

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Authorized Electronic Monitoring in Community-Integrated
6 Living Arrangements and Developmental Disability Facilities
7 Act.

8 Section 5. Definitions. As used in this Act:

9 "Authorized electronic monitoring" means the placement and
10 use of an electronic monitoring device by a resident in his or
11 her room in accordance with this Act.

12 "Community-integrated living arrangement" has the meaning
13 given to that term in Section 3 of the Community-Integrated
14 Living Arrangements Licensure and Certification Act.

15 "Department" means the Department of Human Services.

16 "Developmental disability facility" means a facility or
17 section of a facility that is licensed by, operated by, or is
18 under contract with the State or a political subdivision of the
19 State and that admits persons with developmental disabilities
20 for residential services.

21 "Electronic monitoring device" means a surveillance
22 instrument with a fixed position video camera or an audio
23 recording device, or a combination thereof, that is installed

1 in a resident's room under the provisions of this Act and
2 broadcasts or records activity or sounds occurring in the room.

3 "Resident" means a person residing in a
4 community-integrated living arrangement or developmental
5 disability facility.

6 "Staff" includes individuals providing supervisory of
7 other services at a community-integrated living arrangement or
8 developmental disability facility.

9 Section 10. Authorized electronic monitoring.

10 (a) A resident shall be permitted to conduct authorized
11 electronic monitoring of the resident's room through the use of
12 electronic monitoring devices placed in the room pursuant to
13 this Act.

14 (b) Nothing in this Act shall be construed to allow the use
15 of an electronic monitoring device to take still photographs or
16 for the nonconsensual interception of private communications.

17 Section 15. Consent.

18 (a) Except as otherwise provided in this subsection, a
19 resident, a resident's plenary guardian of the person, or the
20 parent of a resident under the age of 18 must consent in
21 writing on a notification and consent form prescribed by the
22 Department to the authorized electronic monitoring in the
23 resident's room.

24 (b) A resident or roommate may consent to authorized

1 electronic monitoring with any conditions of the resident's
2 choosing, including, but not limited to, the list of standard
3 conditions provided in paragraph (7) of subsection (b) of
4 Section 20. A resident or roommate may request that the
5 electronic monitoring device be turned off or the visual
6 recording component of the electronic monitoring device be
7 blocked at any time.

8 (c) Prior to the authorized electronic monitoring, a
9 resident must obtain the written consent of any other resident
10 residing in the room on the notification and consent form
11 prescribed by the Department. Except as otherwise provided in
12 this subsection, a roommate, a roommate's plenary guardian of
13 the person, or the parent of a roommate under the age of 18
14 must consent in writing to the authorized electronic monitoring
15 in the resident's room.

16 (c-7) Any resident previously conducting authorized
17 electronic monitoring must obtain consent from any new roommate
18 before the resident may resume authorized electronic
19 monitoring. If a new roommate does not consent to authorized
20 electronic monitoring and the resident conducting the
21 authorized electronic monitoring does not remove or disable the
22 electronic monitoring device, the staff shall turn off the
23 device.

24 (d) Consent may be withdrawn by the resident or roommate at
25 any time, and the withdrawal of consent shall be documented in
26 the resident's clinical record. If a roommate withdraws consent

1 and the resident conducting the authorized electronic
2 monitoring does not remove or disable the electronic monitoring
3 device, the staff may turn off the electronic monitoring
4 device.

5 (e) If a resident who is residing in a shared room wants to
6 conduct authorized electronic monitoring and another resident
7 living in or moving into the same shared room refuses to
8 consent to the use of an electronic monitoring device, the
9 staff shall make a reasonable attempt to accommodate the
10 resident who wants to conduct authorized electronic
11 monitoring.

12 Section 20. Notice to the staff.

13 (a) Authorized electronic monitoring may begin only after a
14 notification and consent form prescribed by the Department has
15 been completed and submitted to the staff.

