

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3405 HJUD SB 140 281



# RECORDS CERTIFICATION

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James O. Smith  
Signature of Camera Operator

7/25/89  
Date

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# STATE OF ALASKA THE LEGISLATURE

## LEGISLATIVE AFFAIRS AGENCY

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POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS te base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	5/7/85	1:30 pm
" "	5/11/85	1:00 pm
" "	1/29/86	1:30 pm
" "	1/30/86	1:30 pm

HOUSE 8-19

ALASKA HOUSE OF REPRESENTATIVES  
HOUSE SB 1407 JOURNAL RECD

100 SESSION 14TH LEG

3/14/86 12: 9 PM

	28	YEAS	11	NAYS	1	EXC	0	ABS		
Y										
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Y										
Y										
D										
Y										
Y										
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Y										

\* VOTED FOR  
\* CHANGED VOTE

HOUSE  
COMMITTEE REPORT

1/31  
Rube

(7)

Date referred: 4/17/85

FURTHER REFERRALS:

(Waived from HESS 4/17)

DATE: 1/30/86

The JUDICIARY Committee has considered CSSB 140(HESS)am

"An Act relating to the rights of the terminally ill; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CSSB 140 (JUDICIARY) same title

new title

and recommends No recommendation

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_ - NO REC

\_\_\_\_\_ - NO REC

\_\_\_\_\_ Do pass if amended concerning 1- Nutrition + hydration 2 well-being

\_\_\_\_\_ no rec

\_\_\_\_\_ No Rec

\_\_\_\_\_

Chairman

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Offered: 2/5/86  
 Referred: Rules

Original sponsors: Eliason, Ziegler,  
 V.Fischer, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 140 (Judiciary) am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of the terminally ill;  
 7 and providing for an effective date."

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

9 \* Section 1. AS 18 is amended by adding a new chapter to read:

## 10 CHAPTER 12. RIGHTS OF TERMINALLY ILL.

11 Sec. 18.12.010. DECLARATION RELATING TO USE OF LIFE-SUSTAINING  
 12 PROCEDURES. (a) A competent person who is at least 18 years old may  
 13 execute a declaration at any time directing that life-sustaining  
 14 procedures be withheld or withdrawn from that person; but the declara-  
 15 tion is given operative effect only if the declarant's condition is  
 16 determined to be terminal and the declarant is not able to make treat-  
 17 ment decisions. The declaration shall be signed by the declarant, or  
 18 another at the declarant's direction, and in either case shall be  
 19 witnessed by two persons or a person qualified to take acknowledge-  
 20 ments under AS 09.63.010. Any person generally competent to be a  
 21 witness may act as a witness to the declaration. A person may not  
 22 charge a fee for preparing a declaration.

23 (b) It is the responsibility of the declarant to provide a copy  
 24 of the declaration to the declarant's physician.

25 (c) A declaration may, but need not, be in the following form:

## 26 DECLARATION

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

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1 If my condition is terminal and I am unable to participate in de-  
 2 cisions regarding my medical treatment, I direct my attending phy-  
 3 sician to withhold or withdraw procedures that merely prolong the  
 4 dying process and are not necessary to my comfort or to alleviate  
 5 pain.

6 I [ ] do [ ] do not desire that nutrition or hydration be  
 7 provided by gastric tube or intravenously if necessary.

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

9 Signature \_\_\_\_\_

10 Place \_\_\_\_\_

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

13 Witness \_\_\_\_\_

14 Address \_\_\_\_\_

15 Witness \_\_\_\_\_

16 Address \_\_\_\_\_

17 State of \_\_\_\_\_

18 \_\_\_\_\_ Judicial District

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

21 \_\_\_\_\_  
 22 Signature of Person Taking  
 23 Acknowledgement

24 \_\_\_\_\_  
 25 Title or Rank

26 \_\_\_\_\_  
 27 Serial Number, if any

28 THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR  
 29 ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER

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1 AS 09.63.010.

2 (d) A physician or health care provider may presume, in the  
3 absence of actual notice to the contrary, that the declaration com-  
4 plies with this chapter and is valid.

5 Sec. 18.12.020. REVOCATION OF DECLARATION. (a) A declaration  
6 may be revoked at any time and in any manner by which the declarant is  
7 able to communicate an intent to revoke, without regard to mental or  
8 physical condition. A revocation is only effective as to the attend-  
9 ing physician or any health care provider acting under the guidance of  
10 that physician upon communication to the physician or health care  
11 provider by the declarant or by another to whom the revocation was  
12 communicated.

13 (b) The attending physician or health care provider shall make  
14 the revocation a part of the declarant's medical record.

15 Sec. 18.12.030. RECORDING DETERMINATION OF TERMINAL CONDITION  
16 AND CONTENTS OF DECLARATION. When an attending physician who has been  
17 provided a copy of a declaration determines that the declarant is in a  
18 terminal condition, the physician shall record that determination and  
19 the contents of the declaration in the declarant's medical record.

20 Sec. 18.12.040. TREATMENT OF QUALIFIED PATIENTS. (a) A qual-  
21 ified patient has the right to make decisions regarding use of life-  
22 sustaining procedures as long as the patient is able to do so. If a  
23 qualified patient is not able to make these decisions, the declaration  
24 governs decisions regarding use of life-sustaining procedures.

25 (b) This chapter does not prohibit the application of any med-  
26 ical procedure or intervention, including the provision of nutrition  
27 and hydration, considered necessary to provide comfort care or alle-  
28 viation of pain. The declaration may provide that the declarant does  
29 not want nutrition or hydration administered intravenously or by

1 gastric tube.

2 (c) The declaration of a qualified patient known to the attend-  
3 ing physician to be pregnant has no effect as long as it is possible  
4 that the fetus could develop to the point of live birth with continued  
5 application of life-sustaining procedures.

6 Sec. 18.12.050. TRANSFER OF PATIENTS. (a) An attending physi-  
7 cian who is unwilling to comply with the requirements of AS 18.12.030  
8 or who is unwilling to comply with the declaration of a qualified  
9 patient under AS 18.12.040 shall withdraw as attending physician but  
10 the withdrawal is effective only when the services of another attend-  
11 ing physician have been obtained.

12 (b) If the policies of a health care facility preclude compli-  
13 ance with the declaration of a qualified patient under this chapter,  
14 that facility shall take all reasonable steps to notify the patient  
15 or, if the patient is not able to make treatment decisions, the  
16 patient's guardian, of the facility's policy and shall take all  
17 reasonable steps to effect the transfer of the patient to the  
18 patient's home or to a facility where the provisions of this chapter  
19 can be carried out.

20 Sec. 18.12.060. IMMUNITIES. (a) In the absence of actual  
21 notice of the revocation of a declaration, the following, while acting  
22 in accordance with the requirements of this chapter, are not subject  
23 to civil or criminal liability or guilty of unprofessional conduct:

24 (1) a physician who causes the withholding or withdrawal of  
25 life-sustaining procedures from a qualified patient;

26 (2) a person who participates in the withholding or with-  
27 drawal of life-sustaining procedures under the direction or with the  
28 authorization of a physician;

29 (3) the health care facility in which the withholding or

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1 withdrawal occurs.

2 (b) A physician, a health care professional, or a health care  
3 facility is not subject to civil or criminal liability for actions  
4 under this chapter that are in accord with reasonable medical stan-  
5 dards.

6 Sec. 18.12.070. PENALTIES. (a) An attending physician who  
7 fails to comply with the declaration of a qualified patient or to make  
8 the necessary arrangements to effect a transfer under AS 18.12.050 has  
9 no right to compensation for medical services provided to a qualified  
10 patient after withdrawal should have been effective or after transfer  
11 should have occurred and may be civilly liable to the qualified  
12 patient and to the heirs of the qualified patient.

13 (b) A person who wilfully conceals, cancels, defaces, obliterated,  
14 or damages the declaration of another without the declarant's  
15 consent or who falsifies or forges a revocation of the declaration of  
16 another may be civilly liable to the qualified patient and to the  
17 heirs of the qualified patient.

18 Sec. 18.12.080. GENERAL PROVISIONS. (a) Death resulting from  
19 the withholding or withdrawal of life-sustaining procedures under a  
20 declaration and in accordance with this chapter does not, for any  
21 purpose, constitute a suicide or homicide.

22 (b) The making of a declaration under AS 18.12.010 does not  
23 affect in any manner the sale, procurement, or issuance of a policy of  
24 life insurance, nor does it modify the terms of an existing policy of  
25 life insurance. A policy of life insurance is not legally impaired or  
26 invalidated in any manner by the withholding or withdrawal of life-  
27 sustaining procedures from an insured qualified patient, notwithstand-  
28 ing any term of the policy to the contrary.

29 (c) A physician, health care facility, or other health care

1 provider, and a health care service plan, insurer issuing disability  
 2 insurance, self-insured employee welfare benefit plan, or nonprofit  
 3 hospital plan, may not require a person to execute a declaration as a  
 4 condition for being insured for, or receiving, health care services.

5 (d) This chapter creates no presumption concerning the intention  
 6 of an individual who has not executed a declaration with respect to  
 7 the use, withholding, or withdrawal of life-sustaining procedures in  
 8 the event of a terminal condition.

