

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 465

Representative Carruthers

A BILL

To enact sections 5124.81, 5124.82, 5124.83, 1
5124.84, 5124.85, 5124.86, 5124.87, 5124.88, and 2
5166.201 of the Revised Code to permit a 3
resident of an ICF/IID to conduct electronic 4
monitoring of the resident's room, to establish 5
a new Medicaid home and community-based services 6
waiver for individuals with developmental 7
disabilities, and to name this act Lauren's Law. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5124.81, 5124.82, 5124.83, 9
5124.84, 5124.85, 5124.86, 5124.87, 5124.88, and 5166.201 of the 10
Revised Code be enacted to read as follows: 11

Sec. 5124.81. As used in sections 5124.81 to 5124.88 of 12
the Revised Code: 13

"Attorney in fact" and "electronic monitoring device" have 14
the same meanings as in section 3721.60 of the Revised Code. 15

"Guardian" has the same meaning as in section 2111.01 of 16
the Revised Code. 17

"Resident" means an individual who resides in an ICF/IID. 18

Sec. 5124.82. (A) Subject to section 5124.83 of the 19
Revised Code, a resident or a resident's guardian or attorney in 20
fact may authorize the installation and use of an electronic 21
monitoring device in the resident's room in an ICF/IID. 22

(B) The installation and use of an electronic monitoring 23
device may be authorized only if both of the following 24
conditions are met: 25

(1) If an ICF/IID provider has prescribed a form described 26
in section 5124.84 of the Revised Code and the resident or 27
resident's guardian or attorney in fact completes the form and 28
submits it to the provider; 29

(2) The cost of the device and the cost of installing, 30
maintaining, and removing the device, other than the cost of 31
electricity for the device, is paid for by the resident or the 32
resident's guardian or attorney in fact. 33

(C) A resident who has authorized the installation and use 34
of an electronic monitoring device may withdraw that 35
authorization at any time. 36

Sec. 5124.83. (A) If a resident wishing to conduct 37
authorized electronic monitoring of the resident's room lives 38
with another resident in an ICF/IID, the consent of the other 39
resident or the other resident's guardian or attorney in fact to 40
the installation and use of an electronic monitoring device in 41
the room is required before any installation or use of such a 42
device may occur. If an ICF/IID provider has prescribed a form 43
described in section 5124.84 of the Revised Code, the other 44
resident or other resident's guardian or attorney in fact shall 45
consent by completing the relevant part of the form. 46

(B) (1) If a resident living in a room with another 47

resident wishes to conduct authorized electronic monitoring of 48
the resident's room, but the other resident or other resident's 49
guardian or attorney in fact refuses to consent to the 50
installation and use of an electronic monitoring device, the 51
ICF/IID provider shall make a reasonable attempt to accommodate 52
the resident wishing to conduct authorized electronic monitoring 53
by moving either resident to another available room with the 54
consent of the resident being moved or resident's guardian or 55
attorney in fact. 56

(2) In the case of a resident living in a room with 57
another resident, the other resident or other resident's 58
guardian or attorney in fact may place conditions on any consent 59
to the installation and use of an electronic monitoring device, 60
including conditions such as pointing the device away from the 61
other resident or limiting or prohibiting the use of certain 62
devices. If conditions are placed on consent, the device shall 63
be installed and used according to those conditions. 64

(C) A resident whose consent is required under this 65
section may withdraw that consent at any time. 66

Sec. 5124.84. An ICF/IID provider may prescribe a form for 67
use by a resident or resident's guardian or attorney in fact 68
seeking to authorize the installation and use of an electronic 69
monitoring device in the resident's room in an ICF/IID. If an 70
ICF/IID provider prescribes a form, it shall, at a minimum, 71
include all of the following: 72

(A) An explanation of sections 5124.81 to 5124.88 of the 73
Revised Code; 74

(B) An acknowledgment that the resident or resident's 75
guardian or attorney in fact has consented to the installation 76

and use of the device in the resident's room;

(C) In the case of a resident who lives in a room with
another resident, an acknowledgment that the other resident or
other resident's guardian or attorney in fact has consented to
the installation and use of the device and a description of any
conditions placed on that consent pursuant to division (B)(2) of
section 5124.82 of the Revised Code;

(D) A section for providing the ICF/IID provider with
information regarding the type, function, and use of the device
to be installed and used;

(E) A section stating that the ICF/IID provider is
released from liability in any civil or criminal action or
administrative proceeding for a violation of the resident's
right to privacy in connection with using the device.

