

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0583.01 Kristen Forrestal x4217

SENATE BILL 22-053

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Pelton,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING VISITATION RIGHTS AT HEALTH-CARE FACILITIES, AND,**
102 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill specifies that a patient admitted to a hospital for inpatient care and a resident of a nursing care facility or assisted living residence may have at least one visitor of the patient's or resident's choosing during the stay or residency. A hospital, a nursing care facility, and an assisted living residence (collectively referred to as "health-care facility") must have written policies and procedures regarding the visitation rights of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 25, 2022

patients and residents, including policies and procedures setting forth any clinically necessary or reasonable restriction or limitation that the health-care facility may need to place on patient and resident visitation rights and the reasons for the restriction or limitation.

The bill prohibits a health-care facility from adopting policies or procedures that prohibit visitation of a patient or resident if the sole reason for the prohibition is to reduce the risk of transmission of a pandemic disease, but a health-care facility may impose specified restrictions and limitations for visitors to reduce the risk of transmission of the pandemic disease.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **recreate and reenact, with amendments, 25-3-125** as follows:

25-3-125. Visitation rights - hospital patients - residents in nursing care facilities or assisted living residences - limitations during a pandemic - definitions - short title. (1) THE SHORT TITLE OF THIS SECTION IS THE "NO PATIENT OR RESIDENT LEFT ALONE ACT".

(2) (a) IN ADDITION TO HOSPITAL PATIENT VISITATION RIGHTS SPECIFIED IN 42 CFR 482.13 (h) AND SUBJECT TO THE RESTRICTIONS AND LIMITATIONS SPECIFIED BY A HEALTH-CARE FACILITY PURSUANT TO SUBSECTION (3) OF THIS SECTION, A PATIENT OR RESIDENT OF A HEALTH-CARE FACILITY MAY HAVE AT LEAST ONE VISITOR OF THE PATIENT'S OR RESIDENT'S CHOOSING DURING THE PATIENT'S STAY OR RESIDENCY AT THE HEALTH-CARE FACILITY, INCLUDING:

(I) A VISITOR TO PROVIDE A COMPASSIONATE CARE VISIT TO ALLEVIATE THE PATIENT'S OR RESIDENT'S PHYSICAL OR MENTAL DISTRESS;

(II) A VISITOR OR SUPPORT PERSON DESIGNATED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION FOR A PATIENT OR RESIDENT WITH A DISABILITY; AND

(III) FOR A PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE

1 PARENT OR LEGAL GUARDIAN OF, OR THE PERSON STANDING IN LOCO
2 PARENTIS TO, THE PATIENT.

3 (b) (I) A PATIENT OR RESIDENT OF A HEALTH-CARE FACILITY MAY
4 DESIGNATE, ORALLY OR IN WRITING, A SUPPORT PERSON WHO SUPPORTS
5 THE PATIENT OR RESIDENT DURING THE COURSE OF THE PATIENT'S STAY OR
6 RESIDENCY AT A HEALTH-CARE FACILITY AND WHO MAY VISIT THE
7 PATIENT OR RESIDENT AND EXERCISE THE PATIENT'S OR RESIDENT'S
8 VISITATION RIGHTS ON BEHALF OF THE PATIENT OR RESIDENT WHEN THE
9 PATIENT OR RESIDENT IS INCAPACITATED OR OTHERWISE UNABLE TO
10 COMMUNICATE.

