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AMENDMENT No. 1 TO AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1077

By Senator(s) Dawkins

1 AMEND by inserting the following after line 231:

2 (6) (a) An institution for the aged or infirm shall permit
3 a resident, the resident's next of kin at the request of the
4 resident, or the resident's guardian to monitor the room of the
5 resident through the use of electronic monitoring devices.

6 (b) (i) The institution shall require a resident who
7 conducts electronic monitoring or the resident's guardian to post
8 a notice on the door of the resident's room.

9 (ii) The notice must state that the room is being
10 monitored by an electronic monitoring device.

11 (c) Electronic monitoring conducted under this section:

12 (i) Is not compulsory and may be conducted only at
13 the request of the resident or the resident's guardian;

14 (ii) Must be paid for by the resident or the
15 resident's guardian; and

16 (iii) Must protect the privacy rights of other
17 residents and visitors to the institution to the extent reasonably
18 possible.

19 (d) An institution may not refuse to admit an
20 individual to residency in the institution and may not remove a
21 resident from the institution because of a request to conduct
22 electronic monitoring.

23 (e) An institution shall make reasonable physical

24 accommodation for electronic monitoring, including:

25 (i) Providing a reasonably secure place to mount
26 the video surveillance camera or other monitoring device; and

27 (ii) Providing access to power sources for the
28 video surveillance camera or other electronic monitoring device.

29 (f) An institution shall inform a resident or the
30 resident's guardian of the resident's right to conduct electronic
31 monitoring.

32 (g) If electronic monitoring is conducted, the
33 institution may require the resident, the resident's next of kin,
34 or the resident's guardian to conduct the electronic monitoring in
35 plain view.

36 (h) An institution may require that a request to
37 conduct electronic monitoring be made in writing.

38 (i) Subject to applicable rules of evidence and
39 procedure, a tape or recording created through the use of
40 electronic monitoring conducted under this section may be admitted
41 into evidence in a civil or criminal court action or
42 administrative proceeding.

43 (j) An administrator of an institution who knowingly
44 refuses to permit a resident, the resident's next of kin at the
45 request of the resident, or the resident's guardian to monitor the
46 room of the resident in accordance with this section through the
47 use of electronic monitoring devices is guilty of a misdemeanor,
48 and upon conviction, shall be fined an amount not to exceed Five
49 Thousand Dollars (\$5,000.00).

50 (k) An administrator of an institution who knowingly
51 refuses to admit an individual to residency in the institution, or
52 who knowingly allows the removal of a resident from the
53 institution, because of a request to conduct electronic monitoring
54 under this section is guilty of a misdemeanor and upon conviction,
55 shall be fined an amount not to exceed Five Thousand Dollars
56 (\$5,000.00).

57 (l) (i) A person who intentionally hampers, obstructs,
58 tampers with, or destroys an electronic monitoring device

59 installed in a resident's room in accordance with this section or
60 a tape or recording made by the device is guilty of a misdemeanor
61 and upon conviction, shall be fined an amount not to exceed Five
62 Thousand Dollars (\$5,000.00).

63 (ii) It is an affirmative defense to prosecution
64 under this subsection that the person took the action with the
65 consent of the resident on whose behalf the electronic monitoring
66 device was installed, the resident's guardian, or the resident's
67 next of kin if the next of kin was conducting the monitoring at
68 the request of the resident.

69 (m) The licensing agency shall promulgate regulations
70 to enforce the provisions of this subsection (6).

71 (n) For purposes of this subsection (6), "electronic
72 monitoring device" includes:

73 (i) Video surveillance cameras installed in the
74 room of a resident; and

75 (ii) Audio devices installed in the room of a
76 resident designed to acquire communications or other sounds
77 occurring in the room.

78 **FURTHER, amend the title amendment by inserting after the**
79 **semicolon on line 8 the following:**

80 TO AUTHORIZE THE STATE DEPARTMENT OF HEALTH TO REQUIRE ELECTRONIC
81 MONITORING DEVICES IN THE ROOMS OF RESIDENTS OF NURSING HOMES AT
82 THE REQUEST OF THE RESIDENT OR THE RESIDENT'S GUARDIAN; TO
83 AUTHORIZE THE DEPARTMENT OF HEALTH TO ISSUE REGULATIONS; TO
84 PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT;