

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 226
HOUSE BILL 2117

AN ACT

AMENDING TITLE 36, CHAPTER 5.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 36-568; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 5.1, article 1, Arizona Revised
3 Statutes, is amended by adding section 36-568, to read:

4 36-568. Group homes; intermediate care facilities; electronic
5 monitoring; rules; policies; definition

6 A. A SERVICE PROVIDER THAT OPERATES A GROUP HOME OR AN INTERMEDIATE
7 CARE FACILITY FOR PERSONS WITH AN INTELLECTUAL DISABILITY MAY INSTALL,
8 OVERSEE AND MONITOR ELECTRONIC MONITORING DEVICES IN COMMON AREAS,
9 INCLUDING HALLWAYS, OF THE GROUP HOME OR INTERMEDIATE CARE FACILITY. THE
10 SERVICE PROVIDER MAY CONTRACT WITH A THIRD PARTY TO INSTALL, OVERSEE AND
11 MONITOR THE ELECTRONIC MONITORING DEVICE.

12 B. THE DIRECTOR SHALL ADOPT RULES REGARDING THE USE OF ELECTRONIC
13 MONITORING IN GROUP HOMES AND INTERMEDIATE CARE FACILITIES THAT INCLUDE AT
14 A MINIMUM:

15 1. CONSENT REQUIREMENTS CONSISTENT WITH SECTION 13-3019.

16 2. PUBLIC DISCLOSURE THAT AN ELECTRONIC MONITORING DEVICE IS IN USE
17 ON THE PROPERTY.

18 3. THE MAINTENANCE, STORAGE AND RETENTION SCHEDULE OF THE
19 ELECTRONIC RECORD.

20 4. WHO MAY ACCESS THE ELECTRONIC RECORD AND UNDER WHAT
21 CIRCUMSTANCES.

22 5. HOW CONFIDENTIALITY AND PRIVACY ARE MAINTAINED.

23 6. HOW OFTEN THE ELECTRONIC MONITORING DEVICE IS MONITORED OR
24 REVIEWED BY THE SERVICE PROVIDER OR THE SERVICE PROVIDER'S DESIGNEE.

25 7. ENSURING THAT ALL STAFF WHO HAVE ACCESS TO THE ELECTRONIC RECORD
26 ARE PROPERLY TRAINED IN THE FACILITY POLICIES AND THE PROTECTION OF CLIENT
27 RIGHTS.

28 8. ENSURING THAT ADHERENCE TO THE FACILITY POLICIES IS MONITORED
29 AND THE RISKS OR BREACHES OF THE FACILITY POLICIES ARE PROMPTLY ADDRESSED.

30 C. THE RULES ADOPTED PURSUANT TO SUBSECTION B OF THIS SECTION MAY
31 NOT:

32 1. PROHIBIT ACCESSING THE ELECTRONIC RECORD FROM THE SERVICE
33 PROVIDER, THE MEMBER OR THE MEMBER'S FAMILY OR GUARDIAN UNLESS THE
34 ELECTRONIC RECORD CONTAINS EVIDENCE OF A SUSPECTED CRIMINAL OFFENSE.

35 2. REQUIRE A SERVICE PROVIDER TO BE FINANCIALLY RESPONSIBLE FOR
36 PURCHASING, INSTALLING, MAINTAINING OR MONITORING AN ELECTRONIC MONITORING
37 DEVICE THAT IS NOT VOLUNTARILY INSTALLED BY THE SERVICE PROVIDER IN THE
38 GROUP HOME OR INTERMEDIATE CARE FACILITY.

39 D. IF A SERVICE PROVIDER HAS INSTALLED AND USES AN ELECTRONIC
40 MONITORING DEVICE BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE SERVICE
41 PROVIDER SHALL ESTABLISH POLICIES CONSISTENT WITH RULES ADOPTED PURSUANT
42 TO SUBSECTION B OF THIS SECTION AND SUBMIT THE POLICIES TO THE DEPARTMENT
43 WITHIN NINETY DAYS AFTER THE RULES ARE ADOPTED.

1 E. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC MONITORING
2 DEVICE":

3 1. MEANS A VIDEO SURVEILLANCE CAMERA OR AUDIO DEVICE THAT IS
4 INSTALLED IN A COMMON AREA, INCLUDING A HALLWAY, OF A GROUP HOME OR
5 INTERMEDIATE CARE FACILITY.

6 2. DOES NOT INCLUDE AN ELECTRONIC, MECHANICAL OR OTHER DEVICE THAT
7 IS SPECIFICALLY USED FOR THE NONCONSENSUAL INTERCEPTION OF WIRE OR
8 ELECTRONIC COMMUNICATIONS.

APPROVED BY THE GOVERNOR MAY 14, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2019.