

Senate Engrossed
group homes; electronic monitoring

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

SENATE BILL 1542

AN ACT

AMENDING SECTION 36-568, ARIZONA REVISED STATUTES; 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. Section 36-568, Arizona Revised Statutes, is amended to
3 read:

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

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

17 B. **IF EACH CLIENT'S RESPONSIBLE PERSON AGREES TO THE INSTALLATION**
18 **OF ELECTRONIC MONITORING DEVICES, A SERVICE PROVIDER MAY NOT PREVENT THE**
19 **RESPONSIBLE PERSONS FROM INSTALLING AND PAYING FOR THE COST OF ELECTRONIC**
20 **MONITORING DEVICES. THE RESPONSIBLE PERSONS WHO INSTALL AND PAY FOR THE**
21 **ELECTRONIC MONITORING DEVICES ARE RESPONSIBLE FOR THE MAINTENANCE AND**
22 **REPAIRS OF THOSE ELECTRONIC MONITORING DEVICES. THE SERVICE PROVIDER MAY**
23 **NOT ACCESS THE ELECTRONIC RECORD OF ELECTRONIC MONITORING DEVICES**
24 **INSTALLED PURSUANT TO THIS SUBSECTION. THE RULES ADOPTED PURSUANT TO THIS**
25 **SECTION REGARDING THE USE OF ELECTRONIC MONITORING DO NOT APPLY IF THE**
26 **CLIENTS' RESPONSIBLE PERSONS INSTALL THE ELECTRONIC MONITORING DEVICES**
27 **PURSUANT TO THIS SUBSECTION.**

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

31 1. Consent requirements consistent with section 13-3019.

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

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

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

38 5. How confidentiality and privacy are maintained.

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

41 7. Ensuring that all staff who have access to the electronic record
42 are properly trained in the facility policies and the protection of client
43 rights.

44 8. Ensuring that adherence to the facility policies is monitored
45 and the risks or breaches of the facility policies are promptly addressed.

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

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

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

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

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

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

22 ~~E.~~ F. For the purposes of this section, "electronic monitoring
23 device":

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

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

30 Sec. 2. Rulemaking exemption; department of economic security

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