

1 A bill to be entitled
2 An act relating to electronic monitoring devices in
3 long-term care facilities; creating ss. 400.025 and
4 429.265, F.S.; defining the terms "electronic
5 monitoring device" and "representative"; authorizing a
6 resident, or his or her representative, of a nursing
7 home facility or assisted living facility,
8 respectively, to authorize the installation and use of
9 an electronic monitoring device in the resident's room
10 if specified conditions are met; providing for
11 installation and use of such device if the resident
12 lives in a shared room with another resident with the
13 consent of the other resident or his or her
14 representative; authorizing the other resident or his
15 or her representative to impose conditions on the
16 consent; providing that consent may be withdrawn at
17 any time, verbally or in writing; authorizing
18 facilities to adopt a consent form; providing
19 requirements for the form; prohibiting facilities from
20 denying admission to a person or discharging a
21 resident or otherwise discriminating or retaliating
22 against a resident for the decision to install and use
23 an electronic monitoring device in the resident's
24 room; providing an administrative penalty; providing a
25 criminal penalty for unlawfully obstructing, tampering

26 with, or destroying an electronic monitoring device or
 27 a recording made by such device; specifying who may
 28 view or listen to images and sounds broadcast or
 29 recorded by an electronic monitoring device; providing
 30 applicability; authorizing the Agency for Health Care
 31 Administration to adopt rules; providing an effective
 32 date.

33

34 Be It Enacted by the Legislature of the State of Florida:

35

36 **Section 1. Section 400.025, Florida Statutes, is created**
 37 **to read:**

38 400.025 Electronic monitoring devices in residents'
 39 rooms.-

40 (1) As used in this section, the term:

41 (a) "Electronic monitoring device" means a surveillance
 42 instrument with a fixed-position video camera or an audio
 43 recording device, or a combination thereof, which broadcasts or
 44 records movement or sounds occurring in the area being
 45 surveilled.

46 (b) "Representative" means a person granted a durable
 47 power of attorney under chapter 709, a guardian appointed under
 48 chapter 744, or a person designated as a health care surrogate
 49 under chapter 765 who is authorized to make health care
 50 decisions on behalf of a person.

51 (2) A resident or a resident's representative may
52 authorize the installation and use of an electronic monitoring
53 device in the resident's room in a nursing home facility if all
54 of the following conditions are met:

55 (a) If the facility has adopted a consent form pursuant to
56 subsection (5), the resident or the resident's representative
57 completes the form.

58 (b) The cost of the device and the cost of installing,
59 maintaining, and removing the device, not including the cost of
60 electricity used for the device, are paid for by the resident or
61 the resident's representative.

62 (c) If the resident is living in a room with another
63 resident, the other resident or that resident's representative
64 consents to the installation and use of the device in the shared
65 room. If the facility has adopted a consent form pursuant to
66 subsection (5), such consent must be obtained by having the
67 other resident or his or her representative complete the form.

68 (3) (a) If a resident living in a room with another
69 resident wishes to use an electronic monitoring device in the
70 residents' shared room, but the other resident or his or her
71 representative refuses to consent to the installation and use of
72 an electronic monitoring device in the shared room, the facility
73 must make a reasonable attempt to accommodate the resident
74 wishing to use such device by moving one of the residents to
75 another available room with the consent of such resident or his

76 | or her representative.

77 | (b) If the resident wishing to use an electronic
78 | monitoring device lives in the same room as another resident,
79 | the other resident or his or her representative may place
80 | conditions on his or her consent to the use of such device,
81 | including, but not limited to, pointing the device away from the
82 | other resident or limiting or prohibiting the use of specific
83 | devices. If conditions are placed on a resident's consent in
84 | this manner, the electronic monitoring device must be installed
85 | and used in a manner consistent with such conditions as long as
86 | the resident who imposed the conditions is living in the same
87 | room.

88 | (4) A resident or his or her representative who has
89 | authorized the installation and use of an electronic monitoring
90 | device under this section may withdraw that authorization
91 | verbally or in writing at any time.

92 | (5) A nursing home facility may adopt a consent form for
93 | installation and use of an electronic monitoring device in the
94 | facility. Such form must, at a minimum, include all of the
95 | following:

96 | (a) An explanation of this section.

97 | (b) An acknowledgment that the resident or his or her
98 | representative has consented to the installation and use of the
99 | device in the resident's room.

100 | (c) If the resident requesting installation and use of the

101 electronic monitoring device lives in a room with another
102 resident, an acknowledgment that the other resident or other
103 resident's representative has consented to the installation and
104 use of the device and a description of any conditions placed on
105 that consent as authorized under paragraph (3) (b).

106 (d) A section for providing the facility with information
107 regarding the type, function, and use of the device to be
108 installed and used.

109 (e) A section stating that the facility is released from
110 liability in any civil or criminal action or administrative
111 proceeding for a violation of the resident's right to privacy in
112 connection with using the device.

113 (6) A nursing home facility may post a notice in a
114 conspicuous location at the entrance of a resident's room having
115 an electronic monitoring device, stating that such device is in
116 use in that room.

117 (7) A nursing home facility may not deny a person
118 admission to, or discharge a resident from, the facility or
119 otherwise discriminate or retaliate against a resident based on
120 his or her decision to install and use an electronic monitoring
121 device in the resident's room at the facility. The agency shall
122 fine a nursing home facility \$500 for each violation of this
123 subsection.

124 (8) It is unlawful for a person, other than the resident
125 and resident's representative, if any, who authorized the

126 installation and use of an electronic monitoring device in the
 127 resident's room in a nursing home facility, to intentionally
 128 obstruct, tamper with, or destroy the device or a recording made
 129 by the device. A person who violates this subsection commits a
 130 misdemeanor of the first degree, punishable as provided in s.
 131 775.082 or s. 775.083.

