident
 45 affirmatively objects when the resident orally, visually or through the use of auxiliary aids

1 or services declines the use of an electronic monitoring device.

2 (4)(a) If a resident shares a room or living unit, the resident's roommate must also pro-
3 vide written consent on the consent form described in subsection (5) of this section before
4 an electronic monitoring device may be used in the shared room or living unit.

5 (b) If the resident's roommate lacks capacity to provide consent, the roommate's repre-
6 sentative may provide consent on the roommate's behalf in the manner provided in sub-
7 section (3) of this section.

8 (c) If the resident's roommate declines the use of an electronic monitoring device, the
9 facility shall make reasonable efforts to accommodate the resident's desire to use an elec-
10 tronic monitoring device, including by offering to move the resident to another shared room
11 or shared living unit or to a private room or living unit. If the facility is unable to accom-
12 modate the resident's request due to lack of space, the facility shall reevaluate the request
13 every two weeks until the request is fulfilled. A facility is not required to provide a private
14 room or living unit to a resident who is unable to pay.

15 (5) A consent form for the use of an electronic monitoring device under this section must
16 include, at a minimum, the following information:

17 (a)(A) The signed consent of the resident and, if applicable, the resident's roommate; or

18 (B) If the resident's or roommate's representative is providing consent on the resident's
19 or roommate's behalf:

20 (i) The representative's signed consent;

21 (ii) An acknowledgement that the resident or roommate did not affirmatively object; and

22 (iii) A statement of the source of authority allowing the representative to sign the con-
23 sent form on the resident's or roommate's behalf;

24 (b) The type of electronic monitoring device to be used;

25 (c) A list of conditions or restrictions that the resident or roommate may elect to place
26 on the use of the electronic monitoring device, including:

27 (A) Prohibiting audio recording;

28 (B) Prohibiting video recording;

29 (C) Prohibiting broadcasting of audio or video;

30 (D) Turning off the electronic monitoring device or blocking the visual recording com-
31 ponent of the electronic monitoring device during an examination or procedure by a health
32 care professional;

33 (E) Turning off the electronic monitoring device or blocking the visual recording com-
34 ponent of the electronic monitoring device while dressing or bathing is being performed;

35 (F) Turning off the electronic monitoring device during a visit with a spiritual adviser,
36 ombudsman, attorney, financial planner, intimate partner or other visitor; and

37 (G) Any other condition or restriction elected by the resident or roommate;

38 (d) A statement of the circumstances under which a recording may be disseminated un-
39 der subsection (10) or (11) of this section; and

40 (e) A signature box for documenting a withdrawal of consent by the resident or
41 roommate.

42 (6) A resident may begin using an electronic monitoring device in the resident's room or
43 private living unit for up to 14 days without submitting the consent form described in sub-
44 section (5) of this section if:

45 (a) Suspected maltreatment of the resident has occurred;

1 (b) The resident or the resident’s representative reasonably fears retaliation against the
2 resident by the facility if the resident requests the use of an electronic monitoring device;
3 or

4 (c) The facility has not timely responded to a written communication from the resident
5 or the resident’s representative about a health, safety or welfare concern.

6 (7) A resident who chooses to use an electronic monitoring device under this section is
7 responsible for the costs of the device, including purchase, installation, maintenance and
8 removal.

9 (8) A facility shall post a sign at each facility entrance accessible to visitors that states
10 that electronic monitoring devices, including security cameras and audio devices, may be
11 present to record persons and activities.

12 (9) A facility may not:

13 (a) Refuse to admit a potential resident because the facility disagrees with the decision
14 of the potential resident or the potential resident’s representative regarding the use of an
15 electronic monitoring device;

16 (b) Move a resident because the facility disagrees with the decision of the resident or the
17 resident’s representative regarding the use of an electronic monitoring device;

18 (c) Retaliate or discriminate against a resident for consenting or refusing to consent to
19 the use of an electronic monitoring device; or

20 (d) Prevent or obstruct the use of an electronic monitoring device by a resident who has
21 submitted the consent form described in subsection (5) of this section.

22 (10) Except as provided in subsection (11) of this section, a video or audio recording cre-
23 ated by an electronic monitoring device used by a resident under this section:

24 (a) May not be:

25 (A) Accessed without the written consent of the resident or the resident’s representative;
26 or

27 (B) Disseminated, except for the purposes of addressing health, safety or welfare con-
28 cerns of a resident.

29 (b) Subject to applicable rules of evidence and procedure, may be admitted into evidence
30 in a civil, criminal or administrative proceeding.

31 (11)(a) An employee of a facility or an employee of a contractor providing services at a
32 facility who is the subject of a proposed disciplinary action based on evidence obtained by a
33 resident’s electronic monitoring device shall be given access to the evidence for the purpose
34 of defending against the proposed disciplinary action.