11 (II) WHEN A PATIENT OR RESIDENT HAS NOT DESIGNATED A
12 SUPPORT PERSON PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION
13 AND IS INCAPACITATED OR OTHERWISE UNABLE TO COMMUNICATE THE
14 PATIENT'S OR RESIDENT'S WISHES AND AN INDIVIDUAL PROVIDES AN
15 ADVANCE MEDICAL DIRECTIVE DESIGNATING THE INDIVIDUAL AS THE
16 PATIENT'S OR RESIDENT'S SUPPORT PERSON OR OTHER TERM INDICATING
17 THE INDIVIDUAL IS AUTHORIZED TO EXERCISE RIGHTS COVERED BY THIS
18 SECTION ON BEHALF OF THE PATIENT OR RESIDENT, THE HEALTH-CARE
19 FACILITY SHALL ACCEPT THIS DESIGNATION AND ALLOW THE INDIVIDUAL
20 TO EXERCISE THE PATIENT'S OR RESIDENT'S VISITATION RIGHTS ON THE
21 PATIENT'S OR RESIDENT'S BEHALF.

22 (3) (a) CONSISTENT WITH 42 CFR 482.13 (h), A HEALTH-CARE
23 FACILITY SHALL HAVE WRITTEN POLICIES AND PROCEDURES REGARDING
24 THE VISITATION RIGHTS OF PATIENTS AND RESIDENTS, INCLUDING POLICIES
25 AND PROCEDURES SETTING FORTH ANY CLINICALLY NECESSARY OR
26 REASONABLE RESTRICTION OR LIMITATION THAT THE HEALTH-CARE
27 FACILITY MAY NEED TO PLACE ON PATIENT OR RESIDENT VISITATION

1 RIGHTS AND THE REASONS FOR THE RESTRICTION OR LIMITATION, SUBJECT
2 TO SUBSECTION (3)(b) OF THIS SECTION.

3 (b) A HEALTH-CARE FACILITY MAY IMPOSE RESTRICTIONS AND
4 LIMITATIONS ON VISITORS AS SPECIFIED IN SUBSECTION (3)(c) OF THIS
5 SECTION; EXCEPT THAT A HEALTH-CARE FACILITY SHALL NOT IMPOSE
6 RESTRICTIONS AND LIMITATIONS THAT ARE MORE RESTRICTIVE THAN THE
7 CURRENT APPLICABLE GUIDELINES FOR VISITATION ISSUED BY THE
8 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES.

9 (c) (I) DURING A PERIOD WHEN THE RISK OF TRANSMISSION OF A
10 PANDEMIC DISEASE IS HEIGHTENED, REGARDLESS OF KNOWN COMMUNITY
11 TRANSMISSION, A HEALTH-CARE FACILITY MAY:

12 (A) REQUIRE VISITORS TO ENTER THE HEALTH-CARE FACILITY
13 THROUGH A SINGLE, DESIGNATED ENTRANCE;

14 (B) DENY ENTRANCE TO A VISITOR WHO HAS KNOWN SYMPTOMS
15 OF THE PANDEMIC DISEASE AND SHOULD ENCOURAGE THE VISITOR TO SEEK
16 CARE;

17 (C) REQUIRE VISITORS TO USE MEDICAL MASKS, FACE COVERINGS,
18 OR OTHER PERSONAL PROTECTIVE EQUIPMENT WHILE ON THE
19 HEALTH-CARE FACILITY PREMISES OR IN SPECIFIC AREAS OF THE
20 HEALTH-CARE FACILITY; AND

21 (D) REQUIRE VISITORS TO SIGN A WAIVER ACKNOWLEDGING THE
22 RISKS OF ENTERING THE HEALTH-CARE FACILITY, WAIVING ANY CLAIMS
23 AGAINST THE HEALTH-CARE FACILITY IF THE VISITOR CONTRACTS THE
24 PANDEMIC DISEASE WHILE ON THE HEALTH-CARE FACILITY PREMISES, AND
25 ACKNOWLEDGING THAT VERBAL AND PHYSICAL ASSAULTS ON
26 HEALTH-CARE WORKERS AND OTHER EMPLOYEES OF THE HEALTH-CARE
27 FACILITY WILL NOT BE TOLERATED.

