
DIGEST

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HB 334 Original

2019 Regular Session

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Abstract: Authorizes the installation and use of monitoring devices in the rooms of residents of intermediate care facilities for people with developmental disabilities, also known as "ICF/DD" facilities.

Present law provides for licensure and regulation by the state of intermediate care facilities for people with developmental disabilities, also known as "ICF/DD" facilities. Provides for duties and responsibilities of the La. Department of Health with respect to licensure and regulation of these facilities.

Proposed law amends present law to authorize the use of monitoring devices in the rooms of residents of ICF/DD facilities.

Proposed law provides the following definitions:

- (1) "Legal representative" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a resident of an ICF/DD.
- (2) "Monitoring device" means a surveillance instrument that broadcasts or records activity. Provides that the term "monitoring device" shall not include a camera that records still images exclusively.

Proposed law provides for procedures by which an ICF/DD resident or his legal representative may authorize the installation and use of a monitoring device in an ICF/DD room. Provides that the monitoring device may be installed and used only if the following conditions are met:

- (1) The resident or his legal representative gives notice of the installation to the ICF/DD.
- (2) If the monitoring device records activity visually, the recordings made by the device include a record of the date and time.
- (3) The resident or his legal representative pays for the monitoring device and all installation and maintenance costs associated with the device.
- (4) Each resident occupying the same room, or a legal representative of any such resident, gives written consent for the installation of the monitoring device.

Proposed law stipulates that in any civil action against an ICF/DD, material obtained through the use of a monitoring device shall not be used if the device was installed or operated without the knowledge of the facility, or installed or used without the authorization form required by proposed law.

Proposed law establishes the following prohibitions and penalties:

- (1) No ICF/DD shall deny a person or resident admission to or discharge from the facility, or otherwise discriminate or retaliate against a person or resident, because of a choice to authorize installation and use of a monitoring device. Provides that any person who knowingly or willfully violates these provisions shall be guilty of a misdemeanor and, upon conviction, punished by a fine of not less than \$1,000 nor more than \$2,500.
- (2) No person shall intentionally hamper, obstruct, tamper with, or destroy a monitoring device or a recording made by a monitoring device installed in an ICF/DD pursuant to proposed law. Provides that any person who knowingly or willfully violates these provisions shall be guilty of a felony and, upon conviction, punished by a fine of not more than \$5,000 and shall be imprisoned with or without hard labor for not more than six months. Provides, however, that this prohibition and the penalties therefor shall not apply to the resident who owns the monitoring device or recording, or to his legal representative.

Proposed law provides that on or before January 1, 2020, each licensed ICF/DD shall provide to each resident of the facility or, if applicable, the legal guardian or legally appointed substitute decision-maker authorized to act on behalf of the resident, a form prescribed by the La. Department of Health explaining the provisions of proposed law, and giving each resident or his legal representative a choice to have a monitoring device installed.

Proposed law makes technical changes and corrections in present law.

(Amends the heading of Part VI-E of Chapter 11 of Title 40 of the La. Revised Statutes of 1950, R.S. 40:2180.1, 2180.2(intro. para.), (8), (9), and (10)(intro. para.) and (c), 2180.3, 2180.4, and 2180.5(A); Adds R.S. 40:2180(3)-(5) and R.S. 40:2180.6-2180.10)