9 (e) Nothing in this chapter increases or decreases the right of  
 10 a patient to make decisions regarding use of life-sustaining proce-  
 11 dures as long as the patient is able to do so, or impairs or super-  
 12 cedes any right or responsibility that a person has to effect the  
 13 withholding or withdrawal of medical care in a lawful manner. In that  
 14 respect, the provisions of this chapter are cumulative.

15 (f) This chapter does not condone, authorize, or approve mercy  
 16 killing or euthanasia.

17 Sec. 18.12.090. RECOGNITION OF DECLARATIONS EXECUTED IN OTHER  
 18 STATES. A declaration executed in another state or a territory or  
 19 possession of the United States in compliance with the law of that  
 20 jurisdiction is effective for purposes of this chapter.

21 Sec. 18.12.100. DEFINITIONS. In this chapter

22 (1) "attending physician" means the physician selected by,  
 23 or assigned to, the patient who has primary responsibility for the  
 24 treatment and care of the patient;

25 (2) "declaration" means a document executed in accordance  
 26 with the requirements of AS 18.12.010;

27 (3) "health care provider" means a person who is licensed,  
 28 certified, or otherwise authorized by the law of this state to admin-  
 29 ister health care in the ordinary course of business or practice of a

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1 profession;

2 (4) "life-sustaining procedure" means a medical procedure  
3 or intervention that, when administered to a qualified patient, will  
4 serve only to prolong the dying process;

5 (5) "physician" means a person licensed to practice medi-  
6 cine in this state or an officer in the regular medical service of the  
7 armed services of the United States or the United States Public Health  
8 Service while in the discharge of their official duties, or while  
9 volunteering services without pay or other remuneration to a hospital,  
10 clinic, medical office, or other medical facility in the state;

11 (6) "qualified patient" means a patient who has executed a  
12 declaration in accordance with this chapter and who has been deter-  
13 mined by the attending physician to be in a terminal condition;

14 (7) "terminal condition" means a progressive incurable or  
15 irreversible condition that, without the administration of life-sus-  
16 taining procedures, will, in the opinion of two physicians, when  
17 available, who have personally examined the patient, one of whom must  
18 be the attending physician, result in death within a relatively short  
19 time.

20 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

HCS CSSB 140(Jud) am H  
AMENDMENTS ADOPTED 3/12/86

NUMBER:

- 12 Page 1, line 17, following "decisions." delete all material through "declaration." on line 21.
- 12 Page 1, line 17, after "decisions." insert:  
"The declaration shall be signed by the declarant, or another at the declarant's direction, and in either case shall be witnessed by two persons or a person qualified to take acknowledgements under AS 09.63.010. Any person generally competent to be a witness may act as a witness to the declaration."
- 16 Page 1, line 23, after "to" delete the rest of the sentence.
- 16 Page 1, line 23, after "to" insert "provide a copy of the declaration to the declarant's physician."
- 13 Page 2, following line 7, insert:  
"I [ ] do [ ] do not desire that nutrition or hydration be provided by gastric tube or intravenously if necessary."
- 12 Page 2, lines 11 - 17, delete all material and insert:  
"The declarant is known to me and voluntarily signed or voluntarily directed another to sign this document in my presence.

Witness \_\_\_\_\_

Address \_\_\_\_\_

Witness \_\_\_\_\_

Address \_\_\_\_\_

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."

NUMBER

- 16 Page 3, line 4, delete "notified of the existence and contents" and insert:"provided a copy"
- 13 Page 3, line 16, after "pain." insert:  
"The declaration may provide that the declarant does not want nutrition or hydration administered intravenously or by gastric tube."
- 4 Page 3, line 18, delete "probable" and insert "possible"
- 11 Page 3, line 29, after "facility" insert:"shall take all reasonable steps to notify the patient or, if the patient is not able to make treatment decisions, the patient's guardian, of the facility's policy and"
- 11 Page 4, line 1, after "patient" insert:"to the patient's home or"
- 11 Page 4, line 1, delete "in which" and insert:"where"
- 15 Page 4, line 20, after "AS 18.12.050" insert:"has no right to compensation for medical services provided to a qualified patient after withdrawal should have been effective or after transfer should have occurred and"
- 13 Page 6, line 14, after "process;" through line 15, delete all material.
- 10 Page 6, line 27, after "of" insert: "two physicians who have personally examined the patient, one of whom must be"
- 17 Page 6, line 27, after "physicians" insert: ",when available,"

*passed out  
4/29/86*

Original sponsors: Eliason, Ziegler,  
V. Fischer, et al

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 140 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of the terminally ill;  
7 and providing for an effective date."

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

9 \* Section 1. AS 18 is amended by adding a new chapter to read:

10 CHAPTER 12. RIGHTS OF TERMINALLY ILL.

11 Sec. 18.12.010. DECLARATION RELATING TO USE OF LIFE-SUSTAINING  
12 PROCEDURES. (a) A competent person who is at least 18 years old may  
13 execute a declaration at any time directing that life-sustaining  
14 procedures be withheld or withdrawn from that person; but the declara-  
15 tion is given operative effect only if the declarant's condition is  
16 determined to be terminal and the declarant is not able to make treat-  
17 ment decisions. The declarant shall subscribe to the declaration in  
18 the presence of a judge or magistrate. The judge or magistrate shall  
19 inquire on the record whether the declarant understands the importance  
20 and effect of the declaration. A judicial officer may not charge a  
21 fee for witnessing a declaration. A person may not charge a fee for  
22 preparing a declaration.

23 (b) It is the responsibility of the declarant to notify the  
24 declarant's physician of the declaration. A physician or other health  
25 care provider who is provided a copy of the declaration shall make it  
26 a part of the declarant's medical records.

27 (c) A declaration may, but need not, be in the following form:

28 DECLARATION

29 If I should have an incurable or irreversible condition that will

1 cause my death within a relatively short time, it is my desire that my  
2 life not be prolonged by administration of life-sustaining procedures.  
3 If my condition is terminal and I am unable to participate in de-  
4 cisions regarding my medical treatment, I direct my attending phy-  
5 sician to withhold or withdraw procedures that merely prolong the  
6 dying process and are not necessary to my comfort or to alleviate  
7 pain.

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

9 Signature \_\_\_\_\_

10 Place \_\_\_\_\_

11 Subscribed and sworn to or affirmed before me

12 at \_\_\_\_\_ on \_\_\_\_\_.

13 (Date)

14 \_\_\_\_\_  
15 Signature of Officer

16 \_\_\_\_\_  
17 Title of Officer

18 (d) A physician or health care provider may presume, in the  
19 absence of actual notice to the contrary, that the declaration com-  
20 plies with this chapter and is valid.

21 Sec. 18.12.020. REVOCATION OF DECLARATION. (a) A declaration  
22 may be revoked at any time and in any manner by which the declarant is  
23 able to communicate an intent to revoke, without regard to mental or  
24 physical condition. A revocation is only effective as to the attend-  
25 ing physician or any health care provider acting under the guidance of  
26 that physician upon communication to the physician or health care  
27 provider by the declarant or by another to whom the revocation was  
28 communicated.

29 (b) The attending physician or health care provider shall make

1 the revocation a part of the declarant's medical record.

2 Sec. 18.12.030. RECORDING DETERMINATION OF TERMINAL CONDITION  
3 AND CONTENTS OF DECLARATION. When an attending physician who has been  
4 notified of the existence and contents of a declaration determines  
5 that the declarant is in a terminal condition, the physician shall  
6 record that determination and the contents of the declaration in the  
7 declarant's medical record.

8 Sec. 18.12.040. TREATMENT OF QUALIFIED PATIENTS. (a) A qual-  
9 ified patient has the right to make decisions regarding use of life-  
10 sustaining procedures as long as the patient is able to do so. If a  
11 qualified patient is not able to make these decisions, the declaration  
12 governs decisions regarding use of life-sustaining procedures.

13 (b) This chapter does not prohibit the application of any med-  
14 ical procedure or intervention, including the provision of nutrition  
15 and hydration, considered necessary to provide comfort care or alle-  
16 viation of pain.

17 (c) The declaration of a qualified patient known to the attend-  
18 ing physician to be pregnant has no effect as long as it is probable  
19 that the fetus could develop to the point of live birth with continued  
20 application of life-sustaining procedures.

21 Sec. 18.12.050. TRANSFER OF PATIENTS. (a) An attending physi-  
22 cian who is unwilling to comply with the requirements of AS 18.12.030  
23 or who is unwilling to comply with the declaration of a qualified  
24 patient under AS 18.12.040 shall withdraw as attending physician but  
25 the withdrawal is effective only when the services of another attend-  
26 ing physician have been obtained.

27 (b) If the policies of a health care facility preclude compli-  
28 ance with the declaration of a qualified patient under this chapter,  
29 that facility shall take all reasonable steps to effect the transfer

1 of the patient to a facility in which the provisions of this chapter  
2 can be carried out.

3 Sec. 18.12.060. IMMUNITIES. (a) In the absence of actual  
4 notice of the revocation of a declaration, the following, while acting  
5 in accordance with the requirements of this chapter, are not subject  
6 to civil or criminal liability or guilty of unprofessional conduct:

7 (1) a physician who causes the withholding or withdrawal of  
8 life-sustaining procedures from a qualified patient;

9 (2) a person who participates in the withholding or with-  
10 drawal of life-sustaining procedures under the direction or with the  
11 authorization of a physician;

12 (3) the health care facility in which the withholding or  
13 withdrawal occurs.

