
OLR Bill Analysis

HB 5148

AN ACT CONCERNING PREGNANT PATIENTS EXERCISING LIVING WILLS.

SUMMARY

This bill allows pregnant women age 18 or older to exercise living wills and other advance directives. Specifically, it repeals a statute that currently provides that specified laws on such matters and the removal of life support do not apply to pregnant patients. These laws:

1. allow adults to execute (a) health care instructions (living wills), including the withholding of life support, or (b) combined documents with health care instructions, appointment of a health care representative, designation of a conservator for future incapacity, and anatomical gift instructions;
2. establish conditions under which certain health care providers may not be held civilly or criminally liable for the removal of life support (see BACKGROUND); and
3. provide that such laws do not create a presumption about the wishes of a patient who has not executed such a document as described above.

Existing law (1) requires such documents to be signed and dated by the maker with at least two witnesses and (2) provides that the document may be substantially in the form set forth in the law. The bill adds language to the forms allowing a pregnant woman to indicate whether she:

1. intends to accept life support if her doctor believes that doing so would allow the fetus to reach a live birth;
2. intends the document to apply without modifications; or

3. intends the document to apply differently, as she sets forth in the document.

Existing law already allows pregnant women to exercise documents only appointing a health care representative (CGS §§ 19a-576 & 19a-577).

EFFECTIVE DATE: Upon passage

BACKGROUND

Immunity for Withholding of Life Support

By law, any licensed physician, advanced practice registered nurse (APRN), or medical facility that withholds or removes, or causes the removal of a life support system of an incapacitated patient is not liable for civil damages or subject to criminal prosecution if:

1. the decision is based on the best medical judgment of the attending physician or APRN (provider) in accordance with the usual and customary standards of medical practice;
2. the provider deems the patient to be in a terminal condition or, in consultation with a physician qualified to make a neurological diagnosis who has examined the patient, deems the patient to be permanently unconscious; and
3. the provider has considered the patient's wishes (including an advance directive presented to the provider).

The law also extends immunity to the consulting neurologist for determinations made in accordance with usual and customary medical standards (CGS § 19a-571).

Related Bill

HB 5163 (§§ 34-39), reported favorably by the Public Health Committee, incorporates APRNs into the laws on advance directives, authorizing them to perform certain functions which currently may be performed only by a physician.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 26 Nay 0 (03/23/2018)