

SECOND REGULAR SESSION

HOUSE BILL NO. 1655

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCDANIEL.

4364H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 42, RSMo, by adding thereto eleven new sections relating to the veterans' home resident monitoring care act, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 42, RSMo, is amended by adding thereto eleven new sections, to be
2 known as sections 42.350, 42.352, 42.354, 42.356, 42.358, 42.360, 42.362, 42.364, 42.366,
3 42.368, and 42.370, to read as follows:

42.350. 1. Sections 42.350 to 42.370 shall be known and may be cited as the
2 **"Veterans' Home Resident Monitoring Care Act".**

3 **2. As used in sections 42.350 to 42.370, the following terms shall mean:**

4 **(1) "Department", the department of public safety;**

5 **(2) "Facility", any state veterans' home;**

6 **(3) "Monitoring device", a surveillance instrument that broadcasts or records**
7 **activity, but does not include a still camera;**

8 **(4) "Resident", a person who is a resident of a facility;**

9 **(5) "Surrogate", a legal guardian or legally appointed health care proxy who is**
10 **authorized to act on behalf of a resident.**

42.352. 1. A resident or surrogate may authorize installation and use of a
2 **monitoring device in a facility, provided that:**

3 **(1) The facility is given notice of the installation;**

4 **(2) If the monitoring device records activity visually, such recording shall include**
5 **a record of the date and time;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 (3) The monitoring device and all installation and maintenance costs are paid for
7 by the resident; and

8 (4) Written consent is given by each resident or surrogate of each resident
9 occupying the same room.

10 2. The resident may establish and the facility shall accommodate limits on the use,
11 including the time of operation, direction, focus, or volume, of a monitoring device.

 42.354. 1. At the time of admission to a facility, a resident shall be offered the
2 option to have a monitoring device, and a record of the resident's authorization or choice
3 not to have a monitoring device shall be kept by the facility and shall be made accessible
4 to the Missouri veterans' commission.

5 2. After authorization, consent, and notice, a resident or surrogate may install,
6 operate, and maintain a monitoring device in the resident's room at the resident's expense.

7 3. The facility shall cooperate to accommodate the installation of the monitoring
8 device, provided the installation does not place undue burden on the facility.

9 4. The resident or surrogate shall be responsible for removal of the monitoring
10 device, at the resident's or surrogate's expense, upon discharge of the resident from the
11 facility or upon the death of the resident.

 42.356. 1. Consent to the authorization for the installation and use of a monitoring
2 device may be given only by the resident or surrogate.

3 2. Consent to the authorization for the installation and use of a monitoring device
4 shall include a release of liability for the facility for a violation of the resident's right to
5 privacy insofar as the use of the monitoring device is concerned.

6 3. A resident or surrogate may reverse a choice to have or not have a monitoring
7 device installed and used at any time, after notice to the facility and to the Missouri
8 veterans' commission upon a form prescribed by the department.

 42.358. The form for the authorization of installation and use of a monitoring
2 device shall provide for:

3 (1) Consent of the resident or surrogate authorizing the installation and use of the
4 monitoring device;

5 (2) Notice to the facility of the resident's installation of a monitoring device and
6 specifics as to its type, function, and use;

7 (3) Consent of any other resident sharing the same room or such resident's
8 surrogate;

9 (4) Notice of release from liability for privacy violation through the use of the
10 monitoring device; and

11 (5) Waiver of the resident's right to privacy in conjunction with the use of the
12 monitoring device.

 42.360. 1. In any civil action against the facility, material obtained through the use
2 of a monitoring device shall not be used if the monitoring device was installed or used
3 without the knowledge of the facility or without the prescribed form.

 2. Compliance with the provisions of sections 42.350 to 42.370 shall be a complete
5 defense against any civil or criminal action brought against the resident, surrogate, or
6 facility for the use or presence of a monitoring device.

 42.362. Within six months of the effective date of sections 42.350 to 42.370, all
2 facilities shall provide to each resident or surrogate a form prescribed by the department
3 explaining the provisions of sections 42.350 to 42.370 and giving each resident or surrogate
4 a choice to have a monitoring device installed in the resident's room. Copies of the
5 completed form shall be kept by the facility and shall be made accessible to the Missouri
6 veterans' commission.

 42.364. The facility shall post a notice in a conspicuous place at the entrance to a
2 room with a monitoring device that a monitoring device is in use in that room of the
3 facility.

 42.366. The department shall promulgate rules to implement the provisions of
2 sections 42.350 to 42.370 Any rule or portion of a rule, as that term is defined in section
3 536.010, that is created under the authority delegated in sections 198.575 to 198.605 shall
4 become effective only if it complies with and is subject to all of the provisions of chapter
5 536 and, if applicable, section 536.028. Sections 198.575 to 198.605 and chapter 536 are
6 nonseverable, and if any of the powers vested with the general assembly pursuant to
7 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
9 proposed or adopted after August 28, 2016, shall be invalid and void.

 42.368. No person or resident shall be denied admission to or discharged from a
2 facility or be otherwise discriminated against or retaliated against because of a choice to
3 authorize installation and use of a monitoring device.

 42.370. Any person other than a resident or surrogate found guilty of intentionally
2 hampering, obstructing, tampering with, or destroying a monitoring device or a recording
3 made by a monitoring device installed in a facility under sections 42.350 to 42.370 is guilty
4 of a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017.

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