

## 2021 South Dakota Legislature

**House Bill 1139****AMENDMENT 1139E FOR THE INTRODUCED BILL**

1 **An Act to ~~authorize~~ require that assisted living facilities create and post** visitation  
2 **~~of hospital patients and other health care facility residents~~ policies.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4  
5 **~~Section 1.~~** That a ~~NEW SECTION~~ be added:

6 ~~Visitation of patient—Limitations—Restriction—Notice.~~

7 ~~Except as otherwise provided in this section, each patient admitted to a hospital may~~  
8 ~~designate one person who shall have an unrestricted privilege to be present while the patient~~  
9 ~~is in the patient's room. If the attending physician determines that the designated person's~~  
10 ~~presence is medically or therapeutically contraindicated or otherwise inadvisable, the~~  
11 ~~physician may impose limitations, including the time of day, duration, and frequency of the~~  
12 ~~presence, and may impose requirements, including the wearing of personal protective~~  
13 ~~equipment, which must be provided, without charge, by the hospital.~~

14 ~~The privilege afforded by this section may not be terminated, suspended, or waived in the~~  
15 ~~event of a disaster or emergency declaration under chapter 34-48A.~~

16 ~~Each hospital shall inform each patient of the privilege granted by this section and shall post~~  
17 ~~information regarding this section in a conspicuous place within the hospital.~~

18

19 **~~Section 2.~~** That a ~~NEW SECTION~~ be added:

20 ~~Visitation of resident—Limitations—Restrictions—Notice.~~

~~1 Except as otherwise provided in this section, each resident of an assisted living facility,  
2 intermediate care facility, or a skilled nursing facility may designate one person who shall  
3 have an unrestricted privilege to be present while the resident is in the resident's room. If the  
4 facility determines that the designated person's presence is medically or therapeutically  
5 contraindicated or otherwise inadvisable, the facility may impose limitations, including the  
6 time of day, duration, and frequency of the presence, and may impose requirements,  
7 including the wearing of personal protective equipment, which must be provided, without  
8 charge, by the facility.~~

~~9 An assisted living facility, intermediate care facility, or a skilled nursing facility may not restrict  
10 the designated person from accompanying the resident to a necessary medical or dental  
11 appointment.~~

~~12 The privilege afforded by this section may not be terminated, suspended, or waived in the  
13 event of a disaster or emergency declaration under chapter 34-48A.~~

~~14 Each assisted living facility, intermediate care facility, or skilled nursing facility shall inform  
15 each resident of the privilege granted by this section and shall post information regarding this  
16 section in a conspicuous place within the facility.~~

17 **Section 1.** That a NEW SECTION be added:

18 **34-12-67. Assisted living facility—Resident—Visitation rights.**

19 Each resident of an assisted living facility has a right to receive visitors of the  
20 resident's own choosing, at the time of the resident's own choosing, provided the visitation  
21 does not impose upon the rights of another resident.

22 In addition to those persons granted access to a resident in accordance with their  
23 official capacities, a facility must provide access to any resident by:

24 (1) A member of the resident's immediate family and other relatives of the resident,  
25 subject to reasonable clinical and safety restrictions and the resident's right to deny  
26 or withdraw consent;

27 (2) Any other person visiting with the consent of the resident, subject to reasonable  
28 clinical and safety restrictions and the resident's right to deny or withdraw consent;  
29 and

30 (3) Any person providing health, social, legal, or other services to the resident, subject  
31 to reasonable clinical and safety restrictions and the resident's right to deny or  
32 withdraw consent.

1 **Section 2.** That a NEW SECTION be added:

2 **34-12-68. Visitation policies and procedures—Limitations and restrictions—**  
3 **Notice.**

4 An assisted living facility shall post on its website and in a conspicuous place within  
5 the facility, all policies and procedures pertaining to the visitation rights set forth in § 34-  
6 12-67. The facility shall, prior to the signing of an occupancy contract with a resident and  
7 at least annually thereafter, provide electronic copies of the visitation policies and  
8 procedures to the resident and the resident's designated family members and shall provide  
9 printed copies upon request. Each facility shall also post its visitation policies and  
10 procedures on its website.

11 If in accordance with federal or state laws, or if in accordance with best clinical  
12 practices during a health emergency, the visitation policies and procedures must be limited  
13 or restricted, the facility shall inform each resident and designated family members and  
14 shall provide electronic or, if requested, printed notices regarding the limitations and  
15 restrictions, the reason and rationale for such, and the period of time that the limitations  
16 and restrictions are to remain in effect. The facility shall also post such information on its  
17 website.

18 Any notice must include:

19 (1) The citation of the federal or state law being implemented; or

20 (2) A link to evidence-based research indicating that the continuation is clinically  
21 necessary for the health and safety of the residents.

22 A printed copy of the applicable laws or evidence-based research must be provided  
23 upon request.

24 **Section 3.** That a NEW SECTION be added:

25 **34-12-69. Guidance documents—Visitation—Posting requirement.**

26 During a health emergency, each facility shall post on its website, the most recent  
27 guidance documents provided from or through the Department of Health and pertaining  
28 to the imposition of restrictions or limitations on visitation and the conditions under which  
29 such restrictions or limitations may be reduced or removed.

30