Sec. 5124.85. An ICF/IID provider may post a notice in a
conspicuous place at the entrance to a resident's room with an
electronic monitoring device stating that an electronic
monitoring device is in use in that room.

Sec. 5124.86. No person or resident shall be denied
admission to or discharged from an ICF/IID or otherwise
discriminated or retaliated against because of the decision to
authorize the installation and use of an electronic monitoring
device in a resident's room in the ICF/IID.

Sec. 5124.87. (A) No person other than the resident or
resident's guardian or attorney in fact who authorized the
installation and use of an electronic monitoring device in the
resident's room in an ICF/IID shall intentionally obstruct,
tamper with, or destroy the device or a recording made by the
device.

(B) Except as provided in division (C) of this section, no 106
person other than the following shall intentionally view or 107
listen to the images displayed or sounds recorded by an 108
electronic monitoring device installed in a resident's room: 109

(1) The resident; 110

(2) The resident's guardian or attorney in fact; 111

(3) Law enforcement personnel. 112

(C) A resident or resident's guardian or attorney in fact 113
may authorize a person to view or listen to the images displayed 114
or sounds recorded by an electronic monitoring device installed 115
in a resident's room. 116

Sec. 5124.88. The director of developmental disabilities 117
may adopt rules in accordance with Chapter 119. of the Revised 118
Code as necessary to implement sections 5124.81 to 5124.87 of 119
the Revised Code. 120

Sec. 5166.201. (A) The department of medicaid shall 121
establish a medicaid waiver component that provides home and 122
community-based services to individuals with developmental 123
disabilities. The waiver component shall satisfy all of the 124
following requirements: 125

(1) The waiver component shall be available to individuals 126
who have a developmental disabilities level of care 127
determination from the department of developmental disabilities, 128
indicating the individual needs a level of care required for 129
admission to an ICF/IID or enrollment in home and community- 130
based services. 131

(2) The waiver component shall provide a monthly lump sum 132
payment to parents or other family caregivers of waiver 133

participants for providing home and community-based services to 134
the waiver participant. A parent or other family caregiver may 135
receive payment for services provided regardless of the age of 136
the waiver participant. 137

(3) Monthly lump sum payments provided under the waiver 138
component shall be used by a parent or other family caregiver 139
for either of the following: 140

(a) Payment for home and community-based services provided 141
by the parent or caregiver to the waiver participant; 142

(b) Payment for home and community-based services provided 143
to the waiver participant by a third-party provider selected by 144
a parent or other family caregiver or by the waiver participant. 145

(4) The monthly lump sum payment provided under the waiver 146
component shall equal ninety per cent of the total per medicaid 147
day payment rate that the department of developmental 148
disabilities pays to an ICF/IID provider under Chapter 5124. of 149
the Revised Code. 150

(5) The department shall not deny participation in the 151
medicaid waiver component to an individual who meets the 152
criteria of division (A)(1) of this section, unless the 153
department determines that home and community-based care is not 154
a viable, safe, or healthy option for the individual. 155

(B) The department of medicaid, in collaboration with the 156
department of developmental disabilities, shall adopt rules as 157
necessary to implement the medicaid waiver component described 158
in this section. 159

(C) Before creating the medicaid waiver component under 160
this section, the department of medicaid shall seek, accept, and 161
consider public comment. 162

Section 2. This act shall be known as Lauren's Law.

163