Offered by:
SEN. MILLER P., 27th Dist.   SEN. COHEN, 12th Dist.
REP. PHIPPS, 100th Dist.   SEN. HASKELL, 26th Dist.
SEN. KELLY, 21st Dist.   SEN. MCCORY, 2nd Dist.
SEN. LOONEY, 11th Dist.   SEN. MOORE, 22nd Dist.
SEN. DUFF, 25th Dist.   SEN. WINFIELD, 10th Dist.

To: Subst. Senate Bill No. 975   File No. 193   Cal. No. 155

"AN ACT STRENGTHENING THE BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS."

1 Strike lines 77 and 78 in their entirety and insert the following in lieu thereof: "to representatives of the Department of Public Health or the Office of the Long-Term Care Ombudsman; (7)"

2 After the last section, add the following and renumber sections and internal references accordingly:

3 "Sec. 501. (NEW) (Effective October 1, 2021) (a) For purposes of this section:

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

5 (2) "Resident" means a resident of a nursing home facility;
(3) "Resident representative" means (A) a court-appointed conservator of the person or guardian, (B) a health care representative appointed pursuant to section 19a-575a of the general statutes, or (C) if there is no court-appointed conservator of the person or guardian, or health care representative, a person who is (i) designated in a written document signed by the resident and included in the resident’s records on file with the facility, or (ii) if there is no such written document, a person who is a legally liable relative or other responsible party, provided such person is not an employer or contractor of the facility;

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

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

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

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

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

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

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

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

(5) The resident or resident representative (A) obtains the written consent of all roommates or resident representatives of all roommates for the use of the technology for virtual monitoring, and (B) if any roommate withdraws consent, ceases using the technology for virtual monitoring until consent is obtained; and

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

Except for the provisions of subdivision (2) of this subsection, the provisions of this subsection shall not apply to cellular mobile telephones used primarily for telephonic communication or tablets not used for virtual monitoring. If a roommate withdraws consent for the use of technology for virtual monitoring, a resident or resident representative shall inform the facility, in writing, not later than seven days after the roommate withdraws consent.

(c) (1) A nursing home facility shall provide Internet access, electricity and a power source for technology used for virtual monitoring or virtual
visitation at no cost to a resident, provided (A) a nursing home facility includes the cost of providing Internet access in cost reports filed with the Department of Social Services for purposes of Medicaid reimbursement, (B) the cost is reimbursed to the facility if the department determines that such cost is eligible for reimbursement pursuant to section 17b-340 of the general statutes, (C) the Commissioner of Social Services uses any available funding provided by the federal government to the state and authorized by the federal government for expenses related to COVID-19 at nursing home facilities to provide grants-in-aid to such facilities for such upgrades, provided such use is approved by the federal government, and (D) a nursing home facility may assess a prorated portion of any unreimbursed cost of such upgrades to any resident privately paying for a residence in such facility and using such technology. A resident may also procure his or her own Internet connectivity. A private-paying resident who procures his or her own Internet connectivity shall not be charged for the cost of any Internet infrastructure upgrades by the nursing home facility necessary for residents to use such technology.

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

(d) A nursing home facility shall be immune from any civil, criminal or administrative liability for any (1) violation of privacy rights of any individual under state or federal law caused by a resident's use of technology; (2) damage to the resident's technology, including, but not limited to, malfunction not caused by the negligence of the nursing home facility; and (3) instance when audio or video produced by the resident's technology is inadvertently or intentionally disclosed to, intercepted or used by an unauthorized third party.

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

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

(g) The Commissioner of Public Health may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of this section."

This act shall take effect as follows and shall amend the following sections:

| Sec. 501 | October 1, 2021 | New section |