

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Jones offered the following:

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3 **Amendment to Amendment (397883) (with title amendment)**

4 Between lines 4 and 5, insert:

5 Section 104. Section 400.0223, Florida Statutes, is  
6 created to read:

7 400.0223 Resident use of electronic monitoring devices in  
8 nursing homes.-

9 (1) As used in this section, the term "electronic  
10 monitoring device" means:

11 (a) Video surveillance cameras installed in the room of a  
12 resident.

13 (b) Audio devices installed in the room of a resident  
14 designed to acquire communications or other sounds occurring in  
15 the room.

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16       (2) A nursing home shall permit a resident, the resident's  
17 personal representative at the resident's request, the  
18 resident's surrogate, or the resident's guardian to monitor the  
19 room of the resident through the use of electronic monitoring  
20 devices.

21       (3) The nursing home shall require a resident, the  
22 resident's personal representative at the resident's request,  
23 the resident's surrogate, or the resident's guardian who  
24 conducts electronic monitoring to post notice of the monitoring  
25 on the hall door of the resident's room. The notice must state  
26 that the room is being monitored by an electronic monitoring  
27 device.

28       (4) Electronic monitoring conducted under this section:

29       (a) Is voluntary and may be conducted only at the request  
30 and expense of the resident, the resident's personal  
31 representative, the resident's surrogate, or the resident's  
32 guardian.

33       (b) Must protect the privacy rights of other residents and  
34 visitors to the nursing home to the extent reasonably possible.

35       (5) (a) A nursing home may not ask a prospective resident  
36 or representative of a prospective resident who is applying to  
37 reside at the facility whether the resident plans on using  
38 electronic monitoring or refuse to admit a person to residency  
39 in the nursing home or remove a resident from the nursing home  
40 because of the resident's request to use an electronic  
41 monitoring device.

42       (b) A nursing home shall inform a resident, the resident's  
43 personal representative at the resident's request, the

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44 resident's surrogate, or the resident's guardian of the  
45 resident's right to conduct electronic monitoring.

46 (6) A nursing home shall make reasonable physical  
47 accommodation for electronic monitoring, including:

48 (a) Providing a reasonably secure place to mount a video  
49 surveillance camera or other electronic monitoring device.

50 (b) Providing access to power sources for the video  
51 surveillance camera or other electronic monitoring device.

52 (7) If electronic monitoring is conducted on behalf of a  
53 resident, the nursing home may require the resident, the  
54 resident's personal representative at the resident's request,  
55 the resident's surrogate, or the resident's guardian to conduct  
56 the electronic monitoring in plain view.

57 (8) A nursing home may require a written request to  
58 conduct electronic monitoring.

59 (9) Subject to applicable rules of evidence and procedure,  
60 a tape or recording created through the use of electronic  
61 monitoring conducted under this section may be admitted into  
62 evidence in a Florida court or administrative proceeding.

63 (10) An administrator of a nursing home who knowingly  
64 refuses to permit a resident, the resident's personal  
65 representative at the resident's request, the resident's  
66 surrogate, or the resident's guardian to monitor the room of the  
67 resident in accordance with this section through the use of  
68 electronic monitoring devices commits a misdemeanor of the  
69 second degree, punishable as provided in s. 775.082 or s.  
70 775.083.

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71 (11) An administrator of a nursing home who knowingly  
72 refuses to admit a person to residency in the nursing home, or  
73 who knowingly allows the removal of a resident from the nursing  
74 home, because of a request to conduct electronic monitoring  
75 under this section commits a misdemeanor of the second degree,  
76 punishable as provided in s. 775.082 or s. 775.083.

77 (12) (a) An employee, officer, or other agent of the  
78 nursing home who intentionally hampers, obstructs, tampers with,  
79 or destroys an electronic monitoring device installed in a  
80 resident's room in accordance with this section, or a tape or  
81 recording made by such a device, commits a misdemeanor of the  
82 first degree, punishable as provided in s. 775.082 or s.  
83 775.083.

84 (b) It is a defense to prosecution under this subsection  
85 that the employee, officer, or other agent acted with the  
86 consent of the resident on whose behalf the electronic  
87 monitoring device was installed, the resident's personal  
88 representative at the resident's request, the resident's  
89 surrogate, or the resident's guardian.

90 (c) Prior to an employee, officer, or other agent of the  
91 nursing home intentionally hampering, obstructing, tampering  
92 with, or destroying an electronic monitoring device installed in  
93 a resident's room in accordance with this section, or a tape or  
94 recording made by such a device, written consent must be  
95 obtained from the resident, the resident's personal  
96 representative at the resident's request, the resident's  
97 surrogate, or the resident's guardian on a form provided by the  
98 agency. Such consent and form must be signed by the resident or

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99 the person representing the resident who made the request and  
100 one other witness.

101 (13) A licensee who operates a nursing home in violation  
102 of this section is subject to a fine not to exceed \$500 per  
103 violation per day, pursuant to s. 400.102.

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105 -----

106 **T I T L E A M E N D M E N T**

107 Remove line 195 and insert:  
108 are not intended to be reset by this act; creating s.  
109 400.0223, F.S.; authorizing electronic monitoring devices  
110 in the rooms of persons residing in nursing homes and  
111 providing requirements with respect thereto; providing  
112 criminal and administrative penalties relating to  
113 electronic monitoring devices; amending s.