

SENATE BILL NO. 431  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR ELIASON

Introduced: 2/18/92  
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the withholding or withdrawal of life-sustaining procedures from a  
2 terminally ill person."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 18.12.010(a) is amended to read:

5 (a) A competent person who is at least 18 years old may execute a declaration at any  
6 time directing that life-sustaining procedures be withheld or withdrawn from that person or  
7 designating another individual of sound mind and at least 18 years of age to make decisions  
8 governing the withholding or withdrawal of life-sustaining procedures from that person.  
9 However, a [; BUT THE] declaration under this section is given operative effect only if the  
10 declarant's condition is determined to be terminal and the declarant is not able to make treatment  
11 decisions. The declaration shall be signed by the declarant, or another at the declarant's direction,  
12 and in either case shall be witnessed by two persons or a person qualified to take  
13 acknowledgements under AS 09.63.010. The witnesses must be at least 18 years old and may  
14 not be related to the declarant by blood or marriage. A person may not charge a fee for

1 preparing a declaration.

2 \* Sec. 2. AS 18.12.010(c) is amended to read:

3 (c) A declaration directing a physician to withhold or withdraw life-sustaining  
4 procedures may, but need not, be in the following form:

5 DECLARATION

6 If I should have an incurable or irreversible condition that will cause my death within a  
7 relatively short time, it is my desire that my life not be prolonged by administration of  
8 life-sustaining procedures.

9 If my condition is terminal and I am unable to participate in decisions regarding my  
10 medical treatment, I direct my attending physician to withhold or withdraw procedures that  
11 merely prolong the dying process and are not necessary to my comfort or to alleviate pain.

12 I [ ] do [ ] do not desire that nutrition or hydration (food and water) be provided by  
13 gastric tube or intravenously if necessary.

14 Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

15 Signature \_\_\_\_\_

16 Place \_\_\_\_\_

17 The declarant is known to me and voluntarily signed or voluntarily directed another to  
18 sign this document in my presence.

19 Witness \_\_\_\_\_

20 Address \_\_\_\_\_

21 Witness \_\_\_\_\_

22 Address \_\_\_\_\_

23 State of \_\_\_\_\_

24 \_\_\_\_\_ Judicial District

25 The foregoing instrument was acknowledged before me this (date) by (name of person  
26 who acknowledged).

27 \_\_\_\_\_

28 Signature of Person Taking  
29 Acknowledgement

30 \_\_\_\_\_

31 Title or Rank

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Serial Number, if any

THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR  
ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS  
UNDER AS 09.63.010.

\* Sec. 3. AS 18.12.010 is amended by adding new subsections to read:

(e) A declaration that designates another individual to make decisions governing the  
withholding or withdrawal of life-sustaining procedures may, but need not, be in the following  
form:

DECLARATION

If I should have an incurable and irreversible condition that, without the administration  
of life-sustaining procedures, will, in the opinion of my attending physician, cause my death  
within a relatively short time, and I am no longer able to make decisions regarding my medical  
treatment, I appoint \_\_\_\_\_ or, if that individual is not reasonably  
available or is unwilling to serve, \_\_\_\_\_, to make decisions  
on my behalf regarding withholding or withdrawal of procedures that only prolong the process  
of dying and are not necessary for my comfort or to alleviate pain.

If the individual(s) I have so appointed is not reasonably available or is unwilling to serve,  
I direct my attending physician to withhold or withdraw procedures that only prolong the process  
of dying and are not necessary for my comfort or to alleviate pain.

I [ ] do [ ] do not desire that nutrition or hydration (food and water) be provided by  
gastric tube or intravenously if necessary.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_

Location \_\_\_\_\_

The declarant is known to me and voluntarily signed or voluntarily directed another to  
sign this document in my presence.

Witness \_\_\_\_\_

Address \_\_\_\_\_

Witness \_\_\_\_\_

Address \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

State of \_\_\_\_\_  
\_\_\_\_\_ Judicial District

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

\_\_\_\_\_  
Signature of Person Taking  
Acknowledgement

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial Number, if any

THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER AS 09.63.010.

