

**SB113 INTRODUCED**



1 1VWPZ3-1

2 By Senators Gudger, Roberts, Waggoner, Barfoot, Elliott,  
3 Williams, Chambliss, Kelley, Hovey, Sessions, Stutts, Bell,  
4 Albritton, Shelnut, Melson, Livingston, Scofield, Reed,  
5 Weaver, Givhan, Allen, Butler, Jones, Orr, Chesteen, Price,  
6 Carnley

7 RFD: Healthcare

8 First Read: 21-Mar-23

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SYNOPSIS:

Under existing law, a health care facility must follow certain requirements related to visitation for patients, clients, or residents.

This bill would repeal existing law related to health care facility visitation and would require health care facilities to adopt visitation policies and procedures that meet certain standards.

This bill would provide that residents, clients, or patients of a health care facility have the right to visit with any individual of their choosing during the facility's visiting hours.

This bill would allow a resident, client, or patient to designate an essential caregiver, and would require health care facilities to allow essential caregivers at least two hours of daily visitation.

This bill would require that any safety-related policies or procedures may not be more stringent than those established for the health care facility's staff.

This bill would prohibit a health care facility from requiring visitors to submit proof of vaccination or from prohibiting consensual physical contact between a visitor and a resident, client, or patient.

This bill would allow a health care facility to suspend in-person visitation of a specific visitor if a



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29 visitor violates the facility's policies and  
30 procedures.

31 This bill would require health care facilities  
32 to allow visitors for residents, clients, or patients  
33 in certain situations, including end-of-life scenarios;  
34 childbirth; pediatric care; and for those who are  
35 having adjustment issues, making a major medical  
36 decision, experiencing emotional distress or grief, or  
37 struggling to eat, drink, or speak in certain  
38 situations.

39 This bill would require each health care  
40 facility to provide its visitation policies and  
41 procedures to the Department of Public Health when  
42 applying for licensure, renewal, or change of  
43 ownership, and would require the Department of Public  
44 Health to dedicate a page on its website to explain  
45 visitation requirements and provide a mechanism for  
46 complaints.

47 This bill would also exempt health care  
48 facilities designated to psychiatric care and certain  
49 areas of any health care facility, provided the area is  
50 designated to psychiatric care, from visitation  
51 requirements.

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A BILL

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TO BE ENTITLED

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AN ACT



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58           Relating to health care facilities; to add Section  
59 22-21-437 to the Code of Alabama 1975; to require health care  
60 facilities to adopt certain visitation policies; to provide  
61 that patients have a right to certain visitation; to allow  
62 patients to designate an essential caregiver and to guarantee  
63 that caregiver certain visitation rights; to prohibit a health  
64 care facility from adopting a visitation policy that is more  
65 stringent than certain employee policies; to prohibit a health  
66 care facility from requiring visitors to show proof of  
67 vaccination or from prohibiting consensual physical contact  
68 between visitors and patients; to provide for the  
69 circumstances in which patients may not be denied visitors who  
70 are not essential caregivers; to require health care  
71 facilities to provide visitation policies to the Department of  
72 Public Health; to require the Department of Public Health to  
73 develop a mechanism for complaints; to provide certain  
74 immunity from liability in certain circumstances; to exempt  
75 certain psychiatric care facilities from the provisions of  
76 this bill; and to repeal Sections 22-21-430 through 22-21-436,  
77 Code of Alabama 1975, relating to hospital visitation during a  
78 public health emergency.

79 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

80           Section 1. The Legislature finds that Representative  
81 Debbie Wood, whose mother, Peggy Hamby, succumbed to COVID-19,  
82 is forever remembered by the Alabama Legislature in the spirit  
83 of this bill. This bill represents Mrs. Hamby and the  
84 countless Alabamians who tragically lost relatives and loved



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85 ones during the COVID-19 pandemic.

86 Section 2. Section 22-21-437 is added to the Code of  
87 Alabama 1975, to read as follows:

88 §22-21-437

89 (a) This section shall be known and may be cited as the  
90 Harold Sachs and Ann Roberts Act.

91 (b) For the purposes of this section, the term "health  
92 care facility" means a general acute hospital, long-term care  
93 facility, skilled nursing facility, intermediate care  
94 facility, assisted living facility, or specialty care assisted  
95 living facility.

96 (c) A resident, client, or patient of a health care  
97 facility shall have the right to be visited by any individual  
98 of his or her choosing during the facility's visiting hours,  
99 subject to the requirements of the health care facility's  
100 policies and procedures, which shall be consistent with this  
101 section and established in accordance with subsection (d).

102 (d) No later than 30 days after the effective date of  
103 this act, each health care facility shall establish visitation  
104 policies and procedures. The policies and procedures must, at  
105 a minimum, include each of the following:

106 (1) Infection control and education policies for  
107 visitors.

108 (2) Screening, personal protective equipment, and other  
109 infection control protocols for visitors.

110 (3) The permissible length of visits and numbers of  
111 visitors in accordance with this section.

