

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 install and use an electronic
9 monitoring device in the resident's room if specified
10 conditions are met; providing for notice; providing
11 for consent of a resident living in a shared room with
12 a resident who intends to install a device;
13 authorizing the other resident or his or her
14 representative to impose conditions on the consent;
15 providing for withdrawal of consent and modification
16 of conditions; requiring the Agency for Health Care
17 Administration to adopt forms by rule; providing
18 requirements for the forms; prohibiting facilities
19 from denying admission or otherwise discriminating
20 against a resident for installing an electronic
21 monitoring device; providing an administrative
22 penalty; providing a criminal penalty for unlawfully
23 obstructing, tampering with, or destroying an
24 electronic monitoring device or a recording made by
25 such device; specifying who may view or listen to

26 images and sounds broadcast or recorded by an
 27 electronic monitoring device; providing applicability;
 28 authorizing the Agency for Health Care Administration
 29 to adopt rules; providing an effective date.

30

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

32

33 **Section 1. Section 400.025, Florida Statutes, is created**
 34 **to read:**

35 400.025 Electronic monitoring devices in residents'
 36 rooms.-

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

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

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

48 (2) A resident or a resident's representative may install
 49 and use an electronic monitoring device in the resident's room
 50 in a nursing home facility if all of the following conditions

51 are met:

52 (a) The resident or the resident's representative notifies
53 the facility in writing using the agency form adopted pursuant
54 to subsection (4).

55 (b) The cost of the device and the cost of installing,
56 maintaining, and removing the device, and providing Internet
57 access for the device, not including the cost of electricity
58 used for the device, are paid for by the resident or the
59 resident's representative.

60 (c) If the resident is living in a room with another
61 resident, the other resident or that resident's representative
62 consents to the installation and use of the device in the shared
63 room by completing the agency consent form adopted pursuant to
64 subsection (5). The other resident or that resident's
65 representative may revoke the consent at any time by providing
66 notice in writing to the facility.

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

74 (b) If the resident wishing to use an electronic
75 monitoring device lives in the same room as another resident,

76 | the other resident or his or her representative may place
77 | conditions on his or her consent to the use of such device,
78 | including, but not limited to, pointing the device away from the
79 | other resident or limiting or prohibiting the use of specific
80 | devices. If conditions are placed on a resident's consent in
81 | this manner, the electronic monitoring device must be installed
82 | and used in a manner consistent with such conditions as long as
83 | the resident who imposed the conditions is living in the same
84 | room. The resident or representative imposing conditions must
85 | document the conditions on the consent form adopted by the
86 | agency pursuant to subsection (5), and may change the conditions
87 | at any time by submitting a revised consent form.

88 | (4) The agency shall adopt by rule a standard form for use
89 | by a resident or his or her representative to notify a nursing
90 | home facility of the intent to install and use an electronic
91 | monitoring device in the facility. The form must include:

92 | (a) An explanation of this section.

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

96 | (c) An acknowledgment that the resident or his or her
97 | representative will comply with conditions placed on the use of
98 | the electronic monitoring device by other residents of the room
99 | or their representatives, if any.

100 | (d) A section for providing the facility with information

101 regarding the type, function, and use of the device to be
102 installed and used.

103 (e) A statement releasing the facility from liability in
104 any civil or criminal action or administrative proceeding for a
105 violation of the resident's right to privacy in connection with
106 using the device.

107 (5) The agency shall adopt by rule a standard consent form
108 for use by a resident living in the same room as a resident who
109 intends to use an electronic monitoring device in the room. This
110 form must include:

111 (a) An explanation of this section.

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

115 (c) A section for listing any conditions the resident or
116 his or her representative places on the use of the device in the
117 room.

118 (d) A statement releasing the facility from liability in
119 any civil or criminal action or administrative proceeding for a
120 violation of the resident's right to privacy in connection with
121 using the device.

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

126 (7) A nursing home facility may not deny a person
127 admission to, or discharge a resident from, the facility or
128 otherwise discriminate or retaliate against a resident based on
129 his or her decision to install and use an electronic monitoring
130 device in the resident's room at the facility. The agency shall
131 fine a nursing home facility \$500 for each violation of this
132 subsection.

133 (8) It is unlawful for a person, other than the resident
134 and resident's representative, if any, who owns an electronic
135 monitoring device in the resident's room in a nursing home
136 facility, to intentionally obstruct, tamper with, or destroy the
137 device or a recording made by the device. A person who violates
138 this subsection commits a misdemeanor of the first degree,
139 punishable as provided in s. 775.082 or s. 775.083.

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

144 (a) The resident;

145 (b) The resident's representative;

146 (c) Law enforcement personnel; or

147 (d) An individual authorized by the resident or the
148 resident's representative to view or listen to the images and
149 sounds broadcast or recorded by the device.

150 (10) A person may not intentionally publish or otherwise

151 make available on the Internet, in a manner accessible to the
152 general public, the images and sounds broadcast or recorded by
153 an electronic monitoring device installed in a resident's room.

154 (11) This section does not apply to an electronic
155 monitoring device installed by a law enforcement agency and used
156 solely for legitimate law enforcement purposes.

