

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: S2/9/99 S2/11/99 S2/15/99

## A Bill

Act 709 of 1999  
SENATE BILL 223

5 By: Senator Brown  
6 By: Representative Salmon  
7  
8

### For An Act To Be Entitled

9  
10 "AN ACT TO AMEND ARKANSAS CODE 20-10-104(e) TO PERMIT  
11 THE OFFICE OF LONG TERM CARE OF THE ARKANSAS  
12 DEPARTMENT OF HUMAN SERVICES TO PHOTOGRAPH RESIDENTS  
13 OF LONG TERM CARE FACILITIES DURING SURVEYS AND  
14 INVESTIGATIONS; AND FOR OTHER PURPOSES. "

### Subtitle

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16  
17 "TO AMEND ARKANSAS CODE 20-10-104(e) TO  
18 PERMIT THE OFFICE OF LONG TERM CARE OF  
19 THE ARKANSAS DEPARTMENT OF HUMAN  
20 SERVICES TO PHOTOGRAPH RESIDENTS OF LONG  
21 TERM CARE FACILITIES DURING SURVEYS AND  
22 INVESTIGATIONS. "

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24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26  
27 SECTION 1. Arkansas Code 20-10-104(e) is hereby amended to read as  
28 follows:

29 ~~"(e) In cases where a long term care facility or any employee of a long~~  
30 ~~term care facility has custody or legal guardianship of a medicaid recipient,~~  
31 ~~nothing in this section shall be construed to prevent representatives of the~~  
32 ~~Department of Human Services, the United States Department of Health and Human~~  
33 ~~Services, or the Office of the Attorney General from taking photographs of the~~  
34 ~~recipient without written consent while investigating circumstances which~~  
35 ~~would constitute Class A or Class B violations. Under such circumstances, the~~  
36 ~~photographs shall be used only for evidentiary purposes in proceedings~~

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1 ~~concerning the alleged violations and shall not be released to the media or to~~  
2 ~~the public.~~ Photographing of residents is prohibited without written consent  
3 from the resident or the resident's legal representative except in the course  
4 of licensure inspections, medicaid certification, a complaint investigation,  
5 investigation of allegations or resident abuse, neglect or misappropriation of  
6 resident property or in connection with surveys or investigations made  
7 pursuant to law conducted by the Office of Long Term Care, the office of  
8 Attorney General, or the United States Department of Health and Human  
9 Services. Under such circumstances, the photographs shall be used only for  
10 evidentiary purposes ~~in proceedings~~ concerning the alleged violations and  
11 shall not be released to the media or to the public, but shall be made  
12 available to the facility if utilized to impose a remedy or set forth a  
13 statement of deficiency."

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15 SECTION 2. All provisions of this act of a general and permanent nature  
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
17 Revision Commission shall incorporate the same in the Code.

18  
19 SECTION 3. If any provision of this act or the application thereof to  
20 any person or circumstance is held to be invalid, such invalidity shall not  
21 affect other provisions or applicants of the act which can be given effect  
22 without the invalid provision or application, and to this end the provisions  
23 of this act are declared to be severable.

24  
25 SECTION 4. All laws and parts of laws in conflict with this act are  
26 hereby repealed.

27 /s/ Brown

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30 APPROVED: 3/18/1999