35 (b) An employee who obtains a recording under this subsection shall preserve the
36 confidentiality of the recording and may not disseminate the recording to any other person.
37 The employee shall return the recording to the facility or the resident when the recording
38 is no longer needed for the purpose of defending against a proposed disciplinary action.

39 **SECTION 4.** Section 5 of this 2025 Act is added to and made a part of ORS 443.705 to
40 443.825.

41 **SECTION 5.** (1) As used in this section:

42 (a) “Electronic monitoring device” means a camera or other device that captures, re-
43 cords or broadcasts audio, video or both.

44 (b) “Facility” means an adult foster home.

45 (2) A resident of a facility has a right to use an electronic monitoring device in the

1 resident's room or private living unit. A long term care facility shall inform residents of the
2 right to use an electronic monitoring device and make available the consent form described
3 in subsection (5) of this section.

4 (3)(a) Except as provided in subsection (6) of this section, before an electronic monitoring
5 device may be used in a resident's room or private living unit, the resident must provide
6 written consent on the consent form described in subsection (5) of this section.

7 (b) If the resident lacks capacity to provide consent, the resident's representative may
8 provide consent on the resident's behalf, unless the resident affirmatively objects. A resident
9 affirmatively objects when the resident orally, visually or through the use of auxiliary aids
10 or services declines the use of an electronic monitoring device.

11 (4)(a) If a resident shares a room or living unit, the resident's roommate must also pro-
12 vide written consent on the consent form described in subsection (5) of this section before
13 an electronic monitoring device may be used in the shared room or living unit.

14 (b) If the resident's roommate lacks capacity to provide consent, the roommate's repre-
15 sentative may provide consent on the roommate's behalf in the manner provided in sub-
16 section (3) of this section.

17 (c) If the resident's roommate declines the use of an electronic monitoring device, the
18 facility shall make reasonable efforts to accommodate the resident's desire to use an elec-
19 tronic monitoring device, including by offering to move the resident to another shared room
20 or shared living unit or to a private room or living unit. If the facility is unable to accom-
21 modate the resident's request due to lack of space, the facility shall reevaluate the request
22 every two weeks until the request is fulfilled. A facility is not required to provide a private
23 room or living unit to a resident who is unable to pay.

24 (5) A consent form for the use of an electronic monitoring device under this section must
25 include, at a minimum, the following information:

26 (a)(A) The signed consent of the resident and, if applicable, the resident's roommate; or

27 (B) If the resident's or roommate's representative is providing consent on the resident's
28 or roommate's behalf:

29 (i) The representative's signed consent;

30 (ii) An acknowledgement that the resident or roommate did not affirmatively object; and

31 (iii) A statement of the source of authority allowing the representative to sign the con-
32 sent form on the resident's or roommate's behalf;

33 (b) The type of electronic monitoring device to be used;

34 (c) A list of conditions or restrictions that the resident or roommate may elect to place
35 on the use of the electronic monitoring device, including:

36 (A) Prohibiting audio recording;

37 (B) Prohibiting video recording;

38 (C) Prohibiting broadcasting of audio or video;

39 (D) Turning off the electronic monitoring device or blocking the visual recording com-
40 ponent of the electronic monitoring device during an examination or procedure by a health
41 care professional;

42 (E) Turning off the electronic monitoring device or blocking the visual recording com-
43 ponent of the electronic monitoring device while dressing or bathing is being performed;

44 (F) Turning off the electronic monitoring device during a visit with a spiritual adviser,
45 ombudsman, attorney, financial planner, intimate partner or other visitor; and

1 (G) Any other condition or restriction elected by the resident or roommate;

2 (d) A statement of the circumstances under which a recording may be disseminated un-
3 der subsection (10) or (11) of this section; and

4 (e) A signature box for documenting a withdrawal of consent by the resident or
5 roommate.

6 (6) A resident may begin using an electronic monitoring device in the resident's room or
7 private living unit for up to 14 days without submitting the consent form described in sub-
8 section (5) of this section if:

9 (a) Suspected maltreatment of the resident has occurred;

10 (b) The resident or the resident's representative reasonably fears retaliation against the
11 resident by the facility if the resident requests the use of an electronic monitoring device;
12 or

13 (c) The facility has not timely responded to a written communication from the resident
14 or the resident's representative about a health, safety or welfare concern.

15 (7) A resident who chooses to use an electronic monitoring device under this section is
16 responsible for the costs of the device, including purchase, installation, maintenance and
17 removal.

18 (8) A facility shall post a sign at each facility entrance accessible to visitors that states
19 that electronic monitoring devices, including security cameras and audio devices, may be
20 present to record persons and activities.

