

Amendment No. 297

Senate Amendment to Senate Bill No. 290

(BDR 40-852)

Proposed by: Senate Committee on Health and Education**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

SLP/KCR



Date: 4/16/2009

S.B. No. 290—Authorizes patients of certain facilities to install electronic surveillance devices in the room of the patient. (BDR 40-852)



SENATE BILL NO. 290—SENATOR CEGAVSKE

MARCH 16, 2009

Referred to Committee on Health and Education

SUMMARY—Authorizes patients of certain facilities to install electronic surveillance devices in the room of the patient. (BDR 40-852)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; authorizing patients of certain facilities to install electronic surveillance devices in the room of the patient under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill establishes the right of a patient or ~~the guardian~~ **a person authorized to act on behalf** of a patient who resides in a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups to install and operate a monitoring device in the room of the patient. **Section 3** also prescribes the required waivers that must be obtained from the patient or ~~the guardian~~ **the person authorized to act on his behalf** who is installing the device and from each patient who also resides in the room or ~~his guardian~~ **a person authorized to act on the patient's behalf**. **Section 5** of this bill requires that the monitoring device be installed in a manner that is safe for the residents, employees and visitors to the room, **that the monitoring device be installed in compliance with all applicable regulations and codes**, and that all monitoring be conducted in plain view. **Section 6** of this bill sets forth the conditions under which a ~~tape or~~ **video** recording from such a monitoring device may be admitted into evidence in a civil or criminal court action or in an administrative proceeding.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6, inclusive, of this act, "monitoring device" means a video surveillance instrument that broadcasts or records activity. The term does not include a camera used to take still photographs.*

Sec. 3. *1. A patient of a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups, or ~~his guardian~~ the person authorized pursuant to subsection 6 to act on his behalf may install and operate a monitoring device in the room of the patient if:*

1 (a) The patient or the ~~{guardian}~~ person acting on his behalf pays the
2 expense of installing, operating and maintaining the monitoring device; and

3 (b) The waivers required pursuant to subsection 2 have been signed.

4 2. Before a monitoring device may be installed in the room of a patient
5 pursuant to this section, a written waiver must be obtained from each patient who
6 resides in the room in which the monitoring device will be installed and operated,
7 or ~~this guardian,~~ the person authorized pursuant to subsection 6 to act on the
8 patient's behalf, including the patient or the {guardian} person acting on his
9 behalf who is installing the monitoring device. Each written waiver must include:

10 (a) Consent to the installation and operation of the monitoring device;

11 (b) A description of the type of monitoring device that will be installed;

12 (c) A description of whether the monitoring device will be in continuous
13 operation in the room or if not, the prescribed circumstances under which the
14 monitoring device will not be in operation to protect the dignity of a patient;

15 (d) Any conditions on the use of the device that another resident of the room
16 requires as a condition to his consent;

17 (e) An acknowledgment that the patient or the ~~{guardian}~~ person authorized
18 pursuant to subsection 6 to act on his behalf releases the facility from any
19 liability for violations of the right to privacy of the person who resides in the
20 room in which the monitoring device is operated; and

21 (f) An acknowledgment that the patient or the ~~{guardian}~~ person authorized
22 pursuant to subsection 6 to act on his behalf releases the person who operates the
23 monitoring device from violations of the right to privacy relating to reasonable
24 disclosures of the activities broadcast or recorded by the monitoring device.

25 3. ~~If a video surveillance camera is used as a monitoring device, a~~ A
26 patient or a {guardian} person authorized pursuant to subsection 6 to act on his
27 behalf who is not installing and operating the ~~{camera}~~ monitoring device but
28 who provides his consent for operation of the monitoring device in the room may,
29 as a condition to his consent, require that the ~~{camera}~~ monitoring device be
30 pointed away from the patient who is not installing and operating the ~~{camera}~~
31 monitoring device at all times.

32 4. If a monitoring device is in operation in a room and another patient is
33 moved into the room who has not yet consented to the operation of the
34 monitoring device, the monitoring must cease until the new resident of the room
35 or ~~this guardian,~~ the person authorized pursuant to subsection 6 to act on his
36 behalf provides consent pursuant to this section.