16 (b) A resident shall notify the staff in writing of his or
17 her intent to install an electronic monitoring device by
18 providing a completed notification and consent form prescribed
19 by the Department that must include, at minimum, the following
20 information:

21 (1) the resident's signed consent to electronic
22 monitoring or the signature of the person consenting on
23 behalf of the resident in accordance with Section 15 of
24 this Act; if a person other than the resident signs the
25 consent form, the form must document the following:

1 (A) the date the resident was asked if he or she
2 wants authorized electronic monitoring to be conducted
3 in accordance with subsection (a-5) of Section 15;

4 (B) who was present when the resident was asked;
5 and

6 (C) an acknowledgment that the resident did not
7 affirmatively object; and

8 (2) the resident's roommate's signed consent or the
9 signature of the person consenting on behalf of the
10 resident in accordance with Section 15 of this Act, if
11 applicable, and any conditions placed on the roommate's
12 consent; if a person other than the roommate signs the
13 consent form, the form must document the following:

14 (A) the date the roommate was asked if he or she
15 wants authorized electronic monitoring to be conducted
16 in accordance with subsection (a-5) of Section 15;

17 (B) who was present when the roommate was asked;
18 and

19 (C) an acknowledgment that the roommate did not
20 affirmatively object; and

21 (3) the type of electronic monitoring device to be
22 used;

23 (4) any installation needs, such as mounting of a
24 device to a wall or ceiling;

25 (5) the proposed date of installation for scheduling
26 purposes;

1 (6) a copy of any contract for maintenance of the
2 electronic monitoring device by a commercial entity;

3 (7) a list of standard conditions or restrictions that
4 the resident or a roommate may elect to place on use of the
5 electronic monitoring device, including, but not limited
6 to:

7 (A) prohibiting audio recording;

8 (B) prohibiting broadcasting of audio or video;

9 (C) turning off the electronic monitoring device
10 or blocking the visual recording component of the
11 electronic monitoring device for the duration of an
12 exam or procedure by a health care professional;

13 (D) turning off the electronic monitoring device
14 or blocking the visual recording component of the
15 electronic monitoring device while dressing or bathing
16 is performed; and

17 (E) turning the electronic monitoring device off
18 for the duration of a visit with a spiritual advisor,
19 ombudsman, attorney, financial planner, intimate
20 partner, or other visitor; and

21 (8) any other condition or restriction elected by the
22 resident or roommate on the use of an electronic monitoring
23 device.

24 (c) A copy of the completed notification and consent form
25 shall be placed in the resident's and any roommate's clinical
26 record and a copy shall be provided to the resident and his or

1 her roommate, if applicable.

2 (d) The Department shall prescribe the notification and
3 consent form required in this Section no later than 60 days
4 after the effective date of this Act. If the Department has not
5 prescribed such a form by that date, the Office of the Attorney
6 General shall post a notification and consent form on its
7 website for resident use until the Department has prescribed
8 the form.

9 Section 25. Cost and installation.

10 (a) A resident choosing to conduct authorized electronic
11 monitoring must do so at his or her own expense, including
12 paying purchase, installation, maintenance, and removal costs.

13 (b) If a resident chooses to install an electronic
14 monitoring device that uses Internet technology for visual or
15 audio monitoring, that resident is responsible for contracting
16 with an Internet service provider and installing a secure,
17 password-protected network.

18 (c) The staff shall make a reasonable attempt to
19 accommodate the resident's installation needs, including, but
20 not limited to, allowing access to a telecommunications or
21 equipment room. Staff has the burden of proving that a
22 requested accommodation is not reasonable.

23 (d) The electronic monitoring device must be placed in a
24 conspicuously visible location in the room.

25 (e) The resident may not be charged a fee for the cost of

1 electricity used by an electronic monitoring device.

2 (f) All electronic monitoring device installations and
3 supporting services shall comply with the requirements of the
4 edition of the National Fire Protection Association (NFPA) 101
5 Life Safety Code in force at the time of installation and shall
6 remain in compliance with that or any subsequent edition of
7 NFPA 101 enforced pursuant to Part 483 of Title 42 of the Code
8 of Federal Regulations.

