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1 AMENDMENT TO SENATE BILL 2137

2 AMENDMENT NO. _____. Amend Senate Bill 2137 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Findings.

5 (1) The General Assembly finds that contact with family,
6 friends, and clergy is an integral part of the quality of life
7 for nursing home residents. Social isolation has long been a
8 trigger for declining mental and physical health. While the
9 digital revolution creates a new approach for community
10 connectedness, the State of Illinois stands firmly in
11 agreement with the body of research that shows in-person
12 interactions is the preferable and more impactful avenue for
13 family, friends, and clergy to connect with and support
14 nursing home residents and supports virtual visitation
15 programs as a supplement to in-person interactions.
16 Furthermore, the State of Illinois looks to government payor
17 sources and integrated entities of the health care system,

1 including Medicaid managed care organizations, as key
2 stakeholders in providing the adequate resources for residents
3 to digitally connect with loved ones near and far.

4 (2) The General Assembly further finds that use of
5 electronic devices to make and maintain contact with nursing
6 home residents is a new approach and as such must be approached
7 with care to ensure the protection of nursing home residents
8 from those who would seek to harm or defraud them using this
9 new technology.

10 Section 5. The Nursing Home Care Act is amended by adding
11 Section 3-102.3 as follows:

12 (210 ILCS 45/3-102.3 new)

13 Sec. 3-102.3. Religious and recreational activities;
14 social isolation.

15 (a) In this Section:

16 "Assistive and supportive technology and devices" means
17 computers, video conferencing equipment, distance based
18 communication technology, or other technological equipment,
19 accessories, or electronic licenses as may be necessary to
20 ensure that residents are able to engage in face-to-face,
21 verbal-based, or auditory-based contact, communication,
22 religious activity, or recreational activity with other
23 facility residents and with family members, friends, loved
24 ones, caregivers, and other external support systems, through

1 electronic means, in accordance with the provisions of
2 paragraphs (2) and (3) of subsection (c).

3 "Religious and recreational activities" includes any
4 religious, social, or recreational activity that is consistent
5 with a resident's preferences and choosing, regardless of
6 whether the activity is coordinated, offered, provided, or
7 sponsored by facility staff or by an outside activities
8 provider.

9 "Resident's representative" has the same meaning as
10 provided in Section 1-123.

11 "Social isolation" means a state of isolation wherein a
12 resident of a long-term care facility is unable to engage in
13 social interactions and religious and recreational activities
14 with other facility residents or with family members, friends,
15 loved ones, caregivers and external support systems.

16 "Virtual visitation" means the use of face-to-face,
17 verbal-based, or auditory-based contact through electronic
18 means.

19 (b) The Department shall:

20 (1) require each long-term care facility in the State
21 to adopt and implement written policies, provide for the
22 availability of assistive and supportive technology and
23 devices to facility residents, and ensure that appropriate
24 staff are in place to help prevent the social isolation of
25 facility residents; and

26 (2) communicate regularly with the Department of

1 Healthcare and Family Services and the Department on Aging
2 regarding intergovernmental cooperation concerning best
3 practices for potential funding for facilities to mitigate
4 the potential for racial disparities as an unintended
5 consequence of this Act.

6 The virtual visitation policies shall not be interpreted
7 as a substitute for in-person visitation, but shall be wholly
8 in addition to existing in-person visitation policies.

9 (c) The social isolation prevention policies adopted by
10 each long-term care facility pursuant to subsection (b) shall
11 be consistent with rights and privileges guaranteed to
12 residents and constraints provided under Sections 2-108,
13 2-109, and 2-110 and shall include the following:

14 (1) authorization and inclusion of specific protocols
15 and procedures to encourage and enable residents of the
16 facility to engage in in-person contact, communication,
17 religious activity, and recreational activity with other
18 facility residents and with family members, friends, loved
19 ones, caregivers, and other external support systems,
20 except when prohibited, restricted, or limited by federal
21 or State statute, rule, regulation, executive order, or
22 guidance;