14 (b) A physician, a health care professional, or a health care  
15 facility is not subject to civil or criminal liability for actions  
16 under this chapter that are in accord with reasonable medical stan-  
17 dards.

18 Sec. 18.12.070. PENALTIES. (a) An attending physician who  
19 fails to comply with the declaration of a qualified patient or to make  
20 the necessary arrangements to effect a transfer under AS 18.12.050 may  
21 be civilly liable to the qualified patient and to the heirs of the  
22 qualified patient.

23 (b) A person who wilfully conceals, cancels, defaces, obliter-  
24 ates, or damages the declaration of another without the declarant's  
25 consent or who falsifies or forges a revocation of the declaration of  
26 another may be civilly liable to the qualified patient and to the  
27 heirs of the qualified patient.

28 Sec. 18.12.080. GENERAL PROVISIONS. (a) Death resulting from  
29 the withholding or withdrawal of life-sustaining procedures under a

1 declaration and in accordance with this chapter does not, for any  
2 purpose, constitute a suicide or homicide.

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

10 (c) A physician, health care facility, or other health care  
11 provider, and a health care service plan, insurer issuing disability  
12 insurance, self-insured employee welfare benefit plan, or nonprofit  
13 hospital plan, may not require a person to execute a declaration as a  
14 condition for being insured for, or receiving, health care services.

15 (d) This chapter creates no presumption concerning the intention  
16 of an individual who has not executed a declaration with respect to  
17 the use, withholding, or withdrawal of life-sustaining procedures in  
18 the event of a terminal condition.

19 (e) Nothing in this chapter increases or decreases the right of  
20 a patient to make decisions regarding use of life-sustaining proce-  
21 dures as long as the patient is able to do so, or impairs or super-  
22 cedes any right or responsibility that a person has to effect the  
23 withholding or withdrawal of medical care in a lawful manner. In that  
24 respect, the provisions of this chapter are cumulative.

25 (f) This chapter does not condone, authorize, or approve mercy  
26 killing or euthanasia.

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28 STATES. A declaration executed in another state or a territory or  
29 possession of the United States in compliance with the law of that

1 jurisdiction is effective for purposes of this chapter.

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3 (1) "attending physician" means the physician selected by,  
4 or assigned to, the patient who has primary responsibility for the  
5 treatment and care of the patient;

6 (2) "declaration" means a document executed in accordance  
7 with the requirements of AS 18.12.010;

8 (3) "health care provider" means a person who is licensed,  
9 certified, or otherwise authorized by the law of this state to admin-  
10 ister health care in the ordinary course of business or practice of a  
11 profession;

12 (4) "life-sustaining procedure" means a medical procedure  
13 or intervention that, when administered to a qualified patient, will  
14 serve only to prolong the dying process; "life-sustaining procedure"  
15 does not include nutrition or hydration;

16 (5) "physician" means a person licensed to practice medi-  
17 cine in this state or an officer in the regular medical service of the  
18 armed services of the United States or the United States Public Health  
19 Service while in the discharge of their official duties, or while  
20 volunteering services without pay or other remuneration to a hospital,  
21 clinic, medical office, or other medical facility in the state;

22 (6) "qualified patient" means a patient who has executed a  
23 declaration in accordance with this chapter and who has been deter-  
24 mined by the attending physician to be in a terminal condition;

25 (7) "terminal condition" means a progressive incurable or  
26 irreversible condition that, without the administration of life-sus-  
27 taining procedures, will, in the opinion of the attending physician,  
28 result in death within a relatively short time.

29 \* Sec. 2. This Act takes effect immediately in accordance with  
HCS CSSB 140(Jud)

AS 01.10.070(c).

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Original sponsors: Eliason, Ziegler,  
V.Fischer, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 140 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of the terminally ill;  
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15 tion is given operative effect only if the declarant's condition is  
16 determined to be terminal and the declarant is not able to make treat-  
17 ment decisions. The declaration shall be signed by the declarant, or  
18 another at the declarant's direction, and in either case shall be  
19 witnessed by two persons or signed in the presence of a notary public.  
20 Any person generally competent to be a witness or a notary public may  
21 act as a witness to the declaration except a person or notary public  
22 who is

23 (1) related to the declarant by blood or marriage;

24 (2) entitled to a portion of the estate of the declarant  
25 under a will of the declarant or a codicil to the will then existing  
26 or, at the time of the declaration, by operation of law then existing;

27 (3) a claimant against a portion of the estate of the  
28 declarant at the time of the declarant's death at the time of the  
29 execution of the declaration;

1 (4) directly financially responsible for the declarant's  
2 medical care;

3 (5) an employee of a health care facility providing  
4 services to the declarant at the time of execution of the declaration.

5 (b) It is the responsibility of the declarant to notify the  
6 declarant's physician of the declaration. A physician or other health  
7 care provider who is provided a copy of the declaration shall make it  
8 a part of the declarant's medical records.

9 (c) A declaration may, but need not, be in the following form:

10 DECLARATION

11 If I should have an incurable or irreversible condition that will  
12 cause my death within a relatively short time, it is my desire that my  
13 life not be prolonged by administration of life-sustaining procedures.  
14 If my condition is terminal and I am unable to participate in de-  
15 cisions regarding my medical treatment, I direct my attending phy-  
16 sician to withhold or withdraw procedures that merely prolong the  
17 dying process and are not necessary to my comfort or to alleviate  
18 pain.

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

20 Signature \_\_\_\_\_

21 City, Borough and State of Residence \_\_\_\_\_

22 The declarant is known to me and voluntarily signed this document  
23 in my presence.

24 Witness \_\_\_\_\_

25 Address \_\_\_\_\_

26 Witness \_\_\_\_\_

27 Address \_\_\_\_\_

28 (d) A physician or health care provider may presume, in the  
29 absence of actual notice to the contrary, that the declaration

1 complies with this chapter and is valid.

2 Sec. 18.12.020. REVOCATION OF DECLARATION. (a) A declaration  
3 may be revoked at any time and in any manner by which the declarant is  
4 able to communicate an intent to revoke, without regard to mental or  
5 physical condition. A revocation is only effective as to the attend-  
6 ing physician or any health care provider acting under the guidance of  
7 that physician upon communication to the physician or health care  
8 provider by the declarant or by another to whom the revocation was  
9 communicated.

10 (b) The attending physician or health care provider shall make  
11 the revocation a part of the declarant's medical record.

12 Sec. 18.12.030. RECORDING DETERMINATION OF TERMINAL CONDITION  
13 AND CONTENTS OF DECLARATION. When an attending physician who has been  
14 notified of the existence and contents of a declaration determines  
15 that the declarant is in a terminal condition, the physician shall  
16 record that determination and the contents of the declaration in the  
17 declarant's medical record.

18 Sec. 18.12.040. TREATMENT OF QUALIFIED PATIENTS. (a) A qual-  
19 ified patient has the right to make decisions regarding use of life-  
20 sustaining procedures as long as the patient is able to do so. If a  
21 qualified patient is not able to make these decisions, the declaration  
22 governs decisions regarding use of life-sustaining procedures.

23 (b) This chapter does not prohibit the application of any med-  
24 ical procedure or intervention, including the provision of nutrition  
25 and hydration, considered necessary to provide comfort care or alle-  
26 viation of pain.

27 (c) The declaration of a qualified patient known to the attend-  
28 ing physician to be pregnant has no effect.

29 Sec. 18.12.050. TRANSFER OF PATIENTS. (a) An attending

1 physician who is unwilling to comply with the requirements of  
2 AS 18.12.030 or who is unwilling to comply with the declaration of a  
3 qualified patient under AS 18.12.040 shall withdraw as attending  
4 physician but the withdrawal is effective only when the services of  
5 another attending physician have been obtained.

6 (b) If the policies of a health care facility preclude compli-  
7 ance with the declaration of a qualified patient under this chapter,  
8 that facility shall take all reasonable steps to effect the transfer  
9 of the patient to a facility in which the provisions of this chapter  
10 can be carried out.

11 Sec. 18.12.060. IMMUNITIES. (a) In the absence of actual  
12 notice of the revocation of a declaration, the following, while acting  
13 in accordance with the requirements of this chapter, are not subject  
14 to civil or criminal liability or guilty of unprofessional conduct:

15 (1) a physician who causes the withholding or withdrawal of  
16 life-sustaining procedures from a qualified patient;

17 (2) a person who participates in the withholding or with-  
18 drawal of life-sustaining procedures under the direction or with the  
19 authorization of a physician;

20 (3) the health care facility in which the withholding or  
21 withdrawal occurs.

22 (b) A physician, a health care professional, or a health care  
23 facility is not subject to civil or criminal liability for actions  
24 under this chapter that are in accord with reasonable medical stan-  
25 dards.

26 Sec. 18.12.070. PENALTIES. (a) An attending physician who  
27 fails to comply with the declaration of a qualified patient or to make  
28 the necessary arrangements to effect a transfer under AS 18.12.050 may  
29 be civilly liable to the qualified patient and to the heirs of the

1 qualified patient.