21 (9) A facility may not:

22 (a) Refuse to admit a potential resident because the facility disagrees with the decision
23 of the potential resident or the potential resident's representative regarding the use of an
24 electronic monitoring device;

25 (b) Move a resident because the facility disagrees with the decision of the resident or the
26 resident's representative regarding the use of an electronic monitoring device;

27 (c) Retaliate or discriminate against a resident for consenting or refusing to consent to
28 the use of an electronic monitoring device; or

29 (d) Prevent or obstruct the use of an electronic monitoring device by a resident who has
30 submitted the consent form described in subsection (5) of this section.

31 (10) Except as provided in subsection (11) of this section, a video or audio recording cre-
32 ated by an electronic monitoring device used by a resident under this section:

33 (a) May not be:

34 (A) Accessed without the written consent of the resident or the resident's representative;
35 or

36 (B) Disseminated, except for the purposes of addressing health, safety or welfare con-
37 cerns of a resident.

38 (b) Subject to applicable rules of evidence and procedure, may be admitted into evidence
39 in a civil, criminal or administrative proceeding.

40 (11)(a) An employee of a facility or an employee of a contractor providing services at a
41 facility who is the subject of a proposed disciplinary action based on evidence obtained by a
42 resident's electronic monitoring device shall be given access to the evidence for the purpose
43 of defending against the proposed disciplinary action.

44 (b) An employee who obtains a recording under this subsection shall preserve the
45 confidentiality of the recording and may not disseminate the recording to any other person.

1 **The employee shall return the recording to the facility or the resident when the recording**
 2 **is no longer needed for the purpose of defending against a proposed disciplinary action.**

3 **SECTION 6.** ORS 441.710 is amended to read:

4 441.710. (1)(a) In addition to any other liability or penalty provided by law, the Director of Hu-
 5 man Services may impose a civil penalty on a person pursuant to ORS 441.731 for any of the fol-
 6 lowing:

7 (A) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.119,
 8 441.525 to 441.595, 441.815, 441.820, 441.990, 441.993, 442.342, 442.344 and 442.400 to 442.463 for a
 9 long term care facility, as defined in ORS 442.015.

10 (B) Violation of ORS 441.630 to 441.680.

11 (C) Violation of any rule or general order of the Department of Human Services that pertains
 12 to a long term care facility.

13 (D) Violation of any final order of the director that pertains specifically to the long term care
 14 facility owned or operated by the person incurring the penalty.

15 (E) Violation of ORS 441.605 or of rules required to be adopted under ORS 441.610.

16 (F) Violation of ORS 443.880 or 443.881 if the facility is a residential care facility.

17 **(G) Violation of section 1 or 3 of this 2025 Act.**

18 (b) In addition to any other liability or penalty provided by law, the director may impose a civil
 19 penalty on a residential training facility or residential training home for violation of ORS 443.880
 20 or 443.881. The director shall prescribe a reasonable time for elimination of a violation by a resi-
 21 dential training facility or residential training home:

22 (A) Not to exceed 30 days after first notice of a violation; or

23 (B) In cases where the violation requires more than 30 days to correct, such time as is specified
 24 in a plan of correction found acceptable by the director.

25 (2) In addition to any other liability or penalty provided by law, the Director of the Oregon
 26 Health Authority may impose a civil penalty on a person for a violation of ORS 443.880 or 443.881
 27 if the facility is a residential treatment facility or a residential treatment home.

28 (3) The Director of Human Services may not impose a penalty under subsection (1) of this sec-
 29 tion for violations other than those involving direct patient care or feeding, an adequate staff to
 30 patient ratio, sanitation involving direct patient care or a violation of ORS 441.605 or 443.880 or
 31 443.881 or of the rules required to be adopted by ORS 441.610 unless a violation is found on two
 32 consecutive surveys of a long term care facility.

33 (4) The Director of the Oregon Health Authority may not impose a penalty under subsection (2)
 34 of this section for violations other than those involving direct patient care or feeding, an adequate
 35 staff to patient ratio, sanitation involving direct patient care or a violation of ORS 443.880 or
 36 443.881. The director in every case shall prescribe a reasonable time for elimination of a violation:

37 (a) Not to exceed 30 days after first notice of a violation; or

38 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
 39 in a plan of correction found acceptable by the director.

40 **SECTION 7. (1) Sections 1, 3 and 5 of this 2025 Act and the amendments to ORS 441.710**
 41 **by section 6 of this 2025 Act become operative on January 1, 2026.**

42 **(2) A long term care facility, residential care facility or adult foster home may take any**
 43 **action before the operative date specified in subsection (1) of this section that is necessary**
 44 **to enable the long term care facility, residential care facility or adult foster home to exer-**
 45 **cise, on and after the operative date specified in subsection (1) of this section, all of the du-**

1 **ties, functions and powers conferred on the long term care facility, residential care facility**
2 **or adult foster home by sections 1, 3 and 5 of this 2025 Act and the amendments to ORS**
3 **441.710 by section 6 of this 2025 Act.**

4 **SECTION 8. This 2025 Act takes effect on the 91st day after the date on which the 2025**
5 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

6