1 (II) DURING A PERIOD OF KNOWN COMMUNITY TRANSMISSION OF
2 A PANDEMIC DISEASE, IN ADDITION TO THE RESTRICTIONS AND
3 LIMITATIONS SPECIFIED IN SUBSECTION (3)(c)(I) OF THIS SECTION, A
4 HEALTH-CARE FACILITY MAY:

5 (A) REQUIRE ALL VISITORS, BEFORE ENTERING THE HEALTH-CARE
6 FACILITY, TO BE SCREENED FOR SYMPTOMS OF THE PANDEMIC DISEASE AND
7 DENY ENTRANCE TO ANY VISITOR WHO HAS SYMPTOMS OF THE PANDEMIC
8 DISEASE; AND

9 (B) DURING WIDESPREAD COMMUNITY TRANSMISSION OF THE
10 PANDEMIC DISEASE, LIMIT ACCESS TO THE HEALTH-CARE FACILITY TO
11 ONLY CAREGIVERS WHO ARE ESSENTIAL FOR HELPING TO PROVIDE PATIENT
12 OR RESIDENT CARE OR TO PROVIDE A COMPASSIONATE CARE VISIT AND
13 REQUIRE THOSE CAREGIVERS TO WEAR A MEDICAL MASK, FACE COVERING,
14 OR OTHER PERSONAL PROTECTIVE EQUIPMENT.

15 (III) FOR VISITATION OF A PATIENT OR RESIDENT WITH A
16 COMMUNICABLE DISEASE WHO IS ISOLATED, THE HEALTH-CARE FACILITY
17 MAY:

18 (A) LIMIT VISITATION TO ESSENTIAL CAREGIVERS WHO ARE
19 HELPING TO PROVIDE CARE TO THE PATIENT OR RESIDENT;

20 (B) LIMIT VISITATION TO ONE CAREGIVER AT A TIME PER PATIENT
21 OR RESIDENT WITH A COMMUNICABLE DISEASE;

22 (C) SCHEDULE VISITORS TO ALLOW ADEQUATE TIME FOR
23 SCREENING, EDUCATION, AND TRAINING OF VISITORS AND TO COMPLY WITH
24 ANY LIMITS ON THE NUMBER OF VISITORS PERMITTED IN THE ISOLATED
25 AREA AT ONE TIME;

26 (D) RESTRICT THE MOVEMENT OF VISITORS WITHIN THE
27 HEALTH-CARE FACILITY; AND

1 (E) PROHIBIT THE PRESENCE OF VISITORS DURING
2 AEROSOL-GENERATING PROCEDURES OR DURING COLLECTION OF
3 RESPIRATORY SPECIMENS.

4 (4) IF A HEALTH-CARE FACILITY REQUIRES, PURSUANT TO
5 SUBSECTION (3) OF THIS SECTION, THAT A VISITOR USE A MEDICAL MASK,
6 FACE COVERING, OR OTHER PERSONAL PROTECTIVE EQUIPMENT IN ORDER
7 TO VISIT A PATIENT OR RESIDENT AT THE HEALTH-CARE FACILITY, NOTHING
8 IN THIS SECTION:

9 (a) REQUIRES THE HEALTH-CARE FACILITY, IF THE REQUIRED
10 EQUIPMENT IS NOT AVAILABLE DUE TO LACK OF SUPPLY, TO ALLOW A
11 VISITOR TO ENTER THE FACILITY;

12 (b) REQUIRES THE HEALTH-CARE FACILITY TO SUPPLY THE
13 REQUIRED EQUIPMENT TO THE VISITOR OR BEAR THE COST OF THE
14 EQUIPMENT FOR THE VISITOR; OR

15 (c) PRECLUDES THE HEALTH-CARE FACILITY FROM SUPPLYING THE
16 REQUIRED EQUIPMENT TO THE VISITOR.

17 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
18 REQUIRES:

19 (a) "ADVANCE MEDICAL DIRECTIVE" HAS THE SAME MEANING AS
20 SET FORTH IN SECTION 15-18.7-102 (2).