2 (b) A person who wilfully conceals, cancels, defaces, obliter-  
3 ates, or damages the declaration of another without the declarant's  
4 consent or who falsifies or forges a revocation of the declaration of  
5 another may be civilly liable to the qualified patient and to the  
6 heirs of the qualified patient.

7 Sec. 18.12.080. GENERAL PROVISIONS. (a) Death resulting from  
8 the withholding or withdrawal of life-sustaining procedures under a  
9 declaration and in accordance with this chapter does not, for any  
10 purpose, constitute a suicide or homicide.

11 (b) The making of a declaration under AS 18.12.010 does not  
12 affect in any manner the sale, procurement, or issuance of a policy of  
13 life insurance, nor does it modify the terms of an existing policy of  
14 life insurance. A policy of life insurance is not legally impaired or  
15 invalidated in any manner by the withholding or withdrawal of life-  
16 sustaining procedures from an insured qualified patient, notwithstand-  
17 ing any term of the policy to the contrary.

18 (c) A physician, health care facility, or other health care  
19 provider, and a health care service plan, insurer issuing disability  
20 insurance, self-insured employee welfare benefit plan, or nonprofit  
21 hospital plan, may not require a person to execute a declaration as a  
22 condition for being insured for, or receiving, health care services.

23 (d) This chapter creates no presumption concerning the intention  
24 of an individual who has not executed a declaration with respect to  
25 the use, withholding, or withdrawal of life-sustaining procedures in  
26 the event of a terminal condition.

27 (e) Nothing in this chapter increases or decreases the right of  
28 a patient to make decisions regarding use of life-sustaining proce-  
29 dures as long as the patient is able to do so, or impairs or

1 supercedes any right or responsibility that a person has to effect the  
2 withholding or withdrawal of medical care in a lawful manner. In that  
3 respect, the provisions of this chapter are cumulative.

4 (f) This chapter does not condone, authorize, or approve mercy  
5 killing or euthanasia.

6 Sec. 18.12.090. RECOGNITION OF DECLARATIONS EXECUTED IN OTHER  
7 STATES. A declaration executed in another state or a territory or  
8 possession of the United States is effective for purposes of this  
9 chapter if the declaration was executed in manner consistent with  
10 AS 18.12.010.

11 Sec. 18.12.100. DEFINITIONS. In this chapter

12 (1) "attending physician" means the physician selected by,  
13 or assigned to, the patient who has primary responsibility for the  
14 treatment and care of the patient;

15 (2) "declaration" means a document executed in accordance  
16 with the requirements of AS 18.12.010;

17 (3) "health care provider" means a person who is licensed,  
18 certified, or otherwise authorized by the law of this state to admin-  
19 ister health care in the ordinary course of business or practice of a  
20 profession;

21 (4) "life-sustaining procedure" means a medical procedure  
22 or intervention that, when administered to a qualified patient, will  
23 serve only to prolong the dying process; "life-sustaining procedure"  
24 does not include nutrition or hydration;

25 (5) "physician" means a person licensed to practice medi-  
26 cine in this state or an officer in the regular medical service of the  
27 armed services of the United States or the United States Public Health  
28 Service while in the discharge of their official duties, or while  
29 volunteering services without pay or other remuneration to a hospital,

1 clinic, medical office, or other medical facility in the state;

2 (6) "qualified patient" means a patient who has executed a  
3 declaration in accordance with this chapter and who has been deter-  
4 mined by the attending physician to be in a terminal condition;

5 (7) "terminal condition" means a progressive incurable or  
6 irreversible condition that, without the administration of life-sus-  
7 taining procedures, will, in the opinion of the attending physician,  
8 result in death within a relatively short time.

9 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

*passed at 5/10/85*

Original sponsors: Eliason, Ziegler,  
V.Fischer, et al

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IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 140 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the rights of the terminally ill;  
and providing for an effective date."

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

\* Section 1. AS 18 is amended by adding a new chapter to read:

CHAPTER 12. RIGHTS OF TERMINALLY ILL.

Sec. 18.12.010. DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES. (a) A competent person who is at least 18 years old may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn from that person; but the declaration is given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions. The declaration shall be signed by the declarant, or another at the declarant's direction, and in either case shall be witnessed by two persons. Any person generally competent to be a witness may act as a witness to the declaration. A physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

(b) It is the responsibility of the declarant to notify the declarant's physician of the declaration. A physician or other health care provider who is provided a copy of the declaration shall make it a part of the declarant's medical records.

(c) A declaration may, but need not, be in the following form:

DECLARATION

1  
2 If I should have an incurable or irreversible condition that will  
3 cause my death within a relatively short time, it is my desire that my  
4 life not be prolonged by administration of life-sustaining procedures.  
5 If my condition is terminal and I am unable to participate in de-  
6 cisions regarding my medical treatment, I direct my attending phy-  
7 sician to withhold or withdraw procedures that merely prolong the  
8 dying process and are not necessary to my comfort or to alleviate  
9 pain.

10 I [ ] do [ ] do not desire that nutrition or hydration be  
11 provided by gastric tube or intravenously if necessary.

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

13 Signature \_\_\_\_\_

14 City, Borough and State of Residence \_\_\_\_\_

15 The declarant is known to me and voluntarily signed this document  
16 in my presence.

17 Witness \_\_\_\_\_

18 Address \_\_\_\_\_

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

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

21 Sec. 18.12.020. REVOCATION OF DECLARATION. (a) A declaration  
22 may be revoked at any time and in any manner by which the declarant is  
23 able to communicate an intent to revoke, without regard to mental or  
24 physical condition. A revocation is only effective as to the attend-  
25 ing physician or any health care provider acting under the guidance of  
26 that physician upon communication to the physician or health care  
27 provider by the declarant or by another to whom the revocation was  
28 communicated.

29 (b) The attending physician or health care provider shall make  
the revocation a part of the declarant's medical record.

1           Sec. 18.12.030. RECORDING DETERMINATION OF TERMINAL CONDITION  
2 AND CONTENTS OF DECLARATION. When an attending physician who has been  
3 notified of the existence and contents of a declaration determines  
4 that the declarant is in a terminal condition, the physician shall  
5 record that determination and the contents of the declaration in the  
6 declarant's medical record.

7           Sec. 18.12.040. TREATMENT OF QUALIFIED PATIENTS. (a) A qual-  
8 ified patient has the right to make decisions regarding use of life-  
9 sustaining procedures as long as the patient is able to do so. If a  
10 qualified patient is not able to make these decisions, the declaration  
11 governs decisions regarding use of life-sustaining procedures.

12           (b) This chapter does not prohibit the application of any med-  
13 ical procedure or intervention, including the provision of nutrition  
14 and hydration, considered necessary to provide comfort care or alle-  
15 viation of pain. The declaration may provide that the declarant does  
16 not want nutrition or hydration administered intravenously or by  
17 gastric tube.

18           Sec. 18.12.050. TRANSFER OF PATIENTS. (a) An attending phys-  
19 cian who is unwilling to comply with the requirements of AS 18.12.030  
20 or who is unwilling to comply with the declaration of a qualified  
21 patient under AS 18.12.040 shall withdraw as attending physician but  
22 the withdrawal is effective only when the services of another attend-  
23 ing physician have been obtained.

24           (b) If the policies of a health care facility preclude  
25 compliance with the declaration of a qualified patient under this  
26 chapter, that facility shall take all reasonable steps to effect the  
27 transfer of the patient to a facility in which the provisions of this  
28 chapter can be carried out.

29           Sec. 18.12.060. IMMUNITIES. (a) In the absence of actual

1 notice of the revocation of a declaration, the following, while acting  
2 in accordance with the requirements of this chapter, are not subject  
3 to civil or criminal liability or guilty of unprofessional conduct:

4 (1) a physician who causes the withholding or withdrawal of  
5 life-sustaining procedures from a qualified patient;

6 (2) a person who participates in the withholding or with-  
7 drawal of life-sustaining procedures under the direction or with the  
8 authorization of a physician;

9 (3) the health care facility in which the withholding or  
10 withdrawal occurs.

11 (b) A physician, a health care professional, or a health care  
12 facility is not subject to civil or criminal liability for actions  
13 under this chapter that are in accord with reasonable medical stan-  
14 dards.

15 Sec. 18.12.070. PENALTIES. (a) An attending physician who  
16 fails to comply with the declaration of a qualified patient or to make  
17 the necessary arrangements to effect a transfer under AS 18.12.050 may  
18 be civilly liable to the qualified patient and to the heirs of the  
19 qualified patient.

20 (b) A person who wilfully conceals, cancels, defaces, obliter-  
21 ates, or damages the declaration of another without the declarant's  
22 consent or who falsifies or forges a revocation of the declaration of  
23 another may be civilly liable to the qualified patient and to the  
24 heirs of the qualified patient.

25 Sec. 18.12.080. GENERAL PROVISIONS. (a) Death resulting from  
26 the withholding or withdrawal of life-sustaining procedures under a  
27 declaration and in accordance with this chapter does not, for any  
28 purpose, constitute a suicide or homicide.

