



2023 ASSEMBLY BILL 1002

January 25, 2024 - Introduced by Representatives DITTRICH, KURTZ, O'CONNOR, MURSAU, SNYDER, SNODGRASS, NOVAK and MADISON, cosponsored by Senators JAMES and BALLWEG. Referred to Committee on Health, Aging and Long-Term Care.

1 **AN ACT** *to amend* 51.61 (1) (o); and *to create* 48.67 (6) and 51.044 (4) of the
2 statutes; **relating to:** video monitoring or recording in psychiatric residential
3 treatment facilities, residential care centers for children and youth, group
4 homes, and shelter care facilities and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Children and Families to promulgate rules requiring all child welfare agencies that operate a residential care center for children and youth, all group homes, and all shelter care facilities to adopt a policy for monitoring safety, which may include the use of video surveillance and recording in common areas, entrances, and exits.

Similarly, the bill requires the Department of Health Services to promulgate rules requiring all psychiatric residential treatment facilities to adopt a policy for monitoring safety, which may include the use of video surveillance and recording in common areas, entrances, and exits.

Under current law, generally, an individual who is receiving services for mental illness, developmental disability, alcoholism, or drug dependency (patient) has a right not to be filmed or taped unless the patient signs an informed and voluntary consent. This includes an individual who is admitted to a treatment facility or detained, committed, or placed under the Children's Code. Under the bill, a patient placed in a residential care center for children and youth, group home, shelter care facility, or a psychiatric residential treatment facility may be subject to video

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surveillance or recording in common areas, entrances, and exits without the patient's consent as provided under a safety monitoring policy authorized under the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.67 (6) of the statutes is created to read:

2 48.67 (6) That all child welfare agencies that operate a residential care center
3 for children and youth, all group homes, and all shelter care facilities adopt a policy
4 for monitoring safety, which may include the use of video surveillance and recording
5 in common areas, entrances, and exits.

6 **SECTION 2.** 51.044 (4) of the statutes is created to read:

7 51.044 (4) VIDEO MONITORING. The department shall promulgate rules
8 requiring that all psychiatric residential treatment facilities adopt a policy for
9 monitoring safety, which may include the use of video surveillance and recording in
10 common areas, entrances, and exits.

11 **SECTION 3.** 51.61 (1) (o) of the statutes is amended to read:

12 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
13 taped, unless the patient signs an informed and voluntary consent that specifically
14 authorizes a named individual or group to film or tape the patient for a particular
15 purpose or project during a specified time period. The patient may specify in the
16 consent periods during which, or situations in which, the patient may not be filmed
17 or taped. If a patient is adjudicated incompetent, the consent shall be granted on
18 behalf of the patient by the patient's guardian. A patient in Goodland Hall at the
19 Mendota Mental Health Institute, a patient detained or committed under ch. 980,
20 or a patient who is in the legal custody of or under the supervision of the department
21 of corrections, may be subject to video surveillance or filmed or taped without the

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1 patient's consent, except that such a patient may not be filmed in patient bedrooms
2 or bathrooms without the patient's consent unless the patient is engaged in
3 dangerous or disruptive behavior. A patient placed in a residential care center for
4 children and youth, group home, or shelter care facility licensed under ch. 48 may
5 be subject to video surveillance or filmed or taped without the patient's consent as
6 authorized under s. 48.67 (6). A patient placed in a psychiatric residential treatment
7 facility certified under s. 51.044 may be subject to video surveillance or filmed or
8 taped without the patient's consent as authorized under s. 51.044 (4). A treatment
9 activity involving a patient committed or detained under ch. 980 may be filmed or
10 taped if the purpose of the recording is to assess the quality of the treatment activity
11 or to facilitate clinical supervision of the staff involved in the treatment activity.

12 **SECTION 4.** 51.61 (1) (o) of the statutes is amended to read:

13 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
14 taped, unless the patient signs an informed and voluntary consent that specifically
15 authorizes a named individual or group to film or tape the patient for a particular
16 purpose or project during a specified time period. The patient may specify in the
17 consent periods during which, or situations in which, the patient may not be filmed
18 or taped. If a patient is adjudicated incompetent, the consent shall be granted on
19 behalf of the patient by the patient's guardian. A patient in Goodland Hall at the
20 Mendota Mental Health Institute, a patient detained or committed under ch. 980,
21 or a patient who is in the legal custody of or under the supervision of the department
22 of corrections, may be subject to video surveillance or filmed or taped without the
23 patient's consent, except that such a patient may not be filmed in patient bedrooms
24 or bathrooms without the patient's consent unless the patient is engaged in
25 dangerous or disruptive behavior. A patient placed in a residential care center for

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1 children and youth, group home, or shelter care facility licensed under ch. 48 may
2 be subject to video surveillance or filmed or taped without the patient's consent as
3 authorized under s. 48.67 (6). A treatment activity involving a patient committed
4 or detained under ch. 980 may be filmed or taped if the purpose of the recording is
5 to assess the quality of the treatment activity or to facilitate clinical supervision of
6 the staff involved in the treatment activity.

7 **SECTION 5. Nonstatutory provisions.**

8 (1) RECONCILIATION PROVISIONS.

9 (a) If 2023 LRB-5301, in the manner shown in 2023 LRB-5301/1, is enacted
10 into law, if s. 51.044 is affected by that act, and if the treatment of that section by that
11 act takes effect in the 2023 legislative session, then the treatment of s. 51.61 (1) (o)
12 (by SECTION 4) by this act is void.

13 (b) If 2023 LRB-5301, in the manner shown in 2023 LRB-5301/1, is not enacted
14 into law, then the treatment of ss. 51.61 (1) (o) (by SECTION 3) and 51.044 (4) by this
15 act is void.

16 (END)