



General Assembly

**Substitute Bill No. 6552**

January Session, 2021



**AN ACT CONCERNING THE RIGHTS OF RESIDENTS IN NURSING HOME FACILITIES TO USE THE TECHNOLOGY OF THEIR CHOICE FOR VIRTUAL CONNECTIONS TO FAMILY, FRIENDS AND OTHER PERSONS.**

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 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) A resident shall have the right to use technology of the resident's  
23 choice that facilitates virtual monitoring or virtual visitation, provided:

24 (1) The purchase, activation, installation, maintenance, repair,  
25 operation, deactivation and removal of such technology is at the  
26 expense of the resident;

27 (2) The technology and any recordings obtained therefrom are used  
28 by the resident and any person communicating with the resident or  
29 monitoring the resident in a manner that does not violate any  
30 individual's right to privacy under state or federal law and in  
31 accordance with the provisions of this section;

32 (3) A clear and conspicuous notice is placed on the door of the  
33 resident's room or living unit indicating that technology enabling  
34 virtual monitoring and intended for such -use may be in use;

35 (4) In cases where the resident intends to use technology for virtual  
36 monitoring in shared living situations, the resident or resident  
37 representative provides advance notice to a roommate or the  
38 roommate's representative specifying the type of technology, the  
39 proposed location of the device, its intended use, intended hours of  
40 operation and whether the device is capable of recording audio or video  
41 or being activated remotely;

42 (5) The resident or resident representative (A) obtains the written  
43 consent of all roommates or resident representatives of all roommates  
44 for the use of the technology for virtual monitoring, and (B) if any

45 roommate withdraws consent, ceases using the technology for virtual  
46 monitoring until consent is obtained; and

47 (6) The resident or resident representative files a signed, written  
48 notice with the nursing home facility and a copy of any written consent  
49 of any roommate not less than seven days before installing or using such  
50 technology for virtual monitoring that (A) identifies the type of  
51 technology, its intended use, intended hours of operation and location  
52 of such technology in the room or living quarters, (B) states whether the  
53 technology is capable of recording audio or video or being activated or  
54 controlled remotely, (C) acknowledges that the resident is responsible  
55 for the purchase, activation, installation, maintenance, repair, operation,  
56 deactivation and removal of such technology, and (D) includes a waiver  
57 of all civil, criminal and administrative liability for the nursing home  
58 facility in accordance with subsection (d) of this section.

59 The provisions of this subsection shall not apply to cellular mobile  
60 telephones used primarily for telephonic communication or tablets not  
61 used for virtual monitoring. If a roommate withdraws consent for the  
62 use of technology for virtual monitoring, a resident or resident  
63 representative shall inform the facility, in writing, not later than seven  
64 days after the roommate withdraws consent.

65 (c) (1) A nursing home facility shall provide Internet access, electricity  
66 and a power source for technology used for virtual monitoring or virtual  
67 visitation at no cost to a resident, provided (A) a nursing home facility  
68 includes the cost of providing Internet access in cost reports filed with  
69 the Department of Social Services for purposes of Medicaid  
70 reimbursement, (B) the cost associated with any necessary upgrades to  
71 Internet infrastructure to provide adequate Internet access for residents  
72 to use such technology is considered a capital improvement eligible for  
73 reimbursement under fair rent rate provisions of subsection (f) of  
74 section 17b-340 of the general statutes, (C) the Commissioner of Social  
75 Services uses any available funding provided by the federal government  
76 to the state and authorized by the federal government for expenses  
77 related to COVID-19 at nursing home facilities to provide grants-in-aid

78 to such facilities for such upgrades, provided such use is approved by  
79 the federal government, and (D) a nursing home facility may assess a  
80 prorated portion of any unreimbursed cost of such upgrades to any  
81 resident privately paying for a residence in such facility and using such  
82 technology. A resident may also procure his or her own Internet  
83 connectivity. A private-paying resident who procures his or her own  
84 Internet connectivity shall not be charged for the cost of any Internet  
85 infrastructure upgrades by the nursing home facility necessary for  
86 residents to use such technology.

