

I_135_2061-5

135th General Assembly
Regular Session
2023-2024

Sub. H. B. No. 465

A BILL

To amend section 5123.01 and to enact sections 1
5123.1910, 5123.1911, 5123.1912, 5123.1913, 2
5123.1914, 5123.1915, 5123.1916, and 5123.1917 3
of the Revised Code to establish requirements 4
regarding electronic monitoring of a resident's 5
room in a licensed residential facility and to 6
name this act Lauren's Law. 7

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

Section 1. That section 5123.01 be amended and sections 8
5123.1910, 5123.1911, 5123.1912, 5123.1913, 5123.1914, 9
5123.1915, 5123.1916, and 5123.1917 of the Revised Code be 10
enacted to read as follows: 11

Sec. 5123.01. As used in this chapter: 12

(A) "Chief medical officer" means the licensed physician 13
appointed by the managing officer of an institution for persons 14
with intellectual disabilities with the approval of the director 15
of developmental disabilities to provide medical treatment for 16
residents of the institution. 17



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(B) "Chief program director" means a person with special 18
training and experience in the diagnosis and management of 19
persons with developmental disabilities, certified according to 20
division (C) of this section in at least one of the designated 21
fields, and appointed by the managing officer of an institution 22
for persons with intellectual disabilities with the approval of 23
the director to provide habilitation and care for residents of 24
the institution. 25

(C) "Comprehensive evaluation" means a study, including a 26
sequence of observations and examinations, of a person leading 27
to conclusions and recommendations formulated jointly, with 28
dissenting opinions if any, by a group of persons with special 29
training and experience in the diagnosis and management of 30
persons with developmental disabilities, which group shall 31
include individuals who are professionally qualified in the 32
fields of medicine, psychology, and social work, together with 33
such other specialists as the individual case may require. 34

(D) "Education" means the process of formal training and 35
instruction to facilitate the intellectual and emotional 36
development of residents. 37

(E) "Habilitation" means the process by which the staff of 38
the institution assists the resident in acquiring and 39
maintaining those life skills that enable the resident to cope 40
more effectively with the demands of the resident's own person 41
and of the resident's environment and in raising the level of 42
the resident's physical, mental, social, and vocational 43
efficiency. Habilitation includes but is not limited to programs 44
of formal, structured education and training. 45

(F) "Health officer" means any public health physician, 46
public health nurse, or other person authorized or designated by 47

a city or general health district.

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(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (A) (1) of section 5166.20 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5166.21 of the Revised Code. Except as provided in section 5123.0412 of the Revised Code, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter, and Chapters 5124. and 5126. of the Revised Code, only to the extent, if any, provided by the contract required by section 5166.21 of the Revised Code regarding the waiver.

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(H) "ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

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(I) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

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(J) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for persons with intellectual disabilities.

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(K) "Licensed physician" means a person who holds a valid license issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the

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government of the United States while in the performance of the 77
officer's official duties. 78

(L) "Managing officer" means a person who is appointed by 79
the director of developmental disabilities to be in executive 80
control of an institution under the jurisdiction of the 81
department of developmental disabilities. 82

(M) "Medicaid case management services" means case 83
management services provided to an individual with a 84
developmental disability that the state medicaid plan requires. 85

(N) "Intellectual disability" means a disability 86
characterized by having significantly subaverage general 87
intellectual functioning existing concurrently with deficiencies 88
in adaptive behavior, manifested during the developmental 89
period. 90

(O) "Person with an intellectual disability subject to 91
institutionalization by court order" means a person eighteen 92
years of age or older with at least a moderate level of 93
intellectual disability and in relation to whom, because of the 94
person's disability, either of the following conditions exists: 95

(1) The person represents a very substantial risk of 96
physical impairment or injury to self as manifested by evidence 97
that the person is unable to provide for and is not providing 98
for the person's most basic physical needs and that provision 99
for those needs is not available in the community; 100

(2) The person needs and is susceptible to significant 101
habilitation in an institution. 102

(P) "Moderate level of intellectual disability" means the 103
condition in which a person, following a comprehensive 104
evaluation, is found to have at least moderate deficits in 105

overall intellectual functioning, as indicated by a full-scale 106
intelligence quotient test score of fifty-five or below, and at 107
least moderate deficits in adaptive behavior, as determined in 108
accordance with the criteria established in the fifth edition of 109
the diagnostic and statistical manual of mental disorders 110
published by the American psychiatric association. 111

(Q) "Developmental disability" means a severe, chronic 112
disability that is characterized by all of the following: 113

