

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Jones offered the following:

2

3 **Amendment (with title amendment)**

4 Between lines 20 and 21, insert:

5 Section 1. Section 400.0223, Florida Statutes, is created
6 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.

Amendment No.

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

116245

Approved For Filing: 4/28/2011 1:58:16 PM

Amendment No.

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.

116245

Approved For Filing: 4/28/2011 1:58:16 PM

Amendment No.

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

116245

Approved For Filing: 4/28/2011 1:58:16 PM

Amendment No.

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.

104
105

106 -----

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

108 Between lines 2 and 3, insert:
109 creating s. 400.0223, F.S.; authorizing electronic
110 monitoring devices in the rooms of persons residing in
111 nursing homes and providing requirements with respect
112 thereto; providing criminal and administrative penalties
113 relating to electronic monitoring devices;