29 (b) The making of a declaration under AS 18.12.010 does not

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affect in any manner the sale, procurement, or issuance of a policy of  
life insurance, nor does it modify the terms of an existing policy of  
life insurance. A policy of life insurance is not legally impaired or  
invalidated in any manner by the withholding or withdrawal of life-  
sustaining procedures from an insured qualified patient, notwithstand-  
ing any term of the policy to the contrary.

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(c) A physician, health care facility, or other health care  
provider, and a health care service plan, insurer issuing disability  
insurance, self-insured employee welfare benefit plan, or nonprofit  
hospital plan, may not require a person to execute a declaration as a  
condition for being insured for, or receiving, health care services.

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(d) This chapter creates no presumption concerning the intention  
of an individual who has not executed a declaration with respect to  
the use, withholding, or withdrawal of life-sustaining procedures in  
the event of a terminal condition.

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(e) Nothing in this chapter increases or decreases the right of  
a patient to make decisions regarding use of life-sustaining proce-  
dures as long as the patient is able to do so, or impairs or super-  
cedes any right or responsibility that a person has to effect the  
withholding or withdrawal of medical care in a lawful manner. In that  
respect, the provisions of this chapter are cumulative.

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(f) This chapter does not condone, authorize, or approve mercy  
killing or euthanasia.

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Sec. 18.12.090. RECOGNITION OF DECLARATIONS EXECUTED IN OTHER  
STATES. A declaration executed in another state or a territory or  
possession of the United States in compliance with the law of that  
jurisdiction is effective for purposes of this chapter.

29  
Sec. 18.12.100. DEFINITIONS. In this chapter

(1) "attending physician" means the physician selected by,

1 or assigned to, the patient who has primary responsibility for the  
2 treatment and care of the patient;

3 (2) "declaration" means a document executed in accordance  
4 with the requirements of AS 18.12.010;

5 (3) "health care provider" means a person who is licensed,  
6 certified, or otherwise authorized by the law of this state to admin-  
7 ister health care in the ordinary course of business or practice of a  
8 profession;

9 (4) "life-sustaining procedure" means a medical procedure  
10 or intervention that, when administered to a qualified patient, will  
11 serve only to prolong the dying process;

12 (5) "physician" means a person licensed to practice medi-  
13 cine in this state or an officer in the regular medical service of the  
14 armed services of the United States or the United States Public Health  
15 Service while in the discharge of their official duties, or while  
16 volunteering services without pay or other remuneration to a hospital,  
17 clinic, medical office, or other medical facility in the state;

18 (6) "qualified patient" means a patient who has executed a  
19 declaration in accordance with this chapter and who has been deter-  
20 mined by the attending physician to be in a terminal condition;

21 (7) "terminal condition" means a progressive incurable or  
22 irreversible condition that, without the administration of life-sus-  
23 taining procedures, will, in the opinion of the attending physician,  
24 result in death within a relatively short time.

25 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).  
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Original sponsors: Clocksin, Goll  
and Marrou

*Clocksin*

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. <sup>140</sup>~~269~~ (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the rights of the terminally ill;  
and providing for an effective date."

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

\* Section 1. AS 18 is amended by adding a new chapter to read:

CHAPTER 12. RIGHTS OF TERMINALLY ILL.

Sec. 18.12.010. DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES. (a) A competent person who is at least 18 years old may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn from that person; but the declaration is given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions. The declaration shall be signed by the declarant, or another at the declarant's direction, and in either case shall be witnessed by two persons. Any person generally competent to be a witness may act as a witness to the declaration. A physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

(b) It is the responsibility of the declarant to notify the declarant's physician of the declaration. A physician or other health care provider who is provided a copy of the declaration shall make it a part of the declarant's medical records.

(c) A declaration may, but need not, be in the following form:

DECLARATION

1  
2 If I should have an incurable or irreversible condition that will  
3 cause my death within a relatively short time, it is my desire that my  
4 life not be prolonged by administration of life-sustaining procedures.  
5 If my condition is terminal and I am unable to participate in de-  
6 cisions regarding my medical treatment, I direct my attending phy-  
7 sician to withhold or withdraw procedures that merely prolong the  
8 dying process and are not necessary to my comfort or to alleviate  
9 pain.

10 I [ ] do [ ] do not desire that nutrition or hydration be  
11 provided by gastric tube or intravenously if necessary.

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

13 Signature \_\_\_\_\_

14 City, Borough and State of Residence \_\_\_\_\_

15 The declarant is known to me and voluntarily signed this document  
16 in my presence.

17 Witness \_\_\_\_\_

18 Address \_\_\_\_\_

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

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

21 Sec. 18.12.020. REVOCATION OF DECLARATION. (a) A declaration  
22 may be revoked at any time and in any manner by which the declarant is  
23 able to communicate an intent to revoke, without regard to mental or  
24 physical condition. A revocation is only effective as to the attend-  
25 ing physician or any health care provider acting under the guidance of  
26 that physician upon communication to the physician or health care  
27 provider by the declarant or by another to whom the revocation was  
28 communicated.

29 (b) The attending physician or health care provider shall make  
the revocation a part of the declarant's medical record.

1           Sec. 18.12.030. RECORDING DETERMINATION OF TERMINAL CONDITION  
2 AND CONTENTS OF DECLARATION. When an attending physician who has been  
3 notified of the existence and contents of a declaration determines  
4 that the declarant is in a terminal condition, the physician shall  
5 record that determination and the contents of the declaration in the  
6 declarant's medical record.

7           Sec. 18.12.040. TREATMENT OF QUALIFIED PATIENTS. (a) A qual-  
8 ified patient has the right to make decisions regarding use of life-  
9 sustaining procedures as long as the patient is able to do so. If a  
10 qualified patient is not able to make these decisions, the declaration  
11 governs decisions regarding use of life-sustaining procedures.

12           (b) This chapter does not prohibit the application of any med-  
13 ical procedure or intervention, including the provision of nutrition  
14 and hydration, considered necessary to provide comfort care or alle-  
15 viation of pain. The declaration may provide that the declarant does  
16 not want nutrition or hydration administered intravenously or by  
17 gastric tube.

18           (c) Unless the declaration provides otherwise, the declaration  
19 of a qualified patient known to the attending physician to be pregnant  
20 is given no effect as long as it is probable that the fetus could  
21 develop to the point of live birth with continued application of  
22 life-sustaining procedures.

23           Sec. 18.12.050. TRANSFER OF PATIENTS. (a) An attending physi-  
24 cian who is unwilling to comply with the requirements of AS 18.12.030  
25 or who is unwilling to comply with the declaration of a qualified  
26 patient under AS 18.12.040 shall withdraw as attending physician but  
27 the withdrawal is effective only when the services of another attend-  
28 ing physician have been obtained.

29           (b) If the policies of a health care facility preclude

1 compliance with the declaration of a qualified patient under this  
2 chapter, that facility shall take all reasonable steps to effect the  
3 transfer of the patient to a facility in which the provisions of this  
4 chapter can be carried out.

5 Sec. 18.12.060. IMMUNITIES. (a) In the absence of actual  
6 notice of the revocation of a declaration, the following, while acting  
7 in accordance with the requirements of this chapter, are not subject  
8 to civil or criminal liability or guilty of unprofessional conduct:

9 (1) a physician who causes the withholding or withdrawal of  
10 life-sustaining procedures from a qualified patient;

11 (2) a person who participates in the withholding or with-  
12 drawal of life-sustaining procedures under the direction or with the  
13 authorization of a physician;

14 (3) the health care facility in which the withholding or  
15 withdrawal occurs.

16 (b) A physician, a health care professional, or a health care  
17 facility is not subject to civil or criminal liability for actions  
18 under this chapter that are in accord with reasonable medical stan-  
19 dards.

20 Sec. 18.12.070. PENALTIES. (a) An attending physician who  
21 fails to comply with the declaration of a qualified patient or to make  
22 the necessary arrangements to effect a transfer under AS 18.12.050 may  
23 be civilly liable to the qualified patient and to the heirs of the  
24 qualified patient.

25 (b) A person who wilfully conceals, cancels, defaces, obliter-  
26 ates, or damages the declaration of another without the declarant's  
27 consent or who falsifies or forges a revocation of the declaration of  
28 another may be civilly liable to the qualified patient and to the  
29 heirs of the qualified patient.

1           Sec. 18.12.080. GENERAL PROVISIONS. (a) Death resulting from  
2 the withholding or withdrawal of life-sustaining procedures under a  
3 declaration and in accordance with this chapter does not, for any  
4 purpose, constitute a suicide or homicide.

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

12           (c) A physician, health care facility, or other health care  
13 provider, and a health care service plan, insurer issuing disability  
14 insurance, self-insured employee welfare benefit plan, or nonprofit  
15 hospital plan, may not require a person to execute a declaration as a  
16 condition for being insured for, or receiving, health care services.

17           (d) This chapter creates no presumption concerning the intention  
18 of an individual who has not executed a declaration with respect to  
19 the use, withholding, or withdrawal of life-sustaining procedures in  
20 the event of a terminal condition.

21           (e) Nothing in this chapter increases or decreases the right of  
22 a patient to make decisions regarding use of life-sustaining proce-  
23 dures as long as the patient is able to do so, or impairs or super-  
24 cedes any right or responsibility that a person has to effect the  
25 withholding or withdrawal of medical care in a lawful manner. In that  
26 respect, the provisions of this chapter are cumulative.

