

DRAFT

SUMMARY

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

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

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

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

(a) "Electronic monitoring device" means a camera or other device that captures, records or broadcasts audio, video or both.

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

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

(3)(a) Except as provided in subsection (6) of this section, before an

1 electronic monitoring device may be used in a resident's room or pri-
2 vate living unit, the resident must provide written consent on the
3 consent form described in subsection (5) of this section.

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

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

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

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

26 (5) A consent form for the use of an electronic monitoring device
27 under this section must include, at a minimum, the following infor-
28 mation:

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

31 (B) If the resident's or roommate's representative is providing

1 **consent on the resident's or roommate's behalf:**

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

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

5 **(iii) A statement of the source of authority allowing the represen-**
6 **tative to sign the consent form on the resident's or roommate's behalf;**

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

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

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

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

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

14 **(D) Turning off the electronic monitoring device or blocking the**
15 **visual recording component of the electronic monitoring device during**
16 **an examination or procedure by a health care professional;**

17 **(E) Turning off the electronic monitoring device or blocking the**
18 **visual recording component of the electronic monitoring device while**
19 **dressing or bathing is being performed;**

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

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

25 **(d) A statement of the circumstances under which a recording may**
26 **be disseminated under subsection (10) or (11) of this section; and**

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

29 **(6) A resident may begin using an electronic monitoring device in**
30 **the resident's room or private living unit for up to 14 days without**
31 **submitting the consent form described in subsection (5) of this section**

if:

(a) Suspected maltreatment of the resident has occurred;

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

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

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

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

(9) A facility may not:

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

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

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

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

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

1 (a) May not be:

2 (A) Accessed without the written consent of the resident or the
3 resident's representative; or

4 (B) Disseminated, except for the purposes of addressing health,
5 safety or welfare concerns of a resident.

6 (b) Subject to applicable rules of evidence and procedure, may be
7 admitted into evidence in a civil, criminal or administrative proceed-
8 ing.

9 (11)(a) An employee of a facility or an employee of a contractor
10 providing services at a facility who is the subject of a proposed disci-
11 plinary action based on evidence obtained by a resident's electronic
12 monitoring device shall be given access to the evidence for the purpose
13 of defending against the proposed disciplinary action.

14 (b) An employee who obtains a recording under this subsection shall
15 preserve the confidentiality of the recording and may not disseminate
16 the recording to any other person. The employee shall return the re-
17 cording to the facility or the resident when the recording is no longer
18 needed for the purpose of defending against a proposed disciplinary
19 action.

20 SECTION 2. Section 3 of this 2025 Act is added to and made a part
21 of ORS 443.400 to 443.455.

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

23 (a) "Electronic monitoring device" means a camera or other device
24 that captures, records or broadcasts audio, video or both.

25 (b) "Facility" means a residential care facility.

26 (2) A resident of a facility has a right to use an electronic moni-
27 toring device in the resident's room or private living unit. A long term
28 care facility shall inform residents of the right to use an electronic
29 monitoring device and make available the consent form described in
30 subsection (5) of this section.

31 (3)(a) Except as provided in subsection (6) of this section, before an

1 electronic monitoring device may be used in a resident's room or pri-
2 vate living unit, the resident must provide written consent on the
3 consent form described in subsection (5) of this section.

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

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

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

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

26 (5) A consent form for the use of an electronic monitoring device
27 under this section must include, at a minimum, the following infor-
28 mation:

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

31 (B) If the resident's or roommate's representative is providing

consent on the resident's or roommate's behalf:

(i) The representative's signed consent;

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

(iii) A statement of the source of authority allowing the representative to sign the consent form on the resident's or roommate's behalf;

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

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

(A) Prohibiting audio recording;

(B) Prohibiting video recording;

(C) Prohibiting broadcasting of audio or video;

(D) Turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device during an examination or procedure by a health care professional;

(E) Turning off the electronic monitoring device or blocking the visual recording component of the electronic monitoring device while dressing or bathing is being performed;

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

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

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

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

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

if:

(a) Suspected maltreatment of the resident has occurred;

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

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

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

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

(9) A facility may not:

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

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

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

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

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

1 (a) May not be:

2 (A) Accessed without the written consent of the resident or the
3 resident's representative; or

4 (B) Disseminated, except for the purposes of addressing health,
5 safety or welfare concerns of a resident.

6 (b) Subject to applicable rules of evidence and procedure, may be
7 admitted into evidence in a civil, criminal or administrative proceed-
8 ing.

9 (11)(a) An employee of a facility or an employee of a contractor
10 providing services at a facility who is the subject of a proposed disci-
11 plinary action based on evidence obtained by a resident's electronic
12 monitoring device shall be given access to the evidence for the purpose
13 of defending against the proposed disciplinary action.

14 (b) An employee who obtains a recording under this subsection shall
15 preserve the confidentiality of the recording and may not disseminate
16 the recording to any other person. The employee shall return the re-
17 cording to the facility or the resident when the recording is no longer
18 needed for the purpose of defending against a proposed disciplinary
19 action.

20 SECTION 4. Section 5 of this 2025 Act is added to and made a part
21 of ORS 443.705 to 443.825.

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

23 (a) "Electronic monitoring device" means a camera or other device
24 that captures, records or broadcasts audio, video or both.