(1) It is attributable to a mental or physical impairment 114
or a combination of mental and physical impairments, other than 115
a mental or physical impairment solely caused by mental illness, 116
as defined in division (A) of section 5122.01 of the Revised 117
Code. 118

(2) It is manifested before age twenty-two. 119

(3) It is likely to continue indefinitely. 120

(4) It results in one of the following: 121

(a) In the case of a person under three years of age, at 122
least one developmental delay, as defined in rules adopted under 123
section 5123.011 of the Revised Code, or a diagnosed physical or 124
mental condition that has a high probability of resulting in a 125
developmental delay, as defined in those rules; 126

(b) In the case of a person at least three years of age 127
but under six years of age, at least two developmental delays, 128
as defined in rules adopted under section 5123.011 of the 129
Revised Code; 130

(c) In the case of a person six years of age or older, a 131
substantial functional limitation in at least three of the 132
following areas of major life activity, as appropriate for the 133

person's age: self-care, receptive and expressive language, 134
learning, mobility, self-direction, capacity for independent 135
living, and, if the person is at least sixteen years of age, 136
capacity for economic self-sufficiency. 137

(5) It causes the person to need a combination and 138
sequence of special, interdisciplinary, or other type of care, 139
treatment, or provision of services for an extended period of 140
time that is individually planned and coordinated for the 141
person. 142

"Developmental disability" includes intellectual 143
disability. 144

(R) "State institution" means an institution that is tax- 145
supported and under the jurisdiction of the department of 146
developmental disabilities. 147

(S) "Residence" and "legal residence" have the same 148
meaning as "legal settlement," which is acquired by residing in 149
Ohio for a period of one year without receiving general 150
assistance prior to July 17, 1995, under former Chapter 5113. of 151
the Revised Code, without receiving financial assistance prior 152
to December 31, 2017, under former Chapter 5115. of the Revised 153
Code, or assistance from a private agency that maintains records 154
of assistance given. A person having a legal settlement in the 155
state shall be considered as having legal settlement in the 156
assistance area in which the person resides. No adult person 157
coming into this state and having a spouse or minor children 158
residing in another state shall obtain a legal settlement in 159
this state as long as the spouse or minor children are receiving 160
public assistance, care, or support at the expense of the other 161
state or its subdivisions. For the purpose of determining the 162
legal settlement of a person who is living in a public or 163

private institution or in a home subject to licensing by the 164
department of job and family services, the department of mental 165
health and addiction services, or the department of 166
developmental disabilities, the residence of the person shall be 167
considered as though the person were residing in the county in 168
which the person was living prior to the person's entrance into 169
the institution or home. Settlement once acquired shall continue 170
until a person has been continuously absent from Ohio for a 171
period of one year or has acquired a legal residence in another 172
state. A woman who marries a man with legal settlement in any 173
county immediately acquires the settlement of her husband. The 174
legal settlement of a minor is that of the parents, surviving 175
parent, sole parent, parent who is designated the residential 176
parent and legal custodian by a court, other adult having 177
permanent custody awarded by a court, or guardian of the person 178
of the minor, provided that: 179

(1) A minor female who marries shall be considered to have 180
the legal settlement of her husband and, in the case of death of 181
her husband or divorce, she shall not thereby lose her legal 182
settlement obtained by the marriage. 183

(2) A minor male who marries, establishes a home, and who 184
has resided in this state for one year without receiving general 185
assistance prior to July 17, 1995, under former Chapter 5113. of 186
the Revised Code or assistance from a private agency that 187
maintains records of assistance given shall be considered to 188
have obtained a legal settlement in this state. 189

(3) The legal settlement of a child under eighteen years 190
of age who is in the care or custody of a public or private 191
child caring agency shall not change if the legal settlement of 192
the parent changes until after the child has been in the home of 193

the parent for a period of one year. 194

No person, adult or minor, may establish a legal 195
settlement in this state for the purpose of gaining admission to 196
any state institution. 197

(T) (1) "Resident" means, subject to division (T) (2) of 198
this section and except as provided in section 5123.1910 of the 199
Revised Code, a person who is admitted either voluntarily or 200
involuntarily to an institution or other facility pursuant to 201
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 202
Code subsequent to a finding of not guilty by reason of insanity 203
or incompetence to stand trial or under this chapter who is 204
under observation or receiving habilitation and care in an 205
institution. 206

