

By Senator Garcia

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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16 consent; providing that consent may be withdrawn at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

36-00087-25

202564__

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 to
37 read:

38 400.025 Electronic monitoring devices in residents' rooms.-

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

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

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

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

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

57 (b) The cost of the device and the cost of installing,
58 maintaining, and removing the device, not including the cost of

36-00087-25

202564__

59 electricity used for the device, are paid for by the resident or
60 the resident's representative.

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

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

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

86 (4) A resident or his or her representative who has
87 authorized the installation and use of an electronic monitoring

36-00087-25

202564__

88 device under this section may withdraw that authorization
89 verbally or in writing at any time.

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

94 (a) An explanation of this section.

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

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

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

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

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

115 (7) A nursing home facility may not deny a person admission
116 to, or discharge a resident from, the facility or otherwise

36-00087-25

202564__

117 discriminate or retaliate against a resident based on his or her
118 decision to install and use an electronic monitoring device in
119 the resident's room at the facility. The agency shall fine a
120 nursing home facility \$500 for each violation of this
121 subsection.

122 (8) It is unlawful for a person, other than the resident
123 and resident's representative, if any, who authorized the
124 installation and use of an electronic monitoring device in the
125 resident's room in a nursing home facility, to intentionally
126 obstruct, tamper with, or destroy the device or a recording made
127 by the device. A person who violates this subsection commits a
128 misdemeanor of the first degree, punishable as provided in s.
129 775.082 or s. 775.083.

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

134 (a) The resident;

135 (b) The resident's representative;

136 (c) Law enforcement personnel; or

137 (d) An individual authorized by the resident or the
138 resident's representative to view or listen to the images and
139 sounds broadcast or recorded by the device.

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

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

144 Section 2. Section 429.265, Florida Statutes, is created to
145 read:

36-00087-25

202564__

146 429.265 Electronic monitoring devices in residents' rooms.-

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

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

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

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

162 (a) If the facility has adopted a consent form pursuant to
163 subsection (5), the resident or the resident's representative
164 completes the form.

165 (b) The cost of the device and the cost of installing,
166 maintaining, and removing the device, not including the cost of
167 electricity used for the device, is paid for by the resident or
168 the resident's representative.

169 (c) If the resident is living in a room with another
170 resident, the other resident or that resident's representative
171 consents to the installation and use of the device in the shared
172 room. If the facility has adopted a consent form pursuant to
173 subsection (5), such consent must be obtained by having the
174 other resident or his or her representative complete the form.

36-00087-25

202564__

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

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

194 (4) A resident or his or her representative who has
195 authorized the installation and use of an electronic monitoring
196 device under this section may withdraw that authorization
197 verbally or in writing at any time.

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

202 (a) An explanation of this section.

203 (b) An acknowledgment that the resident or his or her

36-00087-25

202564__

204 representative has consented to the installation and use of the
205 device in the resident's room.

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

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

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

219 (6) An assisted living facility may post a notice in a
220 conspicuous location at the entrance of a resident's room having
221 an electronic monitoring device, stating that such device is in
222 use in that room.

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

230 (8) It is unlawful for a person, other than the resident
231 and resident's representative, if any, who authorized the
232 installation and use of an electronic monitoring device in the

36-00087-25

202564__

233 resident's room in an assisted living facility, to intentionally
234 obstruct, tamper with, or destroy the device or a recording made
235 by the device. A person who violates this subsection commits a
236 misdemeanor of the first degree, punishable as provided in s.
237 775.082 or s. 775.083.

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

242 (a) The resident;

243 (b) The resident's representative;

244 (c) Law enforcement personnel; or

245 (d) An individual authorized by the resident or the
246 resident's representative to view or listen to the images and
247 sounds broadcast or recorded by the device.

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

251 (11) The agency may adopt rules to implement this section.
252 Section 3. This act shall take effect July 1, 2025.