**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3479**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Jefferson and Anderson

Document Path: LC-0033VR23.docx

Introduced in the House on January 10, 2023

Currently residing in the House

Summary: Long-Term Care Facilities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/8/2022 House Prefiled

12/8/2022 House Referred to Committee on **Judiciary**

1/10/2023 House Introduced and read first time ([House Journal‑page 182](h:\hj\20230110.docx))

1/10/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 182](h:\hj\20230110.docx))

1/18/2023 House Member(s) request name added as sponsor: Anderson

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3479_20221208.docx)

A bill

to amend the South Carolina Code of Laws BY ADDING CHAPTER 83 TO TITLE 44 SO AS TO AUTHORIZE THE USE OF ELECTRONIC MONITORING DEVICES BY RESIDENTS OF LONG-TERM CARE FACILITIES IN CERTAIN CIRCUMSTANCES, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO FINE FACILITIES THAT DISCRIMINATE AGAINST RESIDENTS WHO USE SUCH A DEVICE, AND TO ESTABLISH CRIMINAL PENALTIES FOR TAMPERING WITH SUCH A DEVICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 44 of the S.C. Code is amended by adding:

CHAPTER 83

Authorized Electronic Monitoring in Long‑Term Care Facilities

Section 44‑83‑10. As used in this chapter:

(1) “Attorney‑in‑fact” means a person designated as such by a resident’s health care power of attorney.

(2) “Department” means the Department of Health and Environmental Control.

(3) “Electronic monitoring device” means a surveillance instrument with a fixed position video camera or an audio recording device, or a combination of the two, that is installed in a resident’s room and broadcasts or records activities or sounds occurring in the room.

(4) “Guardian” has the same meaning as defined in Section 62‑5‑101.

(5) “Long‑term care facility” means an intermediate care facility, nursing home or nursing care facility, or community residential care facility subject to regulation and licensure by the Department of Health and Environmental Control.

(6) “Resident” means any individual who resides in a long‑term care facility.

Section 44‑83‑20. (A) Subject to Section 44‑83‑30, a resident or resident’s guardian or attorney‑in‑fact may authorize the installation and use of an electronic monitoring device in the resident’s room in a long‑term care facility.

(B) The installation and use of an electronic monitoring device may be authorized only if both of the following conditions are met:

(1) If a long‑term care facility has prescribed a form described in Section 44‑83‑40, the resident or resident’s guardian or attorney‑in‑fact completes the form and submits it to the facility.

(2) The cost of the device and the cost of installing, maintaining, and removing the device, other than the cost of electricity for the device, is paid for by the resident or the resident’s guardian or attorney‑in‑fact.

(C) A resident who has authorized the installation and use of an electronic monitoring device may withdraw that authorization at any time.

Section 44‑83‑30. (A) If a resident wishing to conduct authorized electronic monitoring of the resident’s room lives with another resident of the long‑term care facility, the consent of the other resident or the other resident’s guardian or attorney‑in‑fact to the installation and use of an electronic monitoring device in the room is required before any installation or use of such a device may occur. If the long‑term care facility has prescribed a form described in Section 44‑83‑40, the other resident or other resident’s guardian or attorney‑in‑fact shall consent by completing the relevant part of the form.

(B)(1) If a resident living in a room with another resident wishes to conduct authorized electronic monitoring of the resident’s room, but the other resident or other resident’s guardian or attorney‑in‑fact refuses to consent to the installation and use the of the electronic monitoring device, the facility shall make a reasonable attempt to accommodate the resident wishing to conduct authorized electronic monitoring by moving either resident to another available room with the consent of the resident being moved or that resident’s guardian or attorney‑in‑fact.

(2) In the case of a resident living in a room with another resident, the other resident or other resident’s guardian or attorney‑in‑fact may place conditions on any consent to the installation and use of an electronic monitoring device, including conditions such as pointing the device away from the other resident or limiting or prohibiting the use of certain devices. If conditions are placed on consent, the device shall be installed and used according to those conditions.

(C) A resident whose consent is required under this section may withdraw that consent at any time.

Section 44‑83‑40. A long‑term care facility may prescribe a form for use by a resident or resident’s guardian or attorney‑in‑fact seeking to authorize the installation and use of an electronic monitoring device in the resident’s room in the long‑term care facility. If a long‑term care facility prescribes a form, the form must include, at a minimum, all of the following:

(1) an explanation of the provisions of this chapter;

(2) an acknowledgement that the resident or resident’s guardian or attorney‑in‑fact has consented to the installation and use of the device in the resident’s room;

(3) in the case of a resident who lives in a room with another resident, an acknowledgement that the other resident or other resident’s guardian or attorney‑in‑fact has consented to the installation and use of the device and a description of any conditions placed on that consent pursuant to Section 44‑83‑30(B)(2);

(4) a section for providing the facility with information regarding the type, function, and use of the device to be installed and used; and

(5) a section stating that the facility is released from liability in any civil or criminal action or administrative proceeding for a violation of the resident’s right to privacy in connection with using the device.

Section 44‑83‑50. A long‑term care facility may post a notice in a conspicuous place at the entrance to a resident’s room with an electronic monitoring device stating that an electronic monitoring device is in use in that room.

Section 44‑83‑60. No person or resident shall be denied admission to or discharged from a long‑term care facility or otherwise discriminated or retaliated against because of the decision to authorize the installation and use of an electronic monitoring device in a resident’s room in the facility. A facility that violates a provision of this section may be fined by the department as follows: one hundred dollars for a first violation and five hundred dollars for each subsequent violation.

Section 44‑83‑70. (A) No person other than the resident or resident’s guardian or attorney‑in‑fact who authorized the installation and use of an electronic monitoring device in the resident’s room in a long‑term care facility shall intentionally obstruct, tamper with, or destroy the device or a recording made by the device.

(B) Except as provided in subsection (C), no person other than the following shall intentionally view or listen to the images displayed or sounds recorded by the electronic monitoring device installed in a resident’s room:

(1) the resident;

(2) the resident’s guardian or attorney‑in‑fact; or

(3) law enforcement personnel.

(C) A resident or resident’s guardian or attorney‑in‑fact may authorize a person to view or listen to the images displayed or sounds recorded by an electronic monitoring device installed in a resident’s room.

(D) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, may be imprisoned not more than six months or fined not more than one thousand dollars, or both.

Section 44‑83‑80. The department may promulgate regulations to implement the provisions of this chapter.

Section 44‑83‑90. Sections 44‑83‑10 through 44‑83‑80 do not apply if an electronic monitoring device is installed by a law enforcement agency and used solely for a bona fide law enforcement purpose.

SECTION 2. This act takes effect upon approval by the Governor.

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