27           (f) This chapter does not condone, authorize, or approve mercy  
28 killing or euthanasia.

29           Sec. 18.12.090. RECOGNITION OF DECLARATIONS EXECUTED IN OTHER

1 STATES. A declaration executed in another state or a territory or  
2 possession of the United States in compliance with the law of that  
3 jurisdiction is effective for purposes of this chapter.

4 Sec. 18.12.100. DEFINITIONS. In this chapter

5 (1) "attending physician" means the physician selected by,  
6 or assigned to, the patient who has primary responsibility for the  
7 treatment and care of the patient;

8 (2) "declaration" means a document executed in accordance  
9 with the requirements of AS 18.12.010;

10 (3) "health care provider" means a person who is licensed,  
11 certified, or otherwise authorized by the law of this state to admin-  
12 ister health care in the ordinary course of business or practice of a  
13 profession;

14 (4) "life-sustaining procedure" means a medical procedure  
15 or intervention that, when administered to a qualified patient, will  
16 serve only to prolong dying, including the administration of nutrition  
17 or hydration intravenously or by gastric tube, antibiotics, drug  
18 therapy for cancer, oxygen, mechanical ventilation, cardiac monitor-  
19 ing, pacing and resuscitation, heart sustaining medication, renal  
20 dialysis, and surgery; nutrition or hydration intravenously or by  
21 gastric tube may be used if allowed under the declaration as provided  
22 in AS 18.12.010(c);

23 (5) "physician" means a person licensed to practice medi-  
24 cine in this state or an officer in the regular medical service of the  
25 armed services of the United States or the United States Public Health  
26 Service while in the discharge of their official duties, or while  
27 volunteering services without pay or other remuneration to a hospital,  
28 clinic, medical office, or other medical facility in the state;

29 (6) "qualified patient" means a patient who has executed a

1 declaration in accordance with this chapter and who has been deter-  
2 mined by the attending physician to be in a terminal condition;

3 (7) "terminal condition" means a progressive incurable or  
4 irreversible condition that, without the administration of life-sus-  
5 taining procedures, will, in the opinion of the attending physician,  
6 result in death within a relatively short time.

7 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).  
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The Honorable M. Nick Miller  
Pouch T  
Juneau, Ak 99801

April 15, 1985

APR 25 1985

Dear Sir,  
House Bill #269, The Rights  
of the Terminally Ill is presently  
before your committee.

I am concerned about  
several aspects of this bill.  
1) If we legislate a "right" for  
'competent persons 18 years old',  
what happens to the 'rights'  
of the minor child, the emotionally  
or mentally ill adult, or the  
mentally retarded adult? In the  
opinion of many people, a right  
should not have to be claimed  
by signing a declaration, but  
instead should be available  
to all persons whenever needed.  
2) No definition has been given



to competent. This allows for subjective application of this law based on an interruption by the judiciary branch of government.

3) This bill does not require a declaration to be signed, thereby allowing for the status quo to exist. My physician informed me that the wishes of the family are honored without a signed declaration.

4) Senator Claiborne's office told me twice there is no real need for the legislation, its purpose is to provide comfort to those who wish to make a declaration.

5) The Society for the Right-to-Die, formerly the Euthanasia Society of America, supports this bill. Their goal is to get legislation on the books that can be changed 5, 10, or 20 years from now to allow for active euthanasia of the elderly, handicapped, mentally retarded & perhaps groups of people who think differently than they. That really disturbs me.

I would like to see the  
bill completely withdrawn.

If the Legislature feels a  
need to state "The Rights" of the  
terminally ill, may I suggest a  
State Bill of Rights in which the  
Right to die without life sus-  
taining systems can be a part.

Please make this letter  
a part of the permanent  
Record or provide copies for  
your Committee members.

Respectfully submitted,  
Betty Bengtson

9409 Patricia Pl.  
Juneau, AK 99801



COMMITTEE REPORT

HOUSE

FURTHER:

(7)

4/17/85

(Waived from HESS on 4/17)

Date: 5-10-85

*Superseded by committee report dated 1/30/86*

The Committee on JUDICIARY has had CSSB 140 (HESS) am

"An Act relating to the rights of the terminally ill; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for CS SB 140 (JUD)  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Max Gumbert*  
*Cheryl Taylor*  
*Dr. Cochran*

MEMBERS HAVING  
OTHER RECOMMENDATIONS

*Mr. Hill - NO REC*

*Mr. Hill*

CHAIRMAN

*Pettyjohn*

Utermohle

A M E N D M E N T

#5

Offered in the HOUSE

By Pettyjohn

TO: HCS CSSB 140(Jud)

Page 3, following line 17 insert:

"(c) The declaration of a qualified patient known to the attending physician to be pregnant has no effect."

A M E N D M E N T

#1

Offered in the HOUSE

By Martin

TO: CSSB 140 (HESS) am

Page 2, after line 17, insert a new subsection to read:

"(d) The declaration takes effect immediately and expires five years from the date of execution."

Page 4, lines 17 - 19:

Delete all material and reletter the following subsections.

Page 6, line 17, following "process", insert:

"but does not include

(A) the alleviation of pain by administering medication or by performing a medical procedure;

(B) the provision of nutrition and hydration;

(C) the provision of comfort care"

Berrier

A M E N D M E N T

#2

Offered in the HOUSE

By Marti

TO: CSSB 140(HESS) am

Page 3, lines 14 - 17, delete all material and insert:

"The declaration of a qualified patient known to the attending physician to be pregnant may not be given effect."

A M E N D M E N T

#1

Offered in the HOUSE

By Pettyjohn  
*Taylor*

TO: HCS CSSB 140(Jud)

Page 1, lines 17 - 20, delete all material after "decisions." and insert:

"The declarant shall subscribe to the declaration in the presence of a judge or magistrate. The judge or magistrate shall inquire on the record whether the declarant understands the importance and effect of the declaration. A judicial officer may not charge a fee for witnessing a declaration. A person may not charge a fee for preparing a declaration. A physician or"

Page 2, lines 14 - 19, delete all material and insert:

"Subscribed and sworn to or affirmed before me

at \_\_\_\_\_ on \_\_\_\_\_

(Date)

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Title of Officer"

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: RSR 140  
 Title: An Act Relating to the Rights of the Terminally Ill  
 Sponsor: Eliason, Ziegler, Fischer  
 Requestor: \_\_\_\_\_  
 Date of Request: 1/31/86

**FISCAL DETAIL**

Agency Affected: Alaska Court System  
 BRU: Trial Courts  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See attached narrative

Prepared by: Robert G. Fisher Phone: 264-8215  
 Division: Alaska Court System Date: 2/3/86

Approved by Commissioner: Arthur H. Snowden, II *A. H. Snowden, II*  
 Agency: Alaska Court System Date: 2/3/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Alaska Court System

House CS for CS for Senate Bill No. 140 (Judiciary)

Fiscal Impact

The act of witnessing declarations is not part of the case adjudication process, and therefore is beyond the scope of regular judicial duties. However, the proposed requirement that judicial officers witness these declarations and make inquiries of declarants on the record means that scheduling and filing systems must be developed. Thus, clerical as well as judicial resources would be impacted.

The number of declarants who would be coming before the court is unknown at this time. If this legislation is enacted, the court system will report to the legislature with additional fiscal information based upon the actual impact.

## STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : RSCSSB 140  
 Title : An Act Relating to the Rights of the Terminally Ill  
 Sponsor : Elison, Ziegler, Fischer  
 Requestor : \_\_\_\_\_  
 Date of Request : 1/31/86

**FISCAL DETAIL**

Agency Affected : Alaska Court System  
 BRU : Trial Courts  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See attached narrative

Prepared by : Robert G. Fisher Phone : 264-8215  
 Division : Alaska Court System Date : 2/3/86

Approved by Commissioner : Arthur H. Snowden, II *A. Epley*  
 Agency : Alaska Court System *dot* Date : 2/3/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSSB 140 (HESS)  
Title: Rights of terminally ill

Sponsor: Senate HESS  
Requestor: \_\_\_\_\_  
Date of Request: 3/20/85

FISCAL DETAIL

Agency Affected: Health & Social Services  
Program Category Affected: Public Health

BRU, Program or Subprogram(s) Affected: State Health Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert I. Fraser, M.J. <sup>RIF/DIJ</sup> Phone: 465-3090  
Division: Public Health Date: \_\_\_\_\_

Approved by Commissioner: Joe R. Pugh Date: 3/26/85 JCC  
Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget

Alaska Court System

House CS for CS for Senate Bill No. 140 (Judiciary)

Fiscal Impact

The act of witnessing declarations is not part of the case adjudication process, and therefore is beyond the scope of regular judicial duties. However, the proposed requirement that judicial officers witness these declarations and make inquiries of declarants on the record means that scheduling and filing systems must be developed. Thus, clerical as well as judicial resources would be impacted.

The number of declarants who would be coming before the court is unknown at this time. If this legislation is enacted, the court system will report to the legislature with additional fiscal information based upon the actual impact.

POSITION PAPER

CS FOR SENATE BILL NO. 140 (HESS)

For "An Act relating to the rights of the terminally ill."