25 (b) "Facility" means an adult foster home.

26 (2) A resident of a facility has a right to use an electronic moni-
27 toring device in the resident's room or private living unit. A long term
28 care facility shall inform residents of the right to use an electronic
29 monitoring device and make available the consent form described in
30 subsection (5) of this section.

31 (3)(a) Except as provided in subsection (6) of this section, before an

1 electronic monitoring device may be used in a resident's room or pri-
2 vate living unit, the resident must provide written consent on the
3 consent form described in subsection (5) of this section.

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

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

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

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

26 (5) A consent form for the use of an electronic monitoring device
27 under this section must include, at a minimum, the following infor-
28 mation:

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

31 (B) If the resident's or roommate's representative is providing

1 **consent on the resident's or roommate's behalf:**

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

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

5 **(iii) A statement of the source of authority allowing the represen-**
6 **tative to sign the consent form on the resident's or roommate's behalf;**

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

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

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

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

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

14 **(D) Turning off the electronic monitoring device or blocking the**
15 **visual recording component of the electronic monitoring device during**
16 **an examination or procedure by a health care professional;**

17 **(E) Turning off the electronic monitoring device or blocking the**
18 **visual recording component of the electronic monitoring device while**
19 **dressing or bathing is being performed;**

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

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

25 **(d) A statement of the circumstances under which a recording may**
26 **be disseminated under subsection (10) or (11) of this section; and**

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

29 **(6) A resident may begin using an electronic monitoring device in**
30 **the resident's room or private living unit for up to 14 days without**
31 **submitting the consent form described in subsection (5) of this section**

if:

(a) Suspected maltreatment of the resident has occurred;

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

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

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

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

(9) A facility may not:

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

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

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

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

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

1 (a) May not be:

2 (A) Accessed without the written consent of the resident or the
3 resident's representative; or

4 (B) Disseminated, except for the purposes of addressing health,
5 safety or welfare concerns of a resident.

6 (b) Subject to applicable rules of evidence and procedure, may be
7 admitted into evidence in a civil, criminal or administrative proceed-
8 ing.

9 (11)(a) An employee of a facility or an employee of a contractor
10 providing services at a facility who is the subject of a proposed disci-
11 plinary action based on evidence obtained by a resident's electronic
12 monitoring device shall be given access to the evidence for the purpose
13 of defending against the proposed disciplinary action.

14 (b) An employee who obtains a recording under this subsection shall
15 preserve the confidentiality of the recording and may not disseminate
16 the recording to any other person. The employee shall return the re-
17 cording to the facility or the resident when the recording is no longer
18 needed for the purpose of defending against a proposed disciplinary
19 action.

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

21 441.710. (1)(a) In addition to any other liability or penalty provided by
22 law, the Director of Human Services may impose a civil penalty on a person
23 pursuant to ORS 441.731 for any of the following:

24 (A) Violation of any of the terms or conditions of a license issued under
25 ORS 441.015 to 441.119, 441.525 to 441.595, 441.815, 441.820, 441.990, 441.993,
26 442.342, 442.344 and 442.400 to 442.463 for a long term care facility, as defined
27 in ORS 442.015.

28 (B) Violation of ORS 441.630 to 441.680.

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

31 (D) Violation of any final order of the director that pertains specifically

1 to the long term care facility owned or operated by the person incurring the
2 penalty.

3 (E) Violation of ORS 441.605 or of rules required to be adopted under ORS
4 441.610.

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

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

8 (b) In addition to any other liability or penalty provided by law, the di-
9 rector may impose a civil penalty on a residential training facility or resi-
10 dential training home for violation of ORS 443.880 or 443.881. The director
11 shall prescribe a reasonable time for elimination of a violation by a resi-
12 dential training facility or residential training home:

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

14 (B) In cases where the violation requires more than 30 days to correct,
15 such time as is specified in a plan of correction found acceptable by the di-
16 rector.

17 (2) In addition to any other liability or penalty provided by law, the Di-
18 rector of the Oregon Health Authority may impose a civil penalty on a per-
19 son for a violation of ORS 443.880 or 443.881 if the facility is a residential
20 treatment facility or a residential treatment home.

21 (3) The Director of Human Services may not impose a penalty under
22 subsection (1) of this section for violations other than those involving direct
23 patient care or feeding, an adequate staff to patient ratio, sanitation in-
24 volving direct patient care or a violation of ORS 441.605 or 443.880 or 443.881
25 or of the rules required to be adopted by ORS 441.610 unless a violation is
26 found on two consecutive surveys of a long term care facility.

27 (4) The Director of the Oregon Health Authority may not impose a pen-
28 alty under subsection (2) of this section for violations other than those in-
29 volving direct patient care or feeding, an adequate staff to patient ratio,
30 sanitation involving direct patient care or a violation of ORS 443.880 or
31 443.881. The director in every case shall prescribe a reasonable time for

elimination of a violation:

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

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

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

(2) A long term care facility, residential care facility or adult foster home may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the long term care facility, residential care facility or adult foster home to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the long term care facility, residential care facility or adult foster home by sections 1, 3 and 5 of this 2025 Act and the amendments to ORS 441.710 by section 6 of this 2025 Act.

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