132 (9) A person may not intentionally view or listen to the
 133 images and sounds broadcast or recorded by an electronic
 134 monitoring device installed in a resident's room, unless that
 135 person is:

- 136 (a) The resident;
- 137 (b) The resident's representative;
- 138 (c) Law enforcement personnel; or
- 139 (d) An individual authorized by the resident or the
 140 resident's representative to view or listen to the images and
 141 sounds broadcast or recorded by the device.

142 (10) This section does not apply to an electronic
 143 monitoring device installed by a law enforcement agency and used
 144 solely for legitimate law enforcement purposes.

145 (11) The agency may adopt rules to implement this section.

146 **Section 2. Section 429.265, Florida Statutes, is created**
 147 **to read:**

148 429.265 Electronic monitoring devices in residents'
 149 rooms.-

150 (1) As used in this section, the term:

151 (a) "Electronic monitoring device" means a surveillance
152 instrument with a fixed-position video camera or an audio
153 recording device, or a combination thereof, which broadcasts or
154 records movement or sounds occurring in the area being
155 surveilled.

156 (b) "Representative" means a person granted a durable
157 power of attorney under chapter 709, a guardian appointed under
158 chapter 744, or a person designated as a health care surrogate
159 under chapter 765 who is authorized to make health care
160 decisions on behalf of a person.

161 (2) A resident or a resident's representative may
162 authorize the installation and use of an electronic monitoring
163 device in the resident's room in an assisted living facility if
164 all of the following conditions are met:

165 (a) If the facility has adopted a consent form pursuant to
166 subsection (5), the resident or the resident's representative
167 completes the form.

168 (b) The cost of the device and the cost of installing,
169 maintaining, and removing the device, not including the cost of
170 electricity used for the device, are paid for by the resident or
171 the resident's representative.

172 (c) If the resident is living in a room with another
173 resident, the other resident or that resident's representative
174 consents to the installation and use of the device in the shared
175 room. If the facility has adopted a consent form pursuant to

176 subsection (5), such consent must be obtained by having the
177 other resident or his or her representative complete the form.

178 (3) (a) If a resident living in a room with another
179 resident wishes to use an electronic monitoring device in the
180 residents' shared room, but the other resident or his or her
181 representative refuses to consent to the installation and use of
182 an electronic monitoring device in the shared room, the facility
183 must make a reasonable attempt to accommodate the resident
184 wishing to use such device by moving one of the residents to
185 another available room with the consent of such resident or his
186 or her representative.

187 (b) If the resident wishing to use an electronic
188 monitoring device lives in the same room as another resident,
189 the other resident or his or her representative may place
190 conditions on his or her consent to the use of such device,
191 including, but not limited to, pointing the device away from the
192 other resident or limiting or prohibiting the use of specific
193 devices. If conditions are placed on a resident's consent in
194 this manner, the electronic monitoring device must be installed
195 and used in a manner consistent with such conditions as long as
196 the resident who imposed the conditions is living in the same
197 room.

198 (4) A resident or his or her representative who has
199 authorized the installation and use of an electronic monitoring
200 device under this section may withdraw that authorization

201 verbally or in writing at any time.

202 (5) An assisted living facility may adopt a consent form
203 for installation and use of an electronic monitoring device in
204 the facility. Such form must, at a minimum, include all of the
205 following:

206 (a) An explanation of this section.

207 (b) An acknowledgment that the resident or his or her
208 representative has consented to the installation and use of the
209 device in the resident's room.

210 (c) If the resident requesting installation and use of the
211 electronic monitoring device lives in a room with another
212 resident, an acknowledgment that the other resident or other
213 resident's representative has consented to the installation and
214 use of the device and a description of any conditions placed on
215 that consent as authorized under paragraph (3) (b).

216 (d) A section for providing the facility with information
217 regarding the type, function, and use of the device to be
218 installed and used.

219 (e) A section stating that the facility is released from
220 liability in any civil or criminal action or administrative
221 proceeding for a violation of the resident's right to privacy in
222 connection with using the device.

223 (6) An assisted living facility may post a notice in a
224 conspicuous location at the entrance of a resident's room having
225 an electronic monitoring device, stating that such device is in

226 use in that room.

227 (7) An assisted living facility may not deny a person
228 admission to, or discharge a resident from, the facility or
229 otherwise discriminate or retaliate against a resident based on
230 his or her decision to install and use an electronic monitoring
231 device in the resident's room at the facility. The agency shall
232 fine an assisted living facility \$500 for each violation of this
233 subsection.

234 (8) It is unlawful for a person, other than the resident
235 and resident's representative, if any, who authorized the
236 installation and use of an electronic monitoring device in the
237 resident's room in an assisted living facility, to intentionally
238 obstruct, tamper with, or destroy the device or a recording made
239 by the device. A person who violates this subsection commits a
240 misdemeanor of the first degree, punishable as provided in s.
241 775.082 or s. 775.083.

242 (9) A person may not intentionally view or listen to the
243 images and sounds broadcast or recorded by an electronic
244 monitoring device installed in a resident's room, unless that
245 person is:

246 (a) The resident;

247 (b) The resident's representative;

248 (c) Law enforcement personnel; or

249 (d) An individual authorized by the resident or the
250 resident's representative to view or listen to the images and

251 | sounds broadcast or recorded by the device.

252 | (10) This section does not apply to an electronic
253 | monitoring device installed by a law enforcement agency and used
254 | solely for legitimate law enforcement purposes.

255 | (11) The agency may adopt rules to implement this section.

256 | **Section 3.** This act shall take effect July 1, 2025.