(2) "Resident" does not include a person admitted to an 207
institution or other facility under section 2945.39, 2945.40, 208
2945.401, or 2945.402 of the Revised Code to the extent that the 209
reference in this chapter to resident, or the context in which 210
the reference occurs, is in conflict with any provision of 211
sections 2945.37 to 2945.402 of the Revised Code. 212

(U) "Respondent" means the person whose detention, 213
commitment, or continued commitment is being sought in any 214
proceeding under this chapter. 215

(V) "Working day" and "court day" mean Monday, Tuesday, 216
Wednesday, Thursday, and Friday, except when such day is a legal 217
holiday. 218

(W) "Prosecutor" means the prosecuting attorney, village 219
solicitor, city director of law, or similar chief legal officer 220
who prosecuted a criminal case in which a person was found not 221
guilty by reason of insanity, who would have had the authority 222

to prosecute a criminal case against a person if the person had 223
not been found incompetent to stand trial, or who prosecuted a 224
case in which a person was found guilty. 225

(X) "Court" means the probate division of the court of 226
common pleas. 227

(Y) "Supported living" and "residential services" have the 228
same meanings as in section 5126.01 of the Revised Code. 229

Sec. 5123.1910. As used in sections 5123.1910 to 5123.1917 230
of the Revised Code: 231

"Attorney in fact" and "electronic monitoring device" have 232
the same meanings as in section 3721.60 of the Revised Code. 233

"Guardian" has the same meaning as in section 2111.01 of 234
the Revised Code. 235

"Licensed residential facility" means a residential 236
facility, as defined in section 5123.19 of the Revised Code, 237
that holds a license issued under that section. 238

"Resident" means an individual who resides in a licensed 239
residential facility. 240

Sec. 5123.1911. (A)(1) Except as provided in division (A) 241
(2) of this section, a licensed residential facility may elect 242
to permit facility residents to install and use electronic 243
monitoring devices in a resident's room in the facility. If a 244
facility permits residents to install and use electronic 245
monitoring devices, the installation and use of an electronic 246
monitoring device is subject to this section and sections 247
5123.1912 to 5123.1916 of the Revised Code. No resident or a 248
resident's guardian or attorney in fact shall install or use an 249
electronic monitoring device in a resident's room in a licensed 250

residential facility unless the facility has permitted the use 251
of electronic monitoring devices under this section. 252

(2) If the licensed residential facility is an ICF/IID, 253
the ICF/IID operator shall permit a resident or a resident's 254
guardian or attorney in fact to authorize the installation and 255
use of an electronic monitoring device in the resident's room in 256
the ICF/IID, subject to this section and sections 5123.1912 to 257
5123.1916 of the Revised Code. 258

(B) Subject to division (A) of this section and section 259
5123.1912 of the Revised Code, a resident or a resident's 260
guardian or attorney in fact may authorize the installation and 261
use of an electronic monitoring device in the resident's room in 262
a licensed residential facility. 263

(C) The installation and use of an electronic monitoring 264
device may be authorized only if both of the following 265
conditions are met: 266

(1) If a licensed residential facility has prescribed a 267
form described in section 5123.1913 of the Revised Code and the 268
resident or resident's guardian or attorney in fact completes 269
the form and submits it to the provider; 270

(2) The cost of the device and the cost of installing, 271
maintaining, and removing the device, other than the cost of 272
electricity for the device, is paid for by the resident or the 273
resident's guardian or attorney in fact. 274

(D) A resident who has authorized the installation and use 275
of an electronic monitoring device may withdraw that 276
authorization at any time. 277

Sec. 5123.1912. (A) If a resident wishing to conduct 278
authorized electronic monitoring of the resident's room lives 279

with other residents in a licensed residential facility that is 280
not divided into units or lives with other residents in a unit 281
of a licensed residential facility that is divided into units, 282
the consent of the other residents or the other residents' 283
guardians or attorneys in fact to the installation and use of an 284
electronic monitoring device in the room is required before any 285
installation or use of such a device may occur. If a licensed 286
residential facility has prescribed a form described in section 287
5123.1913 of the Revised Code, the other residents or other 288
residents' guardians or attorneys in fact shall consent by 289
completing the relevant part of the form. 290

(B) (1) If a resident wishes to conduct authorized 291
electronic monitoring of the resident's room, but another 292
resident or resident's guardian or attorney in fact refuses to 293
consent to the installation and use of an electronic monitoring 294
device under division (A) of this section, the licensed 295
residential facility shall make a reasonable attempt to 296
accommodate the resident wishing to conduct authorized 297
electronic monitoring by utilizing person-centered planning to 298
offer options for both the resident who wishes to conduct 299
electronic monitoring and any other resident or resident's 300
guardian or attorney in fact who does not consent to electronic 301
monitoring. 302