21 (b) "CAREGIVER" MEANS A PARENT, SPOUSE, OR OTHER FAMILY
22 MEMBER OR FRIEND OF A PATIENT WHO PROVIDES CARE TO THE PATIENT.

23 (c) "COMMUNICABLE DISEASE" HAS THE SAME MEANING AS SET
24 FORTH IN SECTION 25-1.5-102 (1)(a)(IV).

25 (d) (I) "COMPASSIONATE CARE VISIT" MEANS A VISIT WITH A
26 FRIEND OR FAMILY MEMBER THAT IS NECESSARY TO MEET THE PHYSICAL
27 OR MENTAL NEEDS OF A PATIENT OR RESIDENT WHEN THE PATIENT OR

1 RESIDENT IS EXHIBITING SIGNS OF PHYSICAL OR MENTAL DISTRESS,
2 INCLUDING:

- 3 (A) END-OF-LIFE SITUATIONS;
- 4 (B) ADJUSTMENT SUPPORT AFTER MOVING TO A NEW FACILITY OR
5 ENVIRONMENT;
- 6 (C) EMOTIONAL SUPPORT AFTER THE LOSS OF A FRIEND OR FAMILY
7 MEMBER;
- 8 (D) PHYSICAL SUPPORT AFTER EATING OR DRINKING ISSUES,
9 INCLUDING WEIGHT LOSS OR DEHYDRATION; OR
- 10 (E) SOCIAL SUPPORT AFTER FREQUENT CRYING, DISTRESS, OR
11 DEPRESSION.

12 (II) "COMPASSIONATE CARE VISIT" INCLUDES A VISIT FROM:

- 13 (A) A CLERGY MEMBER OR LAYPERSON OFFERING RELIGIOUS OR
14 SPIRITUAL SUPPORT; OR
- 15 (B) OTHER PERSONS REQUESTED BY THE PATIENT OR RESIDENT FOR
16 THE PURPOSE OF A COMPASSIONATE CARE VISIT.

17 (e) "HEALTH-CARE FACILITY" MEANS A HOSPITAL, NURSING CARE
18 FACILITY, OR ASSISTED LIVING RESIDENCE LICENSED OR CERTIFIED BY THE
19 DEPARTMENT PURSUANT TO SECTION 25-3-101.

20 (f) "PANDEMIC DISEASE" MEANS AN EPIDEMIC DISEASE, AS DEFINED
21 IN SECTION 25-1.5-102 (1)(a)(III), THAT HAS SPREAD OVER MULTIPLE
22 COUNTRIES OR CONTINENTS.

23 (g) "PATIENT OR RESIDENT WITH A DISABILITY" MEANS A PATIENT
24 OR RESIDENT WHO NEEDS ASSISTANCE TO EFFECTIVELY COMMUNICATE
25 WITH HEALTH-CARE FACILITY STAFF, MAKE HEALTH-CARE DECISIONS, OR
26 ENGAGE IN ACTIVITIES OF DAILY LIVING DUE TO A DISABILITY SUCH AS:

- 27 (I) A PHYSICAL, INTELLECTUAL, BEHAVIORAL, OR COGNITIVE

- 1 DISABILITY;
- 2 (II) DEAFNESS, BEING HARD OF HEARING, OR OTHER
- 3 COMMUNICATION BARRIERS;
- 4 (III) BLINDNESS;
- 5 (IV) AUTISM SPECTRUM DISORDER; OR
- 6 (V) DEMENTIA.

7 **SECTION 2. Appropriation.** For the 2022-23 state fiscal year,

8 \$45,409 is appropriated to the department of public health and

9 environment for use by the health facilities and emergency medical

10 services division. This appropriation is from the general fund and is based

11 on an assumption that the division will require an additional 0.6 FTE. To

12 implement this act, the division may use this appropriation for the nursing

13 and acute care facility survey.

14 **SECTION 3. Safety clause.** The general assembly hereby finds,

15 determines, and declares that this act is necessary for the immediate

16 preservation of the public peace, health, or safety.