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## OLR Bill Analysis

### HB 5142 (as amended by House "A")\*

#### ***AN ACT CONCERNING THE USE OF TECHNOLOGY FOR VIRTUAL VISITATION AND MONITORING IN NURSING HOMES AND RESIDENTIAL CARE HOMES.***

#### **SUMMARY**

This bill allows residential care home residents to use technology of their choosing for virtual monitoring and establishes related notification, use, and consent requirements.

Existing law, unchanged by the bill, similarly allows nursing home residents to use this technology (as well as technology for virtual visitations) and gives nursing homes immunity from liability arising from its use in three circumstances. The bill narrows these circumstances and gives residential care homes the same immunity.

Under the bill, "virtual monitoring technology" allows someone to remotely monitor a resident using devices capable of audio or video communications, which may be able to record, that the resident owns and operates in his or her room or living area. The resident must purchase, activate, install, maintain, repair, operate, deactivate, and remove the technology at his or her own expense.

The bill authorizes the Department of Public Health commissioner to adopt regulations to implement the bill's provisions on residential care homes.

\*House Amendment "A" eliminates from the underlying bill provisions (1) on virtual visitation technology in residential care homes and (2) making it a class B violation for nursing homes and residential care homes to interfere, in certain ways, with a resident's ability to use the technology. It also eliminates from the underlying bill requirements that residential care homes (1) provide Internet access and power for the technology in certain circumstances, (2) post notice by their front

entrances that the technology may be in use, and (3) relocate roommates who do not consent to a resident's use of the technology in shared spaces. It also adds limits on immunity for nursing homes under existing law and extends this immunity to residential care homes.

EFFECTIVE DATE: October 1, 2026

***Roommate Notice and Consent***

If a residential care home resident intends to use technology for virtual monitoring in a shared living space, the bill requires the resident to first notify any roommates and tell them the type and location of the technology, its intended use and hours of operation, and whether it can record audio or video or be activated remotely.

The resident must also get the roommate's consent to use the technology. If the roommate later withdraws consent, the resident must stop using the virtual monitoring technology unless he or she again consents.

Generally, the bill authorizes "resident representatives" to do things it allows or requires a resident to do (to give or get consent to use the technology, for example). A "resident representative" is a person who is the resident's (1) legally appointed health care representative, guardian, or conservator; (2) designee, as indicated in a signed written document in the resident's facility records; or (3) legally liable relative or other responsible party who is not a facility employee or contractor.

***Resident Notification to the Home***

Under the bill, the resident must file a signed, written notice with the home and a copy of the roommate's consent, if applicable, at least seven days before installing or using the virtual monitoring technology. The notice must:

1. identify the type of technology and its intended use, hours of use, and location in the resident's room or living unit;
2. state whether the technology is able to record audio or video or be remotely activated or controlled;

3. acknowledge that the resident is responsible for purchasing, installing, activating, maintaining, repairing, operating, deactivating, and removing the technology; and
4. include a waiver of all civil, criminal, and administrative liability for the residential care home.

The resident must also notify the residential care home in writing within seven days if a roommate withdraws his or her consent for the technology's use.

***Residential Care Home Policies and Procedures***

The bill authorizes residential care homes to set policies and procedures for using virtual monitoring technology that address:

1. placing the devices in a visible, stationary location in the resident's room or living areas;
2. restrictions on recording video or audio outside the resident's room or living areas or in any shared common spaces;
3. compliance with applicable federal, state, and local life, safety, and fire protection requirements;
4. limitations on using the technology when it will interfere with resident care or privacy unless the resident, any roommate, or their representatives consent to its use;
5. the ability to limit the technology's use if the home's internet service is disrupted; and
6. actions that the residential care home may take if a resident does not comply with applicable federal, state, and local laws or facility policy in using the technology, including a process for residents to appeal these actions.

***Facility Notice Requirements***

The bill requires a conspicuous notice to be placed on the door of a resident's room or living area where virtual monitoring technology may

be used.

### ***Notification and Consent Forms***

The bill authorizes the long-term care ombudsman, in consultation with the Department of Public Health and residential care home representatives, to develop and provide standard forms on its website for:

1. residents' notice to a residential care home of their intent to install and use virtual monitoring technology,
2. roommate consent forms for residents who wish to use virtual monitoring technology that may capture audio or video of a roommate, and
3. resident notice to the residential care home that a roommate has withdrawn consent for using virtual monitoring technology.

### ***Use of Recordings and Images and Mobile Devices***

Under the bill, the technology and any recordings or images obtained from it must be used by the resident and any person communicating with or monitoring the resident in a manner that does not violate an individual's right to privacy under state or federal law.

Although the bill broadly exempts from the bill's requirements cell phones primarily used for phone calls and tablets not used for virtual monitoring, it specifies this requirement applies to cell phones and tablets as well.

## **IMMUNITY FROM LIABILITY**

### ***Nursing Homes***

Under existing law, nursing home residents can use technology for virtual visitations as well as virtual monitoring (see BACKGROUND). Nursing homes are immune from civil, criminal, and administrative liability from its use in three circumstances under current law. The bill narrows these circumstances, as described in the below table.

**Table: When Nursing Homes Have Immunity Under Current Law and the Bill**

<i>Current law</i>	<i>Under the Bill</i>
An individual's privacy rights, under state or federal law, were violated due to a resident's use of the technology	Home has immunity only for violations of state, not federal, law and if the resident was using the technology in a way the law allows
A resident's technology was damaged but not because of the home's negligence	Home has immunity only if it neither intentionally nor negligently caused the damage
Audio or video a resident recorded was accidentally or intentionally disclosed to an unauthorized party or an unauthorized party intercepted or used it	Home has immunity only if it did not intentionally cause the audio or video to be disclosed, intercepted, or used

***Residential Care Homes***

The bill also makes residential care homes immune from civil, criminal, and administrative liability for damages caused by the use of video monitoring (but not virtual visitation) technology in the same three circumstances, meaning when:

1. an individual's rights to privacy under state law are violated by a resident using the technology in a way the bill allows;
2. a resident's technology is damaged or malfunctions, as long as the home did not intentionally or negligently cause it; or
3. audio or video a resident made is accidentally or intentionally disclosed to or used or intercepted by an unauthorized party, as long as the home did not intentionally cause it.

**BACKGROUND*****Virtual Visitation Technology***

By law, nursing home residents have a right to use virtual visitation, as well as virtual monitoring, technology as long as they comply with the law's notice, use, and consent requirements. "Virtual visitation" is remote visitation between a resident and family member, or other person, using a device capable of audio or video communications that may be able to record (CGS § 19a-550b).

Additionally, the nursing home patients' bill of rights states that residents of nursing homes and residential care homes (among other

facility types) are entitled to purchase and use virtual visitation technology, so long as it does not violate other individuals' right to privacy under state or federal law. Patients who are negligently deprived of these rights may bring a private cause of action in court (CGS § 19a-550(b)&(e)).

**COMMITTEE ACTION**

Aging Committee

Joint Favorable

Yea 14 Nay 0 (03/05/2026)

Public Health Committee

Joint Favorable

Yea 28 Nay 1 (04/07/2026)