(2) Another resident of the licensed residential facility 303
or unit or resident's guardian or attorney in fact may place 304
conditions on any consent to the installation and use of an 305
electronic monitoring device, including conditions such as 306
pointing the device away from another resident or limiting or 307
prohibiting the use of certain devices. If conditions are placed 308
on consent, the device shall be installed and used according to 309
those conditions. 310

(C) A resident whose consent is required under this 311
section may withdraw that consent at any time. 312

Sec. 5123.1913. A licensed residential facility may 313
prescribe a form for use by a resident or resident's guardian or 314
attorney in fact seeking to authorize the installation and use 315
of an electronic monitoring device in the resident's room in a 316
licensed residential facility. If a licensed residential 317
facility prescribes a form, it shall, at a minimum, include all 318
of the following: 319

(A) An explanation of sections 5123.1910 to 5123.1917 of 320
the Revised Code; 321

(B) An acknowledgment that the resident or resident's 322
guardian or attorney in fact has consented to the installation 323
and use of the device in the resident's room; 324

(C) An acknowledgment that another resident of the 325
licensed residential facility or unit or resident's guardian or 326
attorney in fact has consented to the installation and use of 327
the device in accordance with division (A) of section 5123.1912 328
of the Revised Code, and a description of any conditions placed 329
on that consent pursuant to division (B) (2) of section 5123.1912 330
of the Revised Code; 331

(D) A section for providing the licensed residential 332
facility with information regarding the type, function, and use 333
of the device to be installed and used; 334

(E) A section stating that the licensed residential 335
facility is released from liability in any civil or criminal 336
action or administrative proceeding for a violation of a 337
resident's right to privacy in connection with using the device. 338

Sec. 5123.1914. A licensed residential facility may post a 339

notice in a conspicuous place at the entrance to a resident's 340
room with an electronic monitoring device stating that an 341
electronic monitoring device is in use in that room. 342

Sec. 5123.1915. Except as provided in section 5123.1916 of 343
the Revised Code, no person or resident shall be denied 344
admission to or discharged from a licensed residential facility 345
or otherwise discriminated or retaliated against because of the 346
decision to authorize the installation and use of an electronic 347
monitoring device in a resident's room in the licensed 348
residential facility. 349

Sec. 5123.1916. (A) No person other than the resident or 350
resident's guardian or attorney in fact who authorized the 351
installation and use of an electronic monitoring device in the 352
resident's room in a licensed residential facility shall 353
intentionally obstruct, tamper with, or destroy the device or a 354
recording made by the device. 355

(B) Except as provided in division (C) of this section, no 356
person other than the following shall intentionally view or 357
listen to the images or sounds displayed, transmitted, or 358
recorded by an electronic monitoring device installed in a 359
resident's room: 360

(1) The resident; 361

(2) The resident's guardian or attorney in fact; 362

(3) Law enforcement personnel; 363

(4) The licensed residential facility. 364

(C) Subject to division (D) of this section, a resident or 365
resident's guardian or attorney in fact may authorize a person 366
to view or listen to the images displayed or sounds recorded by 367

an electronic monitoring device installed in a resident's room. 368

(D) (1) A resident or resident's guardian or attorney in 369
fact shall not authorize a person to view or listen to the 370
images displayed or sounds recorded by an electronic monitoring 371
device under division (C) of this section if the images 372
displayed or sounds recorded contain images or sounds of another 373
resident of the licensed residential facility, unless the 374
authorization is related to a report or investigation of a major 375
unusual incident or an unusual incident in accordance with 376
sections 5123.61 to 5123.614 of the Revised Code. 377

(2) If a resident or resident's guardian or attorney in 378
fact violates division (D) (1) of this section, a licensed 379
residential facility may take necessary steps to prevent further 380
viewing or listening to the images displayed or sounds recorded 381
by an electronic monitoring device in violation of this section, 382
including by terminating the services provided to the resident. 383

Sec. 5123.1917. The director of developmental disabilities 384
may adopt rules in accordance with Chapter 119. of the Revised 385
Code as necessary to implement sections 5123.1910 to 5123.1916 386
of the Revised Code. 387

Section 2. That existing section 5123.01 of the Revised 388
Code is hereby repealed. 389

Section 3. This act shall be known as Lauren's Law. 390