23 (2) authorization and inclusion of specific protocols
24 and procedures to encourage and enable residents to engage
25 in face-to-face, verbal-based, or auditory-based contact,
26 communication, religious activity, and recreational

1 activity with other facility residents and with family
2 members, friends, loved ones, caregivers, and other
3 external support systems through the use of electronic or
4 virtual means and methods, including, but not limited to,
5 computer technology, the Internet, social media,
6 videoconferencing, videophone, and other innovative
7 technological means or methods, whenever the resident is
8 subject to restrictions that limit his or her ability to
9 engage in in-person contact, communication, religious
10 activity, or recreational activity as authorized by
11 paragraph (1) and when the technology requested is not
12 being used by other residents in the event of a limited
13 number of items of technology in a facility;

14 (3) a mechanism for residents of the facility or the
15 residents' representatives to request access to assistive
16 and supportive technology and devices as may be necessary
17 to facilitate the residents' engagement in face-to-face,
18 verbal-based, or auditory-based contact, communication,
19 religious activity, and recreational activity with other
20 residents, family members, friends, and other external
21 support systems, through electronic means, as provided by
22 paragraph (2);

23 (4) specific administrative policies, procedures, and
24 protocols governing:

25 (A) the acquisition, maintenance, and replacement
26 of assistive and supportive technology and devices;

1 (B) the use of environmental barriers and other
2 controls when the assistive and supportive technology
3 and devices acquired pursuant to subparagraph (A) are
4 in use, especially in cases where the assistive and
5 supportive technology and devices are likely to become
6 contaminated with bodily substances, are touched
7 frequently, or are difficult to clean; and

8 (C) the regular cleaning of the assistive and
9 supportive technology and devices acquired pursuant to
10 subparagraph (A) and any environmental barriers or
11 other physical controls used in association therewith;

12 (5) a requirement that (i) upon admission and (ii) at
13 the request of a resident or the resident's
14 representative, appropriate staff shall develop and update
15 an individualized virtual visitation schedule while taking
16 into account the individual's requests and preferences
17 with respect to the residents' participation in social
18 interactions and religious and recreational activities;

19 (6) a requirement that appropriate staff, upon the
20 request of a resident or the resident's family members,
21 guardian, or representative, shall develop an
22 individualized virtual visitation schedule for the
23 resident, which shall:

24 (A) address the need for a virtual visitation
25 schedule and establish a virtual visitation schedule
26 if deemed to be appropriate;

1 (B) identify the assessed needs and preferences of
2 the resident and any preferences specified by the
3 resident's representative, unless a preference
4 specified by the resident conflicts with a preference
5 specified by the resident's representative, in which
6 case the resident's preference shall take priority;

7 (C) document the long-term care facility's defined
8 virtual hours of visitation and inform the resident
9 and the resident's representative that virtual
10 visitation pursuant to paragraph (2) of subsection (c)
11 will adhere to the defined visitation hours;

12 (D) describe the location within the facility and
13 assistive and supportive technology and devices to be
14 used in virtual visitation; and

15 (E) describe the respective responsibilities of
16 staff, visitors, and the resident when engaging in
17 virtual visitation pursuant to the individualized
18 visitation plan;

19 (7) a requirement (i) upon admission and (ii) at the
20 request of the resident or the resident's representative,
21 to provide notification to the resident and the resident's
22 representative that they have the right to request of
23 facility staff the creation and review of a resident's
24 individualized virtual visitation schedule;

25 (8) a requirement (i) upon admission and (ii) at the
26 request of the resident or resident's representative, to

1 provide, in writing to the resident or resident's
2 representative, virtual visitation hours, how to schedule
3 a virtual visitation, and how to request assistive and
4 supportive technology and devices;

5 (9) specific policies, protocols, and procedures
6 governing a resident's requisition, use, and return of
7 assistive and supportive technology and devices maintained
8 pursuant to subparagraph (A) of paragraph (4), and require
9 appropriate staff to communicate those policies,
10 protocols, and procedures to residents; and

11 (10) the designation of at least one member of the
12 therapeutic recreation or activities department, or, if
13 the facility does not have such a department, the
14 designation of at least one senior staff member, as
15 determined by facility management, to train other
16 appropriate facility employees, including, but not limited
17 to, activities professionals and volunteers, social
18 workers, occupational therapists, and therapy assistants,
19 to provide direct assistance to residents upon request and
20 on an as-needed basis, as necessary to ensure that each
21 resident is able to successfully access and use, for the
22 purposes specified in paragraphs (2) and (3) of this
23 subsection, the assistive and supportive technology and
24 devices acquired pursuant to subparagraph (A) of paragraph
25 (4).