The right of a competent individual to decide whether life-sustaining procedures should be used in the face of a terminal illness or injury has received increasing attention in recent years as medical technology has advanced and individual cases have received media attention.

This bill provides a process through which a competent adult can participate in decisions regarding his or her care when afflicted with a terminal condition. "Terminal condition" is an incurable or irreversible condition that, without the administration of life-sustaining procedures, will result in death in a relatively short time. The bill permits a competent adult to execute a declaration directing the withholding or withdrawal of life-sustaining measures. The declaration comes into effect only (1) if a terminal condition is determined to exist and (2) if the affected person is incapable at that time of making treatment decisions.

According to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, 13 states and the District of Columbia have adopted so-called natural death legislation. The proposed legislation appears to be generally similar to the major provisions in other states.

The Department of Health and Social Services supports intent of this bill. It is assumed the Department of Law is reviewing it for adequacy of legal safeguards for declarants and for health care providers.

Recommended by: Robert I. Fraser For  
Robert I. Fraser, M.D.  
Director  
Division of Public Health

Date: 3/26/85

Approved by: John R. Pugh  
John R. Pugh  
Commissioner  
Department of Health &  
Social Services

Date: 3/26/85



APR 1 1985

ALASKA STATE LEGISLATIVE COMMITTEE

CHAIRMAN  
Mrs. Jane Windsor  
319 E Bentley Drive  
Fairbanks, AK 99701  
(907) 456-6035

VICE CHAIRMAN  
Mr. John E. Dapceovich  
Box 1081  
Sitka, AK 99835  
(907) 747-8383

SECRETARY  
Ms. Lee McAnerney  
P.O. Box 406  
Seward, AK 99664  
(907) 224-3080

March 27, 1985

Chairman M. Mike Miller  
House Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Miller:

RE: HB 269

At its meeting in Juneau March 7-8, 1985, the AARP State Legislative Committee voted to endorse the living will legislation, HB 269.

On behalf of our 16,000 members in Alaska, we urge passage of HB 269 this session. We feel it is important that this legislation become part of Alaska's statutes to clarify living will requests and to provide appropriate legal authority for doctors, medical care providers, family members, and the individuals who choose to use a living will.

We would point out that the legislation itself does not require financial support from the state; it basically places in statute appropriate recognition of living wills for those who choose to have them. Where living wills are used, the savings in medical costs can be a significant amount to insurance providers, medical care providers and individuals, as well as to the State of Alaska.

We urge your support of and passage of HB 269 this session.

Sincerely yours,

A handwritten signature in cursive script that reads "Jane Windsor".

Mrs. Jane Windsor, Chairman



# OLDER PERSONS ACTION GROUP, Inc.

(907) 276-1059 • 325 E. Third Avenue • P.O. Box 102240 • Anchorage, AK 99510

February 13, 1986

The Honorable Ben Grussendorf  
Speaker, House of Representatives  
P.O. Box V, M.S. 3100  
Juneau, Alaska 99811

Dear Representative Grussendorf:

Older Persons Action Group strongly supports passage of House CS for CS for Senate Bill No. 140 concerning rights of the terminally ill. However, OPAG believes the following changes should be made.

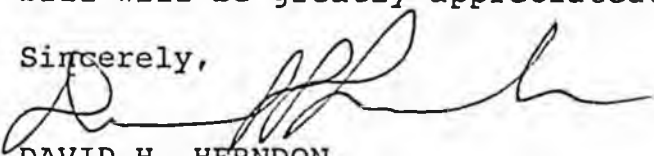
1. Page 1. The three sentences beginning on line 17 and ending on line 21 should be deleted and wording similar to the following substituted: A declaration will be witnessed by two adults, one of whom shall be a qualified Notary Public. It is our opinion that requiring judicial involvement in effecting a declaration would make this action exceedingly difficult in many rural areas and would preclude many from exercising this right.

2. Page 3. On lines 14 and 15, delete the two words, "nutrition and". Generally, if a patient is at the point of not being able to make decisions, we are usually talking about forced feeding which usually means a nasogastric tube, intravenous invasion, or some other invasive procedure. Such procedures in themselves detract from "comfort." Further, we fail to understand where forced feeding will substantially contribute to "comfort care or alleviation of pain." For those exceptional cases where nutrition would be appropriate, the wording on lines 13 and 14 still permits such. Of course, OPAG recognizes these comments are by "nonprofessionals" and are presumed to be considered in such context.

3. Page 3. Following the sentence ending on line 26, add wording similar to the following: The patient's medical record will reflect the attempts of the attending physician to transfer the patient to another qualified provider. This addition would discourage a physician who doesn't honor a declaration from passing over or only superficially attempting to transfer responsibility for the patient.

Your attention to these comments and active support of this bill will be greatly appreciated.

Sincerely,



DAVID H. HERNDON  
Executive Director

DHH:bbc  
cc: All Representatives



# DIOCESE OF JUNEAU

OFFICE OF THE BISHOP

419 SOUTH STREET  
JUNEAU ALASKA 99801  
TELEPHONE 907/588-2227

February 23, 1986

Members of the Alaska Senate  
and Members of the Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Senators & Representatives:

The purpose of this letter is to share with you some thoughts relative to Senate Bill 140, HCS-CS. Basically I am not comfortable with this kind of legislation. I have a sense that the good intended can be achieved without the involvement of legal processes or governmental agencies. At the same time the potential for opening the door to abuses is rife. This could be anything from coercion or deception of individuals induced to draw up a declaration regarding the use of life-sustaining measures, to legislation itself becoming a subtle step in the direction of positive euthanasia.

The decision to withdraw life-sustaining procedures from persons who are terminally ill and incapable of making a decision for themselves is undeniably both difficult and painful, especially for loved ones. With the continued advance in medical technology this decision is new and will probably come even more in the future a decision families and others will face. While the purpose of the proposed legislation is to provide individuals an opportunity of making the decision for themselves ahead of time by "a declaration relating to the use of life-sustaining procedures" and thereby relieve others from having to make such a determination, I question the wisdom and appropriateness of involving the State in an aspect of human life that is so personal and individual. It would seem so much more fitting for family members to express their wishes to one another in an intimate setting outside the structures and strictures of legal declarations.

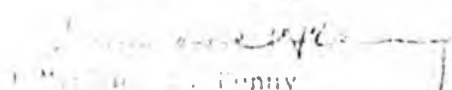
Be that as it may, if you in your own experience and study deem such legislation necessary then I believe there are a number of serious issues that call for further clarification or strengthening.

1. The definition of terminal illness is both inadequate and dangerous. "Death within a relatively short time" is entirely too vague and is precisely the kind of terminology that could lead to abuses.

2. Section 18.12.040, b, dealing with medical procedures or intervention, "including the provision of nutrition and hydration, considered necessary to provide comfort care or alleviation of pain," should by all means be retained. If anything, the point at issue could be put in even stronger terms stating that a declaration could not prohibit nutrition, hydration or comfort and pain relieving medication. If hydration, for example, were removed, the patient might die from dehydration (a painful death), rather than the terminal illness itself.
3. In Section 18.12.040, the phrase "probable that the fetus could develop etcetera" suffers also from a vagueness that is open to too much freedom of interpretation. In view of the definitive time involved in a pregnancy (nine months), would it not be better to hold the declaration in obedience until the fetus had come to term or miscarriage had certainly occurred?
4. Section 18.12.090 requires the State of Alaska and local physicians and medical facilities to comply with the local definitions and determinations of any other state, wherever such broad or restrictive these might be. In effect citizens of this state would be put in the position of having to comply with regulations over which they have no control.

In conclusion, I must state my opinion that the proposed legislation is at best in need of considerable analysis and more careful and precise terminology. However, it would be a far wiser course not to attempt such legislation in the first place.

Very truly yours,

  
William G. Patten  
Bishop of Anchorage

# Living will bill faces tough vote

JUNEAU—Only hours away from a vote by the House of Representatives, the "Living Will" bill — which passed the Senate last session — faces its toughest opposition in the legislature since introduction four years ago.

The living will is a document that legally recognizes the right of a competent adult with a terminal illness to declare that all life-sustaining procedures be withheld or withdrawn.

Some 35 states and the District of Columbia have enacted living will laws.

At *Senior Voice* press time, Alaska's lawmakers were being "bombaraded" with letters and calls from members of right-to-life organizations who oppose what they call the "legalization of euthanasia."

On the other side of the argument, supporters of the Senate-passed living will measure, SB 140, — including the Older Alaskans Commission, Older Persons Action Group, and American Association of Retired Persons — called upon seniors state-

wide to contact legislators to express their opinions on the bill.

"Admittedly, this is a difficult issue," said John Dapevich of Sitka, legislative chair of American Association of Retired Persons.

"I am personally supportive of right-to-life," Dapevich said. "But I'm also in favor of choice, too."

"Terminally ill patients should have a choice to decide what treatment they want."

The opposition by right-to-life groups was only the latest in a series of problems that have faced the living will measure.

Earlier last month, the House Judiciary Committee made several amendments to SB 140 that would "seriously impede the ability of senior citizens to express . . . (their) basic right," according to Peggy Burgin, chair of the Older Alaskans Commission.

