

HCS HB 1176 -- ELECTRONIC MONITORING

SPONSOR: Murphy

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Aging by a vote of 11 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 10 to 0.

The bill outlines the rights of residents of long-term care facilities, including the right of a resident to conduct authorized electronic monitoring of the resident's room using electronic monitoring devices (Section 198.008, RSMo).

This bill establishes the "Authorized Electronic Monitoring in Long-Term Care Facilities Act," which specifies the parameters of electronic monitoring by residents of long-term care facilities (Section 198.610).

The bill prohibits a facility from being civilly or criminally liable for the inadvertent or intentional disclosure of a recording by a resident for any purpose not authorized by these provisions. No facility must be held civilly or criminally liable for a violation of a resident's right to privacy arising out of any electronic monitoring conducted in accordance with these provisions (Section 198.612).

The bill describes covert monitoring and prohibits the facility and the department from being civilly or criminally liable for any covert monitoring (Section 198.614).

The bill requires the department to promulgate rules that prescribe a form to be completed and signed by every resident that explains the liabilities and rights for residents who place covert or authorized electronic monitoring devices, and the procedures to request authorized monitoring (Section 198.616).

The bill also describes who may consent to electronic monitoring, and directs the department to promulgate rules for who may consent on behalf of a resident that lacks the required capacity to consent and does not have a legal guardian (Section 198.618).

The bill further describes that the form requesting electronic monitoring shall include the consent of any other residents in the room and the conditions of their consent (Section 198.620).

The bill requires the facility and any resident conducting electronic monitoring to post a conspicuous sign indicating that rooms, or the room of the resident is being monitored. It also

states that facilities must accommodate requests for monitoring and shall not refuse to admit an individual that requests electronic monitoring. For purposes of abuse and neglect, the bill outlines time lines and reporting requirements for people who might view tapes on behalf of a resident and specifies when a tape may be used as evidence. Finally, the bill specifies when the department may sanction facilities or their administrators who violate these provisions (Sections 198.622 to 198.628).

The bill also makes it a class B misdemeanor to intentionally hamper, obstruct, tamper with, or destroy devices installed or tapes made under these provisions (Section 198.632).

This bill is similar to HB 675 and HB 719 (2019), HB 1916 (2018), and HB 398 (2017).

PROPOSERS: Supporters say that this bill provides a greater level of security for nursing home residents and their families. Many other states have similar laws and have allowed monitoring for a long time, so Missouri is actually late to the game, not a pioneer. Supporters provided examples of poor experiences that could have been alleviated with electronic monitoring.

Testifying for the bill were Representative Murphy; Mary Lynn Faunda Donovan, Martha Eudalay, and Mary L. Redford, VOYCE; and Ron Berry, the American Association of Retired Persons.

OPPOSERS: Those who oppose the bill say that this bill will make it harder to hire staff and provide too many litigation problems for the industry. The nursing home industry is opposed to this bill.

Testifying against the bill were Missouri Assisted Living Association; and the Missouri Health Care Association.