26 (d) A long-term care facility may apply to the Department

1 for civil monetary penalty fund grants for assistive and
2 supportive technology and devices and may request other
3 available federal and State funds.

4 (e) The Department shall determine whether a long-term
5 care facility is in compliance with the provisions of this
6 Section and the policies, protocols, and procedures adopted
7 pursuant to this Section in accordance with the Nursing Home
8 Care Act for surveys and inspections.

9 In addition to any other applicable penalties provided by
10 law, a long-term care facility that fails to comply with the
11 provisions of this Section or properly implement the policies,
12 protocols, and procedures adopted pursuant to subsection (b)
13 shall be liable to pay an administrative penalty as a Type "C"
14 violation, the amount of which shall be determined in
15 accordance with a schedule established by the Department by
16 rule. The schedule shall provide for an enhanced
17 administrative penalty in the case of a repeat or ongoing
18 violation. Implementation of an administrative penalty as a
19 Type "C" violation under this subsection shall not be imposed
20 prior to January 1, 2023.

21 (f) Whenever a complaint received by the Office of State
22 Long Term Care Ombudsman discloses evidence that a long-term
23 care facility has failed to comply with the provisions of this
24 Section or to properly implement the policies, protocols, and
25 procedures adopted pursuant to subsection (b), the Office of
26 State Long Term Care Ombudsman shall refer the matter to the

1 Department.

2 (g) This Section does not impact, limit, or constrict a
3 resident's right to or usage of his or her personal property or
4 electronic monitoring under Section 2-115.

5 (h) Specific protocols and procedures shall be developed
6 to ensure that the quantity of assistive and supportive
7 technology and devices maintained on-site at the facility
8 remains sufficient, at all times, to meet the assessed social
9 and activity needs and preferences of each facility resident.
10 Residents' family members or caregivers should be considered,
11 as appropriate, in the assessment and reassessment.

12 (i) Within 60 days after the effective date of this
13 amendatory Act of the 102nd General Assembly, the Department
14 shall file rules necessary to implement the provisions of this
15 Section. The rules shall include, but need not be limited to,
16 minimum standards for the social isolation prevention policies
17 to be adopted pursuant to subsection (b), a penalty schedule
18 to be used pursuant to subsection (e), and policies regarding
19 a long-term care facility's Internet access and subsequent
20 Internet barriers in relation to a resident's virtual
21 visitation plan pursuant to paragraph (2) of subsection (c).

22 (j) The Department's rules under subsection (i) shall take
23 into account Internet bandwidth limitations outside of the
24 control of a long-term care facility.

25 (k) Nothing in this Section shall be interpreted to mean
26 that addressing the issues of social isolation shall take

1 precedence over providing for the health and safety of the
2 residents.

3 Section 10. The Illinois Administrative Procedure Act is
4 amended by adding Section 5-45.8 as follows:

5 (5 ILCS 100/5-45.8 new)

6 Sec. 5-45.8. Emergency rulemaking; Nursing Home Care Act.
7 To provide for the expeditious and timely implementation of
8 this amendatory Act of the 102nd General Assembly, emergency
9 rules implementing Section 3-102.3 of the Nursing Home Care
10 Act may be adopted in accordance with Section 5-45 by the
11 Department of Public Health. The adoption of emergency rules
12 authorized by Section 5-45 and this Section is deemed to be
13 necessary for the public interest, safety, and welfare.

14 This Section is repealed on January 1, 2027.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."