9 Section 27. Assistance program.

10 (a) Subject to appropriation, the Department shall
11 establish a program to assist residents receiving medical
12 assistance under Article V of the Illinois Public Aid Code in
13 accessing authorized electronic monitoring.

14 (b) The Department shall distribute up to \$50,000 in funds
15 on an annual basis to residents receiving medical assistance
16 under Article V of the Illinois Public Aid Code for the
17 purchase and installation of authorized electronic monitoring
18 devices.

19 (c) Applications for funds and disbursement of funds must
20 be made in a manner prescribed by the Department.

21 Section 30. Notice to visitors.

22 (a) If a resident of a community-integrated living
23 arrangement or developmental disability facility conducts
24 authorized electronic monitoring, a sign shall be clearly and

1 conspicuously posted at all building entrances accessible to
2 visitors. The notice must be entitled "Electronic Monitoring"
3 and must state, in large, easy-to-read type, "The rooms of some
4 residents may be monitored electronically by or on behalf of
5 the residents."

6 (b) A sign shall be clearly and conspicuously posted at the
7 entrance to a resident's room where authorized electronic
8 monitoring is being conducted. The notice must state, in large,
9 easy-to-read type, "This room is electronically monitored."

10 (c) Staff is responsible for installing and maintaining the
11 signage required in this Section.

12 Section 40. Obstruction of electronic monitoring devices.

13 (a) A person or entity is prohibited from knowingly
14 hampering, obstructing, tampering with, or destroying an
15 electronic monitoring device installed in a resident's room
16 without the permission of the resident or the individual who
17 consented on behalf of the resident in accordance with Section
18 15 of this Act.

19 (b) A person or entity is prohibited from knowingly
20 hampering, obstructing, tampering with, or destroying a video
21 or audio recording obtained in accordance with this Act without
22 the permission of the resident or the individual who consented
23 on behalf of the resident in accordance with Section 15 of this
24 Act.

25 (c) A person or entity that violates this Section is guilty

1 of a Class B misdemeanor. A person or entity that violates this
2 Section in the commission of or to conceal a misdemeanor
3 offense is guilty of a Class A misdemeanor. A person or entity
4 that violates this Section in the commission of or to conceal a
5 felony offense is guilty of a Class 4 felony.

6 (d) It is not a violation of this Section if a person or
7 staff turns off the electronic monitoring device or blocks the
8 visual recording component of the electronic monitoring device
9 at the direction of the resident or the person who consented on
10 behalf of the resident in accordance with Section 15 of this
11 Act.

12 Section 45. Dissemination of recordings.

13 (a) Staff may not access any video or audio recording
14 created through authorized electronic monitoring without the
15 written consent of the resident or the person who consented on
16 behalf of the resident in accordance with Section 15 of this
17 Act.

18 (b) Except as required under the Freedom of Information
19 Act, a recording or copy of a recording made pursuant to this
20 Act may only be disseminated for the purpose of addressing
21 concerns relating to the health, safety, or welfare of a
22 resident or residents.

23 (c) The resident or person who consented on behalf of the
24 resident in accordance with Section 15 of this Act shall
25 provide a copy of any video or audio recording to parties

1 involved in a civil, criminal, or administrative proceeding,
2 upon a party's request, if the video or audio recording was
3 made during the time period that the conduct at issue in the
4 proceeding allegedly occurred.

5 Section 50. Admissibility of evidence. Subject to
6 applicable rules of evidence and procedure, any video or audio
7 recording created through authorized electronic monitoring in
8 accordance with this Act may be admitted into evidence in a
9 civil, criminal, or administrative proceeding if the contents
10 of the recording have not been edited or artificially enhanced
11 and the video recording includes the date and time the events
12 occurred.