87 (2) A nursing home facility may establish policies and procedures on  
88 the use of technology for virtual monitoring addressing (A) except for  
89 cellular mobile telephones used primarily for telephonic  
90 communication or tablets not used for virtual monitoring, placement of  
91 any technology device in a conspicuously visible, stationary location in  
92 the resident's room or living quarters, (B) restrictions on use of the  
93 technology to record video or audio outside the resident's room or living  
94 quarters or in any shared common space, (C) compliance with  
95 applicable federal, state and local life safety and fire protection  
96 requirements, (D) limitations on use of technology for virtual  
97 monitoring when such use will interfere with resident care or privacy  
98 unless the resident, a roommate of the resident, or his or her resident  
99 representative, consents to such use, (E) the ability to limit use of  
100 technology in the event of a disruption to the facility's Internet service,  
101 and (F) actions that the nursing home facility may take for failure to  
102 comply with applicable federal, state and local laws or facility policy in  
103 the use of technology and the process by which a resident may appeal  
104 such actions.

105 (d) A nursing home facility shall be immune from any civil, criminal  
106 or administrative liability for any (1) violation of privacy rights of any  
107 individual under state or federal law caused by a resident's use of  
108 technology; (2) damage to the resident's technology, including, but not  
109 limited to, malfunction not caused by the negligence of the nursing  
110 home facility; and (3) instance when audio or video produced by the

111 resident's technology is inadvertently or intentionally disclosed to,  
112 intercepted or used by an unauthorized third party.

113 (e) A nursing home facility shall place a conspicuous notice (1) at the  
114 entrance to the facility indicating that technology enabling virtual  
115 monitoring or virtual visitation may be in use in some residents' rooms  
116 or living quarters; and (2) except for cellular mobile telephones used  
117 primarily for telephonic communication or tablets not used for virtual  
118 monitoring, on the door of any resident's room or living quarters where  
119 such technology may be used for virtual monitoring. In cases where any  
120 roommate of a resident refuses to give consent for use of technology for  
121 virtual monitoring that may capture audio or video of the roommate, a  
122 nursing home facility shall work with both the resident and the  
123 roommate to seek an acceptable accommodation for use of the  
124 technology with the roommate's consent. If the roommate continues to  
125 refuse consent, the nursing home facility shall work with the resident  
126 wishing to use such technology to develop an alternative, including  
127 transfer to another room with a roommate who consents to use of the  
128 technology, provided an appropriate room is available and the resident  
129 is able to pay any difference in price if the new room is more costly than  
130 the resident's current room.

131 (f) The Office of the Long-Term Care Ombudsman may provide  
132 standard forms on its Internet web site for (1) notice by a resident to a  
133 nursing home facility of the resident's plan to install and use technology  
134 of his or her choice for virtual monitoring; (2) consent forms for any  
135 roommate of a resident who wishes to use technology for virtual  
136 monitoring that may capture audio or video of the roommate; and (3)  
137 forms for a resident or resident representative to notify the facility that  
138 a roommate has withdrawn consent for use of technology for virtual  
139 monitoring. The Office of the Long-Term Care Ombudsman shall  
140 develop such standard forms in consultation with nursing home facility  
141 representatives and the Department of Public Health.

142 (g) The Commissioner of Public Health may adopt regulations in  
143 accordance with the provisions of chapter 54 of the general statutes to

144 implement the provisions of this section.

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

**Statement of Legislative Commissioners:**

In Section 1(b)(3), "enabling virtual monitoring" was changed to "enabling virtual monitoring and intended for such use" for accuracy and consistency; in Section 1(b)(5)(A), "the roommate" was changed to "all roommates" and ""resident representative of the roommate" was changed to "resident representatives of all roommates" for accuracy and internal consistency; in Section 1(b)(5)(B), , "the roommate" was changed to "any roommate" for accuracy and internal consistency; in Section 1(b)(6)(A), "hours of use" was changed to "hours of operation" for consistency; in Section 1(c)(1)(C), "such upgrades," was changed to "such upgrades, provided such use is approved by the federal government," for accuracy; in Section 1(c)(2)(D), "their resident representatives" was changed to "his or her resident representative" for consistency; in Section 1(e)(2), "may be used" was changed to "may be used for virtual monitoring" for accuracy and consistency; and in Section 1(f)(1), "their choice" was changed to "his or her choice" for consistency.

**AGE**      *Joint Favorable Subst.*