



509388

LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (Braynon) recommended the following:

Senate Amendment (with title amendment)

Between lines 191 and 192

insert:

Section 3. Section 400.1757, Florida Statutes, is created to read:

400.1757 Resident use of electronic monitoring devices.-

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

(a) Video surveillance cameras installed in the room of a resident; or

(b) Audio devices installed in the room of a resident which are designed to acquire communications or other sounds occurring



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14 in the room.

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

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

26 (4) Electronic monitoring conducted under this section:

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

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

33 (5) A nursing home facility shall inform a resident, the
34 resident's personal representative, the resident's surrogate, or
35 the resident's guardian of the resident's right to conduct
36 electronic monitoring. The nursing home may not inquire of a
37 prospective resident or representative of a prospective resident
38 of the resident's plans regarding the future use of electronic
39 monitoring, and may not refuse to admit a person to the nursing
40 home or remove a resident from the nursing home because of a
41 request to use an electronic monitoring device.

42 (6) A nursing home shall make reasonable physical



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43 accommodation for electronic monitoring, including:

44 (a) Providing a reasonably secure place to mount a video
45 surveillance camera or other electronic monitoring device; and

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

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49 If electronic monitoring is conducted on behalf of a resident,
50 the nursing home may require the resident, the resident's
51 personal representative, the resident's surrogate, or the
52 resident's guardian to conduct the electronic monitoring in
53 plain view.

54 (7) A nursing home may require that a request to conduct
55 electronic monitoring be made in writing.

56 (8) Subject to applicable rules of evidence and procedure,
57 a tape or recording created through the use of electronic
58 monitoring conducted under this section may be admitted into
59 evidence in a state court or administrative proceeding.

60 (9) An administrator of a nursing home facility who
61 knowingly refuses to permit a resident, the resident's personal
62 representative at the resident's request, the resident's
63 surrogate, or the resident's guardian to monitor the room of the
64 resident in accordance with this section through the use of
65 electronic monitoring devices commits a second-degree
66 misdemeanor punishable under s. 775.082 or s. 775.083.

67 (10) An administrator of a nursing home facility who
68 knowingly refuses to admit a person to residency in the nursing
69 home or who knowingly allows the removal of a resident from the
70 nursing home because of a request to conduct electronic
71 monitoring under this section commits a second-degree



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72 misdemeanor punishable under s. 775.082 or s. 775.083.

73 (11)(a) An employee, officer, or other agent of the nursing
74 home facility who intentionally hampers, obstructs, tampers
75 with, or destroys an electronic monitoring device installed in a
76 resident's room in accordance with this section, or a tape or
77 recording made by such a device, commits a first-degree
78 misdemeanor punishable under s. 775.082 or s. 775.083.

79 (b) It is a defense to prosecution under this subsection
80 that the employee, officer, or other agent took the action with
81 the consent of the resident on whose behalf the electronic
82 monitoring device was installed, the resident's personal
83 representative at the request of the resident, the resident's
84 surrogate, or the resident's guardian.

85 (c) Before an employee, officer, or other agent of the
86 nursing home facility intentionally hampers, obstructs, tampers
87 with, or destroys an electronic monitoring device installed in a
88 resident's room in accordance with this section, or a tape or
89 recording made by such a device, written consent must be
90 obtained from the resident, the resident's personal
91 representative, the resident's surrogate, or the resident's
92 guardian on a form provided by the agency. Such consent and form
93 must be signed by the resident or the person representing the
94 resident who made the request and one other witness.

95 (12) A licensee who operates a nursing home in violation of
96 this section is subject to a fine of up to \$500 per violation
97 per day, pursuant to s. 400.102.

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99 ===== T I T L E A M E N D M E N T =====

100 And the title is amended as follows:



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101 Delete line 18
102 and insert:
103 definitions; creating s. 400.1757, F.S.; defining the
104 term "electronic monitoring device"; requiring the
105 nursing home to allow electronic monitoring devices if
106 requested by a resident, the resident's
107 representative, surrogate, or guardian; providing
108 requirements; requiring a nursing home to inform a
109 resident, the resident's representative, surrogate, or
110 guardian of the right to conduct electronic
111 monitoring; providing penalties for refusing to allow
112 or for tampering with such devices; providing an
113 effective date.