157 (12) The agency may adopt rules to implement this section.

158 **Section 2. Section 429.265, Florida Statutes, is created**
159 **to read:**

160 429.265 Electronic monitoring devices in residents'
161 rooms.-

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

163 (a) "Electronic monitoring device" means a surveillance
164 instrument with a fixed-position, non-rotatable video camera or
165 audio recording device, or a combination thereof, which
166 broadcasts or records movement or sounds occurring in the area
167 being surveilled.

168 (b) "Representative" means a person granted a durable
169 power of attorney under chapter 709, a guardian appointed under
170 chapter 744, or a person designated as a health care surrogate
171 under chapter 765 who is authorized to make health care
172 decisions on behalf of a person.

173 (2) A resident or a resident's representative may install
174 and use an electronic monitoring device in the resident's room
175 in an assisted living facility if all of the following

176 conditions are met:

177 (a) The resident or the resident's representative notifies
178 the facility in writing using the agency form adopted pursuant
179 to subsection (4).

180 (b) The cost of the device and the cost of installing,
181 maintaining, and removing the device, and providing internet
182 access for the device, not including the cost of electricity
183 used for the device, are paid for by the resident or the
184 resident's representative.

185 (c) If the resident is living in a room with another
186 resident, the other resident or that resident's representative
187 consents to the installation and use of the device in the shared
188 room by completing the agency consent form adopted pursuant to
189 subsection (5). The other resident or that resident's
190 representative may revoke the consent at any time by providing
191 notice in writing to the facility.

192 (3) (a) If a resident living in a room with another
193 resident wishes to use an electronic monitoring device in the
194 shared room, but the other resident or his or her representative
195 refuses to consent to the installation and use of an electronic
196 monitoring device in the shared room, the facility must make a
197 reasonable attempt to accommodate the resident wishing to use
198 such device by moving that resident to another similar available
199 room with the consent of such resident or his or her
200 representative.

201 (b) If the resident wishing to use an electronic
202 monitoring device lives in the same room as another resident,
203 the other resident or his or her representative may place
204 conditions on his or her consent to the use of such device,
205 including, but not limited to, pointing the device away from the
206 other resident or limiting or prohibiting the use of specific
207 devices. If conditions are placed on a resident's consent in
208 this manner, the electronic monitoring device must be installed
209 and used in a manner consistent with such conditions as long as
210 the resident who imposed the conditions is living in the same
211 room. The resident or representative imposing conditions must
212 document the conditions on the consent form adopted by the
213 agency pursuant to subsection (5), and may change the conditions
214 at any time by submitting a revised consent form.

215 (4) The agency shall adopt by rule a standard form for use
216 by a resident or his or her representative to notify an assisted
217 living facility of the intent to install and use an electronic
218 monitoring device in the facility. The form must include:

219 (a) An explanation of this section.

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

223 (c) An acknowledgment that the resident or his or her
224 representative will comply with conditions placed on the use of
225 the electronic monitoring device by other residents of the room

226 or their representatives, if any.

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

230 (e) A statement releasing the facility from liability in
231 any civil or criminal action or administrative proceeding for a
232 violation of the resident's right to privacy in connection with
233 using the device.

234 (5) The agency shall adopt by rule a standard consent form
235 for use by a resident living in the same room as a resident who
236 intends to use an electronic monitoring device in the room. This
237 form must include:

238 (a) An explanation of this section.

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

242 (c) A section for listing any conditions the resident or
243 his or her representative places on the use of the device in the
244 room.

245 (d) A statement releasing the facility from liability in
246 any civil or criminal action or administrative proceeding for a
247 violation of the resident's right to privacy in connection with
248 using the device.

249 (6) An assisted living facility may post a notice in a
250 conspicuous location at the entrance of a resident's room having

251 an electronic monitoring device, stating that such device is in
252 use in that room.

253 (7) An assisted living facility may not deny a person
254 admission to, or discharge a resident from, the facility or
255 otherwise discriminate or retaliate against a resident based on
256 his or her decision to install and use an electronic monitoring
257 device in the resident's room at the facility. The agency shall
258 fine an assisted living facility \$500 for each violation of this
259 subsection.

260 (8) It is unlawful for a person, other than the resident
261 and resident's representative, if any, who owns an electronic
262 monitoring device in the resident's room in an assisted living
263 facility, to intentionally obstruct, tamper with, or destroy the
264 device or a recording made by the device. A person who violates
265 this subsection commits a misdemeanor of the first degree,
266 punishable as provided in s. 775.082 or s. 775.083.

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

271 (a) The resident;

272 (b) The resident's representative;

273 (c) Law enforcement personnel; or

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

276 | sounds broadcast or recorded by the device.

277 | (10) A person may not intentionally publish or otherwise
278 | make available on the Internet, in a manner accessible to the
279 | general public, the images and sounds broadcast or recorded by
280 | an electronic monitoring device installed in a resident's room.

281 | (11) This section does not apply to an electronic
282 | monitoring device installed by a law enforcement agency and used
283 | solely for legitimate law enforcement purposes.

284 | (12) The agency may adopt rules to implement this section.

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