



House of Representatives

File No. 792

General Assembly

January Session, 2021

(Reprint of File No. 162)

House Bill No. 6457
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 5, 2021

**AN ACT CONCERNING ACCESS TO RECORDINGS AND IMAGES
FROM TECHNOLOGY USED BY NURSING HOME RESIDENTS FOR
VIRTUAL VISITATION AND VIRTUAL MONITORING.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) For purposes of this
2 section:

3 (1) "Nursing home facility" has the same meaning as provided in
4 section 19a-490 of the general statutes;

5 (2) "Resident" means a resident of a nursing home facility;

6 (3) "Resident representative" means (A) a court-appointed
7 conservator of the person or guardian, (B) a health care representative
8 appointed pursuant to section 19a-575a of the general statutes, or (C) if
9 there is no court-appointed conservator of the person or guardian, or
10 health care representative, a person who is (i) designated in a written
11 document signed by the resident and included in the resident's records

12 on file with the facility, or (ii) if there is no such written document, a
13 person who is a legally liable relative or other responsible party,
14 provided such person is not an employer or contractor of the facility;

15 (4) "Technology" means a device capable of remote audio or video
16 communications, or both, that may include recording capabilities;

17 (5) "Virtual monitoring" means remote monitoring of a resident by a
18 third party via technology owned and operated by the resident in the
19 resident's room or living quarters; and

20 (6) "Virtual visitation" means remote visitation between a resident
21 and family members or other persons with technology.

22 (b) An employee of a nursing home facility or an employee of a
23 contractor providing services at a nursing home facility who is the
24 subject of proposed disciplinary action by the nursing home facility
25 based upon evidence obtained from technology used by a resident for
26 virtual visitation or virtual monitoring shall be given access to that
27 evidence by the nursing home facility for the purpose of defending
28 against such action, provided the nursing home facility and the
29 employee (1) treat any recordings or images obtained from the
30 technology as confidential, and (2) not further disseminate any
31 recordings or images obtained from the technology to any other person
32 except as required under law. Any copy of a recording or image used in
33 such disciplinary action must be returned to the resident who provided
34 the copy when it is no longer needed for purposes of defending against
35 a proposed action.

36 (c) The Office of the Long-Term Care Ombudsman, may, without
37 consulting a nursing home facility, ask a resident about the existence of
38 recordings or images taken from technology used for virtual visitation
39 or virtual monitoring that could corroborate an allegation of abuse or
40 neglect.

41 (d) Except as otherwise required under law, a resident or resident
42 representative may voluntarily release recordings or images taken from

43 technology used for virtual monitoring or virtual visitation, provided
44 such release does not infringe on the privacy rights of any other person
45 under state or federal law. A nursing home facility, or any agent or
46 employee of a nursing home facility, may not solicit or request any
47 recordings or images from a resident or a resident representative taken
48 from technology used for virtual visitation or virtual monitoring for any
49 reason, except for the purpose of investigating an allegation of abuse or
50 neglect based upon a recording or image taken from such technology. If
51 the Department of Public Health initiates a complaint investigation
52 based upon an image or recording from virtual visitation technology or
53 virtual monitoring technology, the Department of Public Health may
54 provide a copy of such image or recording to the nursing home facility
55 that is the subject of the investigation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires certain information to be shared with nursing home employees subject to disciplinary action, has no fiscal impact.

House "A" strikes the language in the underlying bill and the associated fiscal impact and results in the impact described above.

The Out Years

State Impact: None

Municipal Impact: None

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OLR Bill Analysis**HB 6457 (as amended by House "A")******AN ACT CONCERNING NURSING HOME SERVICES.*****SUMMARY**

This bill requires a nursing home to give its employee, or the employee of a contractor providing services at the home, access to a resident's virtual monitoring or virtual visitation technology under the following conditions:

1. the employee is the subject of a proposed disciplinary action by the nursing home based on evidence obtained from the technology;
2. the nursing home grants the access for the employee to defend his- or herself against the disciplinary action;
3. the employee and nursing home treat any recordings or images obtained from the resident's technology as confidential and do not further disseminate them, except as required by law; and
4. any copy of a recording or image used in the proposed disciplinary action is returned to the resident who provided it when the employee no longer needs it to defend against the action.

The bill also allows the long-term care ombudsman, without consulting the nursing home, to ask a resident about the existence of recordings or images taken from virtual monitoring or virtual visitation technology that could corroborate an abuse or neglect allegation.

Additionally, the bill allows a resident, or resident representative, to

voluntarily release recordings or images taken from virtual monitoring or virtual visitation technology if doing so does not infringe on another person's privacy rights under state or federal law. It prohibits a nursing home, or its agent or employee, from soliciting or requesting such recordings or images from a resident or resident representative, except to investigate an abuse or neglect allegation based upon them.

If the Department of Public Health initiates a complaint investigation based on a recording or image, the bill requires the department to provide a copy of it to the nursing home that is the subject of the investigation.

Under the bill, "technology" means a device capable of remote audio or video communications that may include recording capabilities. A "resident representative" is a person who is the resident's (1) legally appointed health care representative, guardian, or conservator; (2) designee, as indicated in a signed written document in the resident's facility records; or (3) legally liable relative or other responsible party who is not a facility employee or contractor.

*House Amendment "A" replaces the original bill (File 162) and removes the provision requiring the social services commissioner to study the state's nursing homes and adds the provisions on virtual monitoring and virtual visitation technology.

EFFECTIVE DATE: October 1, 2021

COMMITTEE ACTION

Aging Committee

Joint Favorable

Yea 16 Nay 0 (03/11/2021)