



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1428

PRINTERS NO. 1790

PRIME SPONSOR: Masser

COST / (SAVINGS)

FUND	FY 2020/21	FY 2021/22
General Fund	\$0	\$0

SUMMARY: House Bill 1428, Printer's Number 1790, amends the Health Care Facilities Act to add a chapter entitled "Resident Care Monitoring" to permit the installation and use of video surveillance devices in long-term care nursing facilities. This legislation is effective in 60 days.

ANALYSIS: HB 1428 permits a resident, or their guardian, to authorize the installation and use of an electronic monitoring device in a long-term care nursing facility, provided the following conditions are met: 30 days written notice is provided to the facility; the device denotes the date and time, if it records video; all costs are paid for by the resident; installation of the device does not cause extensive damage to the facility, unless the resident agrees to be liable for associated costs; the device is installed in a fixed position and conspicuous location. A resident or prospective resident shall not be discriminated against by a facility for consenting to use a device.

The bill requires a resident who authorizes the installation and use of a device to notify the facility via a form prescribed by the Department of Health (DOH). The form shall provide for the following: consent of the resident; notice to the facility, including specifics of the device; consent of any other resident sharing the room; notice of release from liability for privacy violation through the use of the device; waiver of the resident's right to privacy in conjunction with the use of the device; notification of the prohibition of audio recording under 18 Pa.C.S. Ch. 57 (related to wiretapping and electronic surveillance); and a release from civil liability on the part of the facility for a violation of the resident's privacy rights regarding the use of the device in the facility.

The bill requires the written consent of each resident who resides in the room where the device will be installed and used. A resident who resides in the same room may condition consent and may revoke consent at any time. A facility shall make every effort to accommodate a resident who desires to use a device and requests a room change, but the facility shall not be cited by DOH for failure to accommodate the request.

The bill requires a facility to post notice at or near its main entrance stating that electronic monitoring may be in use. Notice shall also be posted at the entrance to the resident's room.

The bill provides that any video recording or photograph produce from a device shall be the property of the resident and the facility may not access the recording or photograph without the resident's written consent. No person or entity may intentionally hamper, obstruct, tamper with, or destroy a device, nor may a person or entity intercept a communication or disclose or use an intercepted communication of a device without the written consent of the resident. Material obtained via an unauthorized device shall be inadmissible as evidence in a civil action against a facility.

The bill provides that DOH, in consultation with the Department of Aging, Long-Term Care Ombudsman, representatives of licensed long-term care service providers, and other aging advocates, may promulgate regulations to implement the legislation.

FISCAL IMPACT: Enactment of this legislation would have no adverse fiscal impact on Commonwealth funds.

PREPARED BY: Nick McClure
House Appropriations Committee (R)

DATE: June 15, 2021

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.