13 Section 55. Report. Staff of each community-integrated
14 living arrangement and developmental disability facility shall
15 report to the Department, in a manner prescribed by the
16 Department, the number of authorized electronic monitoring
17 notification and consent forms received annually. The
18 Department shall report the total number of authorized
19 electronic monitoring notification and consent forms received
20 by staff of community-integrated living arrangements and
21 developmental disability facilities to the Office of the
22 Attorney General annually.

23 Section 60. Liability.

1 (a) A community-integrated living arrangement or
2 developmental disability facility is not civilly or criminally
3 liable for the inadvertent or intentional disclosure of a
4 recording by a resident or a person who consents on behalf of
5 the resident for any purpose not authorized by this Act.

6 (b) A community-integrated living arrangement or
7 developmental disability facility is not civilly or criminally
8 liable for a violation of a resident's right to privacy arising
9 out of any electronic monitoring conducted pursuant to this
10 Act.

11 Section 65. Rules. The Department shall adopt rules
12 necessary to administer and enforce any Section of this Act.
13 Rulemaking shall not delay the full implementation of this Act.

14 Section 900. The Community-Integrated Living Arrangements
15 Licensure and Certification Act is amended by adding Section
16 14.5 as follows:

17 (210 ILCS 135/14.5 new)

18 Sec. 14.5. Authorized electronic monitoring of a
19 resident's room.

20 (a) A resident shall be permitted to conduct authorized
21 electronic monitoring of the resident's room through the use of
22 electronic monitoring devices placed in the room pursuant to
23 the Authorized Electronic Monitoring in Community-Integrated

1 Living Arrangements and Developmental Disability Facilities
2 Act.

3 (b) No person shall:

4 (1) intentionally retaliate or discriminate against
5 any resident for consenting to authorized electronic
6 monitoring under the Authorized Electronic Monitoring in
7 Community-Integrated Living Arrangements and Developmental
8 Disability Facilities Act; or

9 (2) prevent the installation or use of an electronic
10 monitoring device by a resident who has provided the staff
11 of the community-integrated living arrangement with notice
12 and consent as required in Section 20 of the Authorized
13 Electronic Monitoring in Community-Integrated Living
14 Arrangements and Developmental Disability Facilities Act.

15 A violation of this subsection is a business offense,
16 punishable by a fine not to exceed \$1,000. The State's Attorney
17 of the county in which the community-integrated living
18 arrangement is located, or the Attorney General, shall be
19 notified by the Director of any violations of this subsection.

20 Section 905. The Mental Health and Developmental
21 Disabilities Code is amended by adding Section 2-116 as
22 follows:

23 (405 ILCS 5/2-116 new)

24 Sec. 2-116. Authorized electronic monitoring of a

1 recipient's room.

2 (a) A recipient who resides in a developmental disability
3 facility shall be permitted to conduct authorized electronic
4 monitoring of the recipient's room through the use of
5 electronic monitoring devices placed in the room pursuant to
6 the Authorized Electronic Monitoring in Community-Integrated
7 Living Arrangements and Developmental Disability Facilities
8 Act.

9 (b) No person shall:

10 (1) intentionally retaliate or discriminate against
11 any recipient for consenting to authorized electronic
12 monitoring under the Authorized Electronic Monitoring in
13 Community-Integrated Living Arrangements and Developmental
14 Disability Facilities Act; or

15 (2) prevent the installation or use of an electronic
16 monitoring device by a recipient who resides in a
17 developmental disability facility who has provided the
18 staff of the developmental disability facility with notice
19 and consent as required in Section 20 of the Authorized
20 Electronic Monitoring in Community-Integrated Living
21 Arrangements Act and Developmental Disability Facilities
22 Act.

23 A violation of this subsection is a business offense,
24 punishable by a fine not to exceed \$1,000. The State's Attorney
25 of the county in which the developmental disability facility is
26 located, or the Attorney General, shall be notified by the

1 Director of any violations of this subsection.

2 Section 999. Effective date. This Act takes effect January
3 1, 2020.