37 5. A patient or a ~~{guardian}~~ person authorized pursuant to subsection 6 to
38 act on his behalf who signs a waiver pursuant to subsection 2:

39 (a) Releases the facility from liability for any violation of the right to privacy
40 of the patient with regard to operation of a monitoring device.

41 (b) Releases the person who operates a monitoring device from any violation
42 of the right to privacy relating to reasonable disclosures of the activities broadcast
43 or recorded by the monitoring device.

44 (c) May revoke his signature and reinstate the right to privacy of the patient
45 at any time. Such revocation must be in writing and signed by the patient or ~~this~~
46 ~~guardian,~~ a person authorized pursuant to subsection 6 to act on his behalf.

47 6. If a patient lacks the mental capacity to consent to the installation and
48 operation of a monitoring device pursuant to the provisions of this section:

49 (a) The guardian, attorney-in-fact designated pursuant to NRS 449.800 to
50 449.860, inclusive, or other legal representative of the patient may sign the waiver
51 required pursuant to subsection 2 on behalf of the patient; or

(b) If a guardian, attorney-in-fact or other legal representative has not been designated for the patient, a member of the family of the patient may sign the waiver required pursuant to subsection 2 on behalf of the patient.

Sec. 4. 1. At the time of admission, a facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall notify a patient or ~~(his guardian)~~ the person authorized to act on his behalf pursuant to subsection 6 of section 3 of this act of the right to install and operate a monitoring device pursuant to sections 2 to 6, inclusive, of this act. A facility shall not:

(a) Deny the admission of;

(b) Discharge from the facility; or

(c) Otherwise discriminate or retaliate against,

↪ a patient who wishes to have or has a monitoring device installed and operated in his room.

2. A facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall:

(a) Cooperate with a patient or ~~(his guardian)~~ the person authorized to act on his behalf pursuant to subsection 6 of section 3 of this act to accommodate the installation of a monitoring device in the room of the patient;

(b) Post a notice at each public entrance to the facility stating that the rooms of some of the residents may be under electronic surveillance by or on behalf of the residents; and

(c) Post a notice in a conspicuous place at the entrance to each room in which a monitoring device is in use stating that the room is under electronic surveillance.

Sec. 5. 1. A monitoring device that is used pursuant to sections 2 to 6, inclusive, of this act must be installed in a manner that ~~is~~ :

(a) Is safe for the residents, employees and visitors of the facility who may be in the room in which the monitoring device is installed.

(b) Complies with all applicable regulations and codes, including, without limitation, all building codes, health codes, and safety codes for the jurisdiction in which the facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility is located.

2. All monitoring authorized pursuant to sections 2 to 6, inclusive, of this act must be conducted in plain view.

Sec. 6. 1. Subject to the applicable rules of evidence and procedure and the provisions of this section, a ~~tape or~~ video recording created through the use of a monitoring device that is installed and operated in accordance with sections 2 to 6, inclusive, of this act may be admitted into evidence in a civil or criminal court action or in an administrative proceeding if the contents of the ~~tape or~~ video recording have not been edited, artificially enhanced or otherwise tampered with.

2. ~~If the tape or recording is a video recording, that~~ The video recording must not be admitted pursuant to subsection 1 unless the recording clearly shows the date and time of the events that are the subject of the action or proceeding.

3. If the contents of the ~~tape or~~ video recording have been transferred from the original format to another technological format, the ~~tape or~~ video recording in the transferred format must not be admitted pursuant to subsection 1 unless the transfer was done by qualified personnel and the contents of the ~~tape or~~ video recording were not altered or otherwise tampered with.

Sec. 7. Each facility for hospice care, facility for intermediate care, facility for skilled nursing or residential facility for groups shall, on or before October 1, 2009, notify each patient who resides in the facility on that date or ~~(his guardian)~~

1 the person authorized to act on behalf of the patient pursuant to subsection 6
2 of section 3 of this act of the right of the patient or the ~~guardian~~ person
3 authorized to act on his behalf to install and operate a monitoring device pursuant
4 to the provisions of sections 2 to 6, inclusive, of this act.