State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 234

SENATE BILL 1542

AN ACT

AMENDING SECTION 36-568, ARIZONA REVISED STATUTES; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-568, Arizona Revised Statutes, is amended to read:

36-568. Group homes; nursing-supported group homes; intermediate care facilities; electronic monitoring; rules; policies; definition

A. A service provider that operates a group home, a nursing-supported group home or an intermediate care facility for persons with intellectual disabilities may install, oversee and monitor electronic monitoring devices in common areas, including hallways, of the group home, nursing-supported group home or intermediate care facility, UNLESS ANY CLIENT OR THE CLIENT'S RESPONSIBLE PERSON OBJECTS TO THE INSTALLATION OF THE ELECTRONIC MONITORING DEVICES. The service provider may contract with a third party to install, oversee and monitor the electronic monitoring device. THE SERVICE PROVIDER MAY REQUIRE COST SHARING FOR THE ELECTRONIC MONITORING DEVICES ONLY WITH THE CONSENT OF RESPONSIBLE PERSONS.

B. IF EACH CLIENT OR THE CLIENT'S RESPONSIBLE PERSON AGREES TO THE INSTALLATION OF ELECTRONIC MONITORING DEVICES, A SERVICE PROVIDER MAY NOT PREVENT THE RESPONSIBLE PERSONS FROM INSTALLING AND PAYING FOR THE COST OF ELECTRONIC MONITORING DEVICES. THE RESPONSIBLE PERSONS WHO INSTALL AND PAY FOR THE ELECTRONIC MONITORING DEVICES ARE RESPONSIBLE FOR THE MAINTENANCE AND REPAIRS OF THOSE ELECTRONIC MONITORING DEVICES. THE SERVICE PROVIDER MAY NOT ACCESS THE ELECTRONIC RECORD OF ELECTRONIC MONITORING DEVICES INSTALLED PURSUANT TO THIS SUBSECTION UNLESS THE RESPONSIBLE PERSONS PROVIDE ACCESS. THE RULES ADOPTED PURSUANT TO THIS SECTION REGARDING THE USE OF ELECTRONIC MONITORING DO NOT APPLY IF THE CLIENTS' RESPONSIBLE PERSONS INSTALL THE ELECTRONIC MONITORING DEVICES PURSUANT TO THIS SUBSECTION.

C. The director shall adopt rules regarding the use of electronic monitoring in group homes, NURSING-SUPPORTED GROUP HOMES and intermediate care facilities that include, at a minimum:

1. Consent requirements consistent with section 13-3019.

2. Public disclosure that an electronic monitoring device is in use on the property.

3. The maintenance, storage and retention schedule of the electronic record.

4. Who may access the electronic record and under what circumstances.

5. How confidentiality and privacy are maintained.

6. How often the electronic monitoring device is monitored or reviewed by the service provider or the service provider's designee.

7. Ensuring that all staff who have access to the electronic record are properly trained in the facility policies and the protection of client rights.
8. Ensuring that adherence to the facility policies is monitored and the risks or breaches of the facility policies are promptly addressed.

9. ENSURING ACCESS TO THE ELECTRONIC RECORD, INCLUDING LIVE RECORDINGS AND VIDEO FEED, BY THE SERVICE PROVIDER, THE CLIENT OR THE CLIENT'S RESPONSIBLE PERSON, EXCEPT AS PROHIBITED BY SUBSECTION D, PARAGRAPH 1 OF THIS SECTION.

C. D. The rules adopted pursuant to subsection B-C of this section may not:

1. Prohibit accessing the electronic record from the service provider, the member CLIENT or the member's family or guardian CLIENT'S RESPONSIBLE PERSON unless the electronic record contains evidence of a suspected criminal offense.

2. Require a service provider to be financially responsible for purchasing, installing, maintaining or monitoring an electronic monitoring device that is not voluntarily installed by the service provider in the group home or intermediate care facility.

2. PROHIBIT COST SHARING FOR THE ELECTRONIC MONITORING DEVICES BETWEEN THE SERVICE PROVIDER AND THE CLIENTS' RESPONSIBLE PERSONS.

E. F. If a service provider has installed and uses an electronic monitoring device before August 27, 2019, the service provider shall establish policies consistent with rules adopted pursuant to subsection B-C of this section and submit the policies to the department within ninety days after the rules are adopted.

F. For the purposes of this section, "electronic monitoring device":

1. Means a video surveillance camera or audio device that is installed in a common area, including a hallway, of a group home, NURSING-SUPPORTED GROUP HOME or intermediate care facility.

2. Does not include an electronic, mechanical or other device that is specifically used for the nonconsensual interception of wire or electronic communications.

Sec. 2. Rulemaking exemption; department of economic security

Notwithstanding any other law, for the purposes of this act, the department of economic security is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR MAY 20, 2022.