"We are concerned that the requirement for a judge or magistrate to witness the declaration (to withdraw life-sustaining pro-

*page nineteen please*

## Living will faces crucial vote

*from page one*

cedures) will restrict the ability of the terminally ill to enact a declaration, (and) have unnecessary fiscal impacts," Burgin said in a letter to legislators.

Most supporters of the original Senate-passed version of the bill shared Burgin's dismay with the Judiciary Committee's amended version — HCS CSSB 140.

"It is our opinion that requiring judicial involvement in effecting a declaration would make this action exceedingly difficult in many rural areas and would preclude many from exercising this right," said David Herndon, executive director of Older Persons Action Group.

A second amendment to the bill concerning nutrition and hydration drew living will supporters' complaints, too.

Burgin stated that "the elimination of a citizen's ability to indicate a desire for nutrition or hydration by gastric tube or

intravenously may render the bill useless.

"We certainly recognize that there are those who would not consider the use of gastric or intravenous support as an heroic effort," Burgin said.

"However, there are also those who would. A decision of this type must be based on the individual's wishes according to the nature of their illness."

Despite objections to the recent committee amendments, senior leaders expressed their basic support for the bill.

"We want to see this legislation passed," said Dapevich.

Senate sponsor of the bill, Sen. Dick Eliason (R-Sitka), joined the chorus of dismay over the House amendments to the bill.

Eliason "felt the amendments really complicated the procedure and made it extremely difficult to activate the will,"

said Sheila Peterson, Eliason legislative aide.

"All along he just wanted to make the living will as clear and clear-cut as possible. I'm very disappointed with the amendments," Peterson added.

"If it's not changed, I seriously doubt whether the Senate will pass the bill when it is turned for a concurrence vote," she noted. "The Senate may prefer their own original version to this House version."

Nancy Groszek, legislative aide to Rep. Don Clock (D-Anchorage), the original sponsor of the living will measure, said further changes to the House version may be made.

"What's critical now is support for the bill from seniors," Groszek said. "If seniors want to see the bill enacted, it's important that they contact legislators now. There may not be another opportunity for this

side in advance whether you want to be kept alive by artificial, extraordinary means when your illness is terminal and you are no longer able to make coherent decisions.

This type of legislation isn't unique or new. Thirty-five other states have passed similar "living will" laws. Alaskan seniors have asked for this legislation every year since 1980.

## COMMENTS

SB 140 passed the Senate last year and made it all the way to the House floor this session before serious opposition appeared. Now, lawmakers are being besieged with messages from those who call the bill "legalized euthanasia."

Come on, folks. We're not talking about killing people. We're talking about *your* rights to determine how *you* will die when there is no hope of remaining alive without machines. We're talking about letting a life come to its natural, dignified end without tubes, respirators and I.V.'s.

If you care about the living will, tell your legislator and do it now. The vote could come up the first week of March or even before.

You can send a free public opinion message by calling the Legislative Information Office nearest you. Ask them to send the message to all 40 representatives.

## Closing the age gap

Old folks and school kids. Incompatible: Incomprehensible to each other? Not necessarily.

Yet, when languages differ, when old ways of living and doing are forgotten, or when youthful enthusiasm is ignored or misunderstood, it's easy for the gap between generations to widen, for each generation to live in isolation from the other.

A new \$20,000 grant program for rural school districts promises to bridge some of the gaps that exist and, perhaps, prevent a few in the future.

SEE PFEIFER 274-9577

EXPERIENCED knitters needed to knit for cottage industry. For details write Mon-Tricot, 938 David Place, Anchorage, 99501.

Rent a DUNGENESS BEACH CABIN while you look for a retirement home in Sequim, Wash., area. One bedroom, sleeps 4-6, furnished, utilities. \$500 month. 248-0709. Anchorage: (206) 373-1918 Washington.

THOROUGH CLEANING in Juneau; heavy or light. Inside or outside. Call 586-4889.

WANT HELP with the legislature or state agencies? Contact Senator Vic Fischer, P.O. Box V, Juneau, AK 99811 or call 465-4954 (collect ok).

SHARE, live, in financially secure -- Social Security. Multi-talented professional man, 5 ft. 7½ in., seeks female, 60-70. Marriage optional. P.O. Box 2023, Las Vegas, Nevada 89125. Occupant.

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## Jobs and Job Seekers

**Situations Wanted**  
Experienced in office work and dealing with the public. Very reliable.

Experienced cook and baker. Prefers to work days.

Live-in companion. Has own transportation.

This is a small sampling of what is available through the office of the Older Workers Specialist at the Older Persons Action Group, 276-1059.

**Wanted**  
Dry cleaning establishment needs counter person who likes to work with people. Must be able to work Saturday.

Someone to care for 5-year-old son holidays and non-school days. Prefer "grandmother" type. Could furnish transportation.

# Opinion

## JUNEAU EMPIRE

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# Bill provides compassion for terminally ill

A bill now before the Legislature would guarantee adults the right to decide for themselves, while capable of deciding, whether life-sustaining measures should be used to prolong life when death is imminent.

Under the proposal, an adult at any time—whether ill or not—could sign a form saying:

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

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

The bill forces no one to sign such a declaration and does not affect those who choose not to sign one. It also allows a person to revoke a declaration at any time, as long as he or she can make decisions and communicate them.

The bill does not, and specifically states it does not, “condone, authorize or approve mercy killing or euthanasia.”

What the bill provides is compassion and the right to choose for one’s self while the choice can still be made. It would apply only in those cases where there is no hope for recovery.

How much emotional pain would have been eased if a signed declaration had been available to some families and physicians. How many people would prefer—and should have the right to prefer—to make the decision for themselves, and for their families, and for those caring for them.

It’s hard to imagine a more essentially personal question than whether one’s life, and what one defines as living, should be extended by artificial means when all hope is gone. Given advances in medical technology, the question now arises more frequently, but when does an individual have the chance to provide the answer?

Sen. Dick Eliason (R-Sitka) is chief sponsor of the bill in the Senate. A companion measure was recently introduced in the House. The proposal has received support from hospice officials, who work with terminally ill patients and their families, and the Alaska State Hospital Association, in addition to numerous individuals.

Laws similar to Eliason’s proposal have already been enacted in 23 states, including California, Oregon, Washington and Idaho.

For the sake of compassion and individual choice, Alaska should add itself to the list.

# the budget review

airplane tie-down leases less than once a month, to cut down on billing costs. Miller was also asked for a breakdown on his hiring of security staff and the costs.

Baxter questioned Miller about such details as janitors wearing radios, leaning behind ticket counters and buying gas for airport vehicles.

Two other assembly members asked Miller to investigate providing luggage carts for the new baggage claim area.

### Capital transit:

"We don't want to be too aggressive going out there to increase our ridership," the public works director told the assembly about the city bus system.

When asked "why not," by assembly member Bruce Botelho, Johnson said the city does not want to oversell the system.

"We don't want to be out there providing service the public doesn't need," he said.

Johnson was asked by several



Assemblyman Fred Baxter

assembly members about specific steps the city has taken or plans to take to increase public awareness of the bus system.

## decides to hire city appoints fish panel

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member Rosalee Walker said.

Deputy Mayor Jamie Parsons said with state school funding in doubt, Juneau schools could be facing a \$750,000 shortfall in this year's budget.

The assembly agreed to hire a lobbyist on a 6-2 vote, with assembly members Bruce Botelho and Fred Baxter voting against the motion.

In other action Monday, the assembly appointed a nine-member fisheries advisory board and a five-member technical board. The technical board, said Parsons, will be non-voting, but will provide assistance to the advisory panel.

Appointed to the advisory board were Larry Cotter, Michael Grummett, Ladd Macaulay, Warren Wiley, S. Gregory Fisk, Sandro Lane, Geron Bruce, David R. Bowhay and Max Lewis.

Acting as a non-voting chairman of the group will be Al Borrego, from the University of Alaska-Juneau.

The group also approved, 6-2, a resolution supporting a state bill that would create a system of marine parks.

Voting against the resolution were assembly members George Davidson and Baxter.

Davidson said he opposed the resolution because he believes enough land is already in public use and there isn't enough known about how marine parks could affect development of resources.

The assembly also had a quick discussion on the time likely to be necessary to hire a new city attorney. The current attorney, Lee Sharp, resigned last week, effective in early June.

The assembly agreed to try to hire Sharp's replacement for the \$60,000 job by May 20.

## te on longevity bill

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The stair-stepping approach calls for increasing the age requirement by one year every year, beginning in 1991. Under that plan, the longevity bonus would be phased out by the year 2030. Currently, all one-year residents age 65 or older are eligible for the \$250 per month checks.

What shape the new longevity bonus program will take should be determined in a conference committee, a body composed of representatives from both houses, Ray predicts.

"With all the House proposals floating around, and the Senate backing the annuity plan, I'm sure this will end up in conference committee," he said. "And, I'm not opposed to that as long as we get the best legal and responsible program."

According to Ray, his annuity bill, that allows residents to place their yearly Permanent Fund dividend checks into a retirement account, is similar to the stair-stepping approach.

"Under the annuity bill, the longevity bonus part of the payments is gradually phased out, like the stair-step idea, but unlike that, we continue to take care of elderly Alaskans," Ray said.

The annuity proposal requires state funding for several decades, but once accounts are established, they will be