(f) The designation of an attorney-in-fact under AS 13.26.332 or the judicial appointment of an individual constitutes, for purposes of this chapter, a declaration designating another individual to act for the declarant in decisions relating to the withholding or withdrawal of life-sustaining procedures if the attorney-in-fact or other individual is authorized to make decisions regarding the withholding or withdrawal of life-sustaining procedures.

\* Sec. 4. AS 18.12 is amended by adding a new section to read:

Sec. 18.12.055. CONSENT BY OTHERS TO WITHDRAWAL OR WITHHOLDING OF PROCEDURES. (a) If written consent to the withholding or withdrawal of the procedures, witnessed by two individuals, is given to the attending physician, the attending physician may withhold or withdraw life-sustaining procedures from a person who

- (1) has been determined by the attending physician to be in a terminal condition and no longer able to make decisions regarding administration of life-sustaining procedures; and
- (2) has no effective declaration.

(b) The authority to consent or to withhold consent under (a) of this section may be exercised by the following individuals, in descending order of priority:

- (1) the spouse of the person;
- (2) an adult child of the person or, if there is more than one adult child, a

1 majority of the adult children who are reasonably available for consultation;  
2 (3) the parents of the person;  
3 (4) an adult sibling of the person or, if there is more than one adult sibling, a  
4 majority of the adult siblings who are reasonably available for consultation; or  
5 (5) the nearest other adult relative of the person by blood or adoption who is  
6 reasonably available for consultation.

7 (c) If a class entitled to decide whether to consent under (b) of this section is not  
8 reasonably available for consultation and competent to decide or declines to decide, the next class  
9 is authorized to decide, but an equal division in a class does not authorize the next class to  
10 decide.

11 (d) A decision to grant or withhold consent under this section must be made in good  
12 faith. A consent under this section is not valid if it conflicts with the expressed intention of the  
13 person.

14 (e) A decision of the attending physician acting in good faith that a consent under this  
15 section is valid or invalid is conclusive.

16 (f) Life-sustaining procedures may not be withheld or withdrawn under this section from  
17 a person known to the attending physician to be pregnant as long as it is probable that the fetus  
18 could develop to the point of live birth with continued application of life-sustaining procedures.

19 \* Sec. 5. AS 18.12.060 is amended by adding new subsections to read:

20 (c) A physician or other person who participates in the withholding or withdrawal of life-  
21 sustaining procedures under the direction of a physician is not subject to civil or criminal liability  
22 for giving effect to a written consent under AS 18.12.055.

23 (d) A physician or other health care provider whose decision about the validity of consent  
24 under AS 18.12.055 is made in good faith is not subject to criminal or civil liability or discipline  
25 for unprofessional conduct with respect to that decision.

26 (e) An individual designated to make health care decisions by a declarant or under  
27 AS 18.12.010(f) or who gives consent under AS 18.12.055, whose decision is made or consent  
28 is given in good faith is not subject to criminal or civil liability or discipline for unprofessional  
29 conduct with respect to that decision.

30 \* Sec. 6. AS 18.12.080(a) is amended to read:

31 (a) Death resulting from the withholding or withdrawal of life-sustaining procedures

1 [UNDER A DECLARATION AND] in accordance with this chapter does not, for any purpose,  
2 constitute a suicide or homicide.

3 \* Sec. 7. AS 18.12.080(b) is amended to read:

4 (b) The making of a declaration under AS 18.12.010 or the giving of consent under  
5 AS 18.12.055 does not affect in any manner the sale, procurement, or issuance of a policy of life  
6 insurance, nor does it modify the terms of an existing policy of life insurance. A policy of life  
7 insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal  
8 of life-sustaining procedures from an insured qualified patient, notwithstanding any term of the  
9 policy to the contrary.