

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 287

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO LONG-TERM CARE FACILITIES; AMENDING TITLE 39, IDAHO CODE, BY THE  
2 ADDITION OF A NEW CHAPTER 69, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT  
3 TITLE, TO DEFINE TERMS, TO PROVIDE FOR THE AUTHORIZATION OF ELECTRONIC  
4 MONITORING DEVICES, TO ESTABLISH PROVISIONS REGARDING ACTIONS BY A FA-  
5 CILITY, TO ESTABLISH PROVISIONS REGARDING PERSONS AUTHORIZED TO MODIFY  
6 DEVICES OR RECORDINGS, TO PROVIDE RULEMAKING AUTHORITY, AND TO PROVIDE  
7 PENALTIES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended  
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
12 ter 69, Title 39, Idaho Code, and to read as follows:

13 CHAPTER 69

14 ELECTRONIC MONITORING DEVICES IN LONG-TERM CARE FACILITIES

15 39-6901. SHORT TITLE. This chapter shall be known and may be cited as  
16 the "Electronic Monitoring Devices in Long-Term Care Facilities Act."

17 39-6902. DEFINITIONS. As used in this chapter:

18 (1) "Electronic monitoring device" means a surveillance instrument  
19 with a camera or an audio recording device, or a combination thereof, that  
20 is installed in a resident's room and broadcasts or records activities or  
21 sounds occurring in the room.

22 (2) "Health care agent" means a person named in an advance care planning  
23 document to make medical decisions for another person as described in chap-  
24 ter 45, title 39, Idaho Code.

25 (3) "Intimate body areas" means genitals, buttocks, the groin area, in-  
26 ner thighs, or breasts.

27 (4) "Long-term care facility" or "facility" means both a nursing facil-  
28 ity as defined in section 39-1301, Idaho Code, and a residential care or as-  
29 sisted living facility as defined in section 39-3302, Idaho Code.

30 (5) "Resident" means an individual who resides in a long-term care fa-  
31 cility.

32 (6) "Sensitive body areas" means parts of the human body that are con-  
33 sidered private and that, due to cultural, ethical, or legal considerations,  
34 require special protections in terms of privacy and dignity.

35 39-6903. AUTHORIZATION OF ELECTRONIC MONITORING DEVICES. (1) A resi-  
36 dent or a resident's guardian or health care agent may authorize the instal-  
37 lation and use of an electronic monitoring device in the resident's room in a  
38 facility. The installation and use of an electronic monitoring device shall  
39 be permitted by the facility if:

1 (a) Any forms prescribed by the facility pursuant to section 39-6904,  
2 Idaho Code, are completed and submitted by the resident or the resi-  
3 dent's guardian or the health care agent;

4 (b) The cost of the electronic monitoring device and the cost of in-  
5 stallling, maintaining, and removing the electronic monitoring device,  
6 other than the cost of electricity, is paid for by the resident or the  
7 resident's guardian or health care agent; and

8 (c) The resident's room is not shared with another resident of the fa-  
9 cility.

10 (2) If the use of an electronic monitoring device is permitted by a fa-  
11 cility and authorized by a resident, such device shall be installed in a lo-  
12 cation that meets the facility's standards and allows facility staff to as-  
13 sist the resident while maintaining the privacy of the resident's sensitive  
14 and intimate body areas. While an electronic monitoring device is active,  
15 the facility shall make every effort to ensure that the resident's sensitive  
16 and intimate body areas are properly covered to maintain the resident's dig-  
17 nity and privacy.

18 (3) A resident who has authorized the installation and use of an elec-  
19 tronic monitoring device may withdraw such authorization at any time.

20 (4) If a resident wishing to conduct authorized electronic monitoring  
21 of the resident's room shares such room with another resident, the resident  
22 or the resident's guardian or health care agent wishing to conduct autho-  
23 rized electronic monitoring may request transfer to a private room. The res-  
24 ident requesting to transfer rooms shall be responsible for any additional  
25 costs associated with the transfer to a private room.

26 39-6904. ACTIONS BY A FACILITY. (1) A facility may prescribe a form for  
27 use by a resident or the resident's guardian or health care agent seeking to  
28 authorize the installation and use of an electronic monitoring device in the  
29 resident's room. If a facility prescribes such a form, it shall include at a  
30 minimum:

31 (a) An explanation of the provisions of this chapter;

32 (b) An acknowledgement that the resident or the resident's guardian or  
33 health care agent has consented to the installation and use of the de-  
34 vice in the resident's room;

35 (c) A section for providing the facility with information regarding the  
36 type, function, and use of the device to be installed and used; and

37 (d) A section stating that the facility is released from liability in  
38 any civil or criminal action or administrative proceeding for a viola-  
39 tion of the resident's right to privacy in connection with using the de-  
40 vice.

41 (2) A facility may post a notice in a conspicuous place at the entrance  
42 to a resident's room if it has an electronic monitoring device stating that  
43 an electronic monitoring device is in use in that room.

44 (3) No person or resident shall be denied admission to or discharged  
45 from a facility or otherwise discriminated or retaliated against because of  
46 the decision to authorize the installation and use of an electronic monitor-  
47 ing device in a resident's room in the facility.

1           39-6905. PERSONS AUTHORIZED TO MODIFY DEVICE OR RECORDINGS. (1) No  
2 person other than the resident or the resident's guardian or health care  
3 agent who authorized the installation and use of an electronic monitoring  
4 device in the resident's room shall intentionally obstruct, tamper with, or  
5 destroy the device or a recording made by the device.

6           (2) Except as provided in subsections (3) and (4) of this section, no  
7 person other than the following shall intentionally view or listen to the  
8 images displayed or sounds recorded by an electronic monitoring device in-  
9 stalled in a resident's room:

10          (a) The resident;

11          (b) The resident's guardian or health care agent; or

12          (c) Law enforcement personnel.

13          (3) A resident or the resident's guardian or health care agent may au-  
14 thorize a person to view or listen to the images displayed or sounds recorded  
15 by an electronic monitoring device installed in a resident's room.

16          (4) Upon receiving written consent of the resident or the resident's  
17 guardian or health care agent, the family members of a resident may allow  
18 the facility or members of the community to view or listen to the images dis-  
19 played or sounds recorded by an electronic monitoring device.

20           39-6906. RULEMAKING AUTHORITY. The department of health and welfare  
21 may promulgate rules, subject to legislative approval, necessary to admin-  
22 ister the provisions of this chapter.

23           39-6907. PENALTIES. (1) A facility that violates the provisions of  
24 section 39-6904(3), Idaho Code, shall be subject to a civil penalty not to  
25 exceed one hundred dollars (\$100) for a first offense. For each subsequent  
26 offense, the violator shall be subject to a civil penalty not to exceed five  
27 hundred dollars (\$500).

28          (2) A person who violates the provisions of section 39-6905, Idaho  
29 Code, shall be guilty of a misdemeanor and shall be punished by a fine not to  
30 exceed one thousand dollars (\$1,000), or by imprisonment in the county jail  
31 for a term not to exceed six (6) months, or by both such fine and imprison-  
32 ment.

33           SECTION 2. An emergency existing therefor, which emergency is hereby  
34 declared to exist, this act shall be in full force and effect on and after  
35 July 1, 2025.