

FIRST REGULAR SESSION

# HOUSE BILL NO. 139

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LEWIS.

0263H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 191.1400, RSMo, and to enact in lieu thereof one new section relating to compassionate care visits in health care facilities, with penalty provisions.

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

Section A. Section 191.1400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.1400, to read as follows:

191.1400. 1. This section shall be known and may be cited as the "Compassionate Care Visitation Act" and the "No Patient Left Alone Act".

2. For purposes of this section, the following terms mean:

(1) "Compassionate care visitor", a patient's or resident's friend, family member, or other person requested by the patient or resident for the purpose of a compassionate care visit;

(2) "Compassionate care visit", a visit necessary to meet the physical or mental needs of the patient or resident, including, but not limited to:

(a) For end-of-life situations, including making decisions regarding end-of-life care during in-person contact or communication with the compassionate care visitor;

(b) For adjustment support or communication support, including, but not limited to, assistance with hearing and speaking;

(c) For emotional support;

(d) For physical support after eating or drinking issues, including weight loss or dehydration; or

(e) For social support;

(3) "Health care facility", a hospital, as defined in section 197.020, a long-term care facility licensed under chapter 198, or a hospice facility certified under chapter 197.

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.

18           3. A health care facility shall allow a patient or resident, or his or her legal guardian,  
19 to permit at least two compassionate care visitors simultaneously to have in-person contact  
20 with the patient or resident during visiting hours. Compassionate care visitation hours shall  
21 be no less than six hours daily and shall include evenings, weekends, and holidays. Health  
22 care facilities shall be permitted to place additional restrictions on children under the age of  
23 fourteen who are compassionate care visitors.

24           4. Health care facilities shall have a visitation policy that allows, at a minimum:

25           (1) Twenty-four-hour attendance by a compassionate care visitor when reasonably  
26 appropriate;

27           (2) A compassionate care visitor to leave and return within the hours of the visitation  
28 policy. A patient or resident may receive multiple compassionate care visitors during  
29 visitation hours, subject to the provisions of subsection 3 of this section; and

30           (3) Parents with custody or unsupervised visitation rights, legal guardians, and other  
31 persons standing in loco parentis to be physically present with a minor child while the child  
32 receives care in the facility.

33           5. This section shall not affect any obligation of a health care facility to:

34           (1) Provide patients or residents with effective communication supports or other  
35 reasonable accommodations in accordance with federal and state laws to assist in remote  
36 personal contact; and

37           (2) Comply with the provisions of the Americans with Disabilities Act of 1990, 42  
38 U.S.C. Section 12101 et seq.

39           6. A health care facility may limit:

40           (1) The number of visitors per patient or resident at one time based on the size of the  
41 building and physical space;

42           (2) Movement of visitors within the health care facility, including restricting access to  
43 operating rooms, isolation rooms or units, behavioral health units, or other commonly  
44 restricted areas; and

45           (3) Access of any person to a patient **or resident**:

46           (a) At the request of the patient or resident, or the legal guardian of such;

47           (b) At the request of a law enforcement agency for a person in custody;

48           (c) Due to a court order;

49           (d) To prevent substantial disruption to the care of a patient or resident or the  
50 operation of the facility;

51           (e) During the administration of emergency care in critical situations;

52           (f) If the person has measurable signs and symptoms of a transmissible infection;  
53 except that, the health care facility shall allow access through telephone or other means of  
54 telecommunication that ensure the protection of the patient or resident;

55 (g) If the health care facility has reasonable cause to suspect the person of being a  
56 danger or otherwise contrary to the health or welfare of the patient or resident, other patients  
57 or residents, or facility staff; or

58 (h) If, in the clinical judgment of the patient's or resident's attending physician, the  
59 presence of visitors would be medically or therapeutically contraindicated to the health or life  
60 of the patient or resident, and the attending physician attests to such in the patient's or  
61 resident's chart.

62 7. Nothing in this section shall limit a health care facility from limiting or redirecting  
63 visitors of a patient or resident in a shared room to ensure the health and safety of the patients  
64 or residents in the shared room. Nothing in this section shall be construed to prohibit health  
65 care facilities from adopting reasonable safety or security restrictions or other requirements  
66 for visitors.

67 8. Nothing in this section shall be construed to waive or change long-term care  
68 facility residents' rights under sections 198.088 and 198.090.

69 9. No later than January 1, 2023, the department of health and senior services shall  
70 develop informational materials for patients, residents, and their legal guardians regarding the  
71 provisions of this section. A health care facility shall make these informational materials  
72 accessible upon admission or registration and on the primary website of the health care  
73 facility.

74 10. **(1)** A compassionate care visitor of a patient or resident of a health care facility  
75 may report any violation of the provisions of this section by a health care facility to the  
76 department of health and senior services. The department shall begin investigating any such  
77 complaint filed under this subsection within thirty-six hours of receipt of the complaint. The  
78 purpose of such investigation shall be to ensure compliance with the provisions of this  
79 section, and any such investigation shall otherwise comply with the complaint processes  
80 established by section 197.080 for a hospital, section 197.268 for a hospice facility, and  
81 section 198.532 for a long-term care facility.

82 **(2)** Any health care facility that violates the provisions of this section shall be  
83 liable to the state for a civil penalty of one thousand dollars for each day of such  
84 violation. The attorney general shall, upon the request of the department of health and  
85 senior services, bring an action in a circuit court of competent jurisdiction to recover the  
86 civil penalty. The department of health and senior services may also bring such an  
87 action itself. The civil action may be brought in the circuit court of Cole County or, at  
88 the option of the department of health and senior services, in another county that has  
89 venue of an action against the health care facility under other provisions of law. Any  
90 order by a circuit court in such an action assessing civil penalties against a health care  
91 facility shall include an award of attorney's fees to the state.

92           11. No health care facility shall be held liable for damages in an action involving a  
93 liability claim against the facility arising from the compliance with the provisions of this  
94 section. The immunity described in this subsection shall not apply to any act or omission by a  
95 facility, its employees, or its contractors that constitutes recklessness or willful misconduct  
96 and shall be provided in addition to, and shall in no way limit, any other immunity protections  
97 that may apply in state or federal law.

98           12. The provisions of this section shall not be terminated, suspended, or waived  
99 except by a declaration of emergency under chapter 44, during which time the provisions of  
100 sections 191.2290 and 630.202 shall apply.

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