112 (4) Designation of an individual responsible for



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113 ensuring that staff adhere to the policies and procedures.

114 (e) (1) Safety-related policies and procedures may not  
115 be more stringent than those established for the provider's  
116 staff and may not require visitors to submit proof of any  
117 vaccination or immunization. The policies and procedures must  
118 allow consensual physical contact between a resident, client,  
119 or patient and the visitor.

120 (2) The policies and procedures shall allow any visitor  
121 who is 18 years of age or younger to be accompanied by an  
122 adult during visitation.

123 (f) (1) A resident, client, or patient may designate a  
124 visitor who is a family member, friend, guardian, or other  
125 individual as an essential caregiver. The resident, client, or  
126 patient may designate a different essential caregiver each  
127 day, if he or she chooses. Additionally, he or she may  
128 establish a rotation designating who his or her essential  
129 caregiver will be on a given day. The provider shall allow  
130 in-person visitation by the essential caregiver for at least  
131 two hours daily in addition to any other visitation authorized  
132 by the facility. This subsection does not require an essential  
133 caregiver to provide necessary care to a resident, client, or  
134 patient of a provider, and providers may not require an  
135 essential caregiver to provide such care.

136 (2)a. If a patient, client, or resident is  
137 incapacitated and unable to designate an essential caregiver,  
138 one of the following shall appoint an essential caregiver on  
139 behalf of the patient, client, or resident, in the following  
140 order of priority:



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141           1. The individual's guardian, as defined by Section  
142 26-2A-20.

143           2. The individual's durable power of attorney, as  
144 provided in Section 26-1-2.

145           b. If the individual does not have a guardian or a  
146 durable power of attorney, a family member shall appoint an  
147 essential caregiver on behalf of the patient, client, or  
148 resident, in the following order of priority:

149           1. The individual's spouse.

150           2. The individual's child or children, provided the  
151 child or children has reached 19 years of age or older.

152           3. The individual's parent or parents.

153           4. The individual's sibling or siblings.

154           c. An individual appointing an essential caregiver on  
155 behalf of an incapacitated patient, client, or resident may  
156 appoint a caregiver in the same manner as provided in  
157 subdivision (1).

158           (g) The visitation policies and procedures required by  
159 this section must allow in-person visitation in all of the  
160 following circumstances, unless the resident, client, or  
161 patient objects:

162           (1) End-of-life situations.

163           (2) A resident, client, or patient who was living with  
164 family before being admitted to the provider's care is  
165 struggling with the change in environment and lack of  
166 in-person family support.

167           (3) The resident, client, or patient is making one or  
168 more major medical decisions.



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169 (4) A resident, client, or patient is experiencing  
170 emotional distress or grieving the loss of a friend or family  
171 member who recently died.

172 (5) A resident, client, or patient needs cueing or  
173 encouragement to eat or drink which was previously provided by  
174 a family member or caregiver.

175 (6) A resident, client, or patient who used to talk and  
176 interact with others is seldom speaking.

177 (7) For hospitals, childbirth, including labor and  
178 delivery.

179 (8) Pediatric patients.

180 (h) The policies and procedures may require a visitor  
181 to agree in writing to follow the health care facility's  
182 policies and procedures. A health care facility may suspend  
183 in-person visitation of a specific visitor if the visitor  
184 violates the provider's policies and procedures.

185 (i) (1) Each health care facility shall provide its  
186 visitation policies and procedures to the Alabama Department  
187 of Health when applying for initial licensure, licensure  
188 renewal, or change of ownership. The health care facility must  
189 make the visitation policies and procedures available to the  
190 agency for review at any time, upon request.

191 (2) Within 24 hours after establishing the policies and  
192 procedures required under this section, providers must make  
193 the policies and procedures easily accessible from the  
194 homepage of their websites.

195 (3) The Alabama Department of Public Health shall  
196 dedicate a stand-alone page on its website to explain the





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197 visitation requirements of this section and provide a link to  
198 the agency's webpage to report complaints.

199 (j) An individual may not bring a civil action against  
200 a health care facility, its employees, or its contracted staff  
201 for injuries sustained because of the acts or omissions of a  
202 health care facility, its employees, or its contracted staff  
203 taken in compliance with this section, unless the complaining  
204 party can show by substantial evidence that the health care  
205 facility, its employees, or its contracted staff failed to  
206 follow this section and applicable guidelines. This subsection  
207 does not apply to wanton, willful, reckless, or intentional  
208 misconduct.

209 (k) This section does not apply to either of the  
210 following:

211 (1) Any health care facility designated for psychiatric  
212 care, including a psychiatric hospital.

213 (2) Any unit, ward, floor, wing, or other area of any  
214 health care facility which is designated for psychiatric care.

215 Section 3. Sections 22-21-430 through 22-21-436, Code  
216 of Alabama 1975, relating to hospital visitation during a  
217 public health emergency, are repealed.

218 Section 4. This act shall become effective immediately  
219 following its passage and approval by the Governor, or its  
220 otherwise becoming law.