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1 A bill to be entitled

2 An act relating to health care advance directive and  
3 blood-type recordation; creating s. 320.08049, F.S.;  
4 providing a fee for persons participating in the health  
5 care advance directive and blood-type registry; requiring  
6 certain uses for funds generated by the fee; amending s.  
7 322.051, F.S.; providing a fee for persons applying for an  
8 identification card who choose to participate in the  
9 health care advance directive and blood-type registry;  
10 amending s. 322.08, F.S.; providing a fee for persons  
11 applying for a driver's license who choose to participate  
12 in the health care advance directive and blood-type  
13 registry; creating s. 765.3061, F.S.; requiring the Agency  
14 for Health Care Administration and the Department of  
15 Highway Safety and Motor Vehicles to develop and implement  
16 a voluntary program for health care advance directive and  
17 blood-type recordation; requiring certain health care  
18 employees to confirm a principal's blood type; providing  
19 for noting an individual's blood type and health care  
20 advance directive relative to life-prolonging procedures  
21 on the individual's driver's license or identification  
22 card upon request; requiring the Division of Driver  
23 Licenses offices to make forms available to the public;  
24 requiring forms to be accessible electronically on the  
25 Internet; requiring certain forms to contain certain  
26 information; requiring the department to distribute  
27 certain forms for the indication of health care directives  
28 and blood type; providing a recordkeeping system;  
29 requiring the agency to provide funds for certain

30 supplies; requiring the department to provide funds for  
 31 the recordkeeping system; creating s. 765.3062, F.S.;  
 32 establishing a health care advance directive and blood-  
 33 type registry; requiring the department to collect data  
 34 and provide collected data to the agency for the registry;  
 35 requiring the registry to record certain health care  
 36 advance directive and blood-type information; providing  
 37 access to the registry by certain persons; providing  
 38 guidelines for the processing of certain forms; providing  
 39 criteria for revocation or amendment of registry  
 40 information by certain individuals; providing for  
 41 recording certain documents with the registry; providing  
 42 criteria for certain health care advance directives being  
 43 submitted; requiring the department and the agency to  
 44 develop and implement a living will registry; creating s.  
 45 765.3063, F.S.; providing means to amend or revoke a  
 46 health care advance directive or blood type from the  
 47 registry; providing for the responsibility of the  
 48 principal to update forms; providing standards for  
 49 controlling forms and recordings; creating s. 765.3064,  
 50 F.S.; providing certain health care employees with civil  
 51 and criminal immunity from acts performed in conjunction  
 52 with certain information provided by the department;  
 53 expressing the sovereign immunity of the agency, the  
 54 department, and their employees from criminal prosecution  
 55 and civil liability for certain acts or forms; creating s.  
 56 765.3065, F.S.; requiring the agency, subject to the  
 57 concurrence of the department, to develop a continuing  
 58 education program relating to health care advance

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59 directives and the health care advance directive and  
 60 blood-type registry; creating s. 765.3066, F.S.; providing  
 61 for appointment of an education panel to create an end-of-  
 62 life public education campaign; providing campaign  
 63 criteria; providing contractual power for programs aimed  
 64 at educating certain health care professionals; requiring  
 65 a study to be conducted by the agency; providing for a  
 66 report to the Legislature; providing issues for the study  
 67 to address; providing an effective date.

68  
 69 Be It Enacted by the Legislature of the State of Florida:

70  
 71 Section 1. Section 320.08049, Florida Statutes, is created  
 72 to read:

73 320.08049 Additional fee imposed for persons participating  
 74 in health care advance directive and blood-type registry.--

75 (1) Persons submitting initial application forms for  
 76 participation in the health care advance directive and blood-  
 77 type registry created under s. 765.3062 shall be assessed a fee  
 78 of \$10.

79 (2) The fee provided for in subsection (1) shall be used  
 80 by the Agency for Health Care Administration to establish and  
 81 maintain the health care advance directive and blood-type  
 82 registry. Funds received by the agency from such fees shall be  
 83 used to:

84 (a) Obtain equipment and software to expand or improve the  
 85 database for the registry and the organ donor program  
 86 established under part V of chapter 765.

87 (b) Employ persons necessary to ensure the proper

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88 operation of the equipment used to maintain the registry.

89 (c) Fund health care advance directive education efforts  
 90 as authorized in ss. 765.3065 and 765.3066.

91 Section 2. Subsection (8) is added to section 322.051,  
 92 Florida Statutes, to read:

93 322.051 Identification Cards.--

94 (8) A fee of \$10 shall be assessed for any person choosing  
 95 to submit an initial application to participate in the health  
 96 care advance directive and blood-type registry pursuant to s.  
 97 320.08049.

98 Section 3. Paragraph (f) is added to subsection (6) of  
 99 section 322.08, Florida Statutes, to read:

100 322.08 Application for license.--

101 (6) The application form for a driver's license or  
 102 duplicate thereof shall include language permitting the  
 103 following:

104 (f) Assessment of a fee of \$10 for any person choosing to  
 105 submit an initial application to participate in the health care  
 106 advance directive and blood-type registry pursuant to s.  
 107 320.08049.

108  
 109 A statement providing an explanation of the purpose of the trust  
 110 funds shall also be included.

111 Section 4. Section 765.3061, Florida Statutes, is created  
 112 to read:

113 765.3061 Health care advance directives and blood-type  
 114 indication as part of driver's license or identification card  
 115 process.--

116 (1) The Agency for Health Care Administration and the

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117 Department of Highway Safety and Motor Vehicles shall develop  
118 and implement a program encouraging and allowing a person, at  
119 the person's request, to voluntarily make a health care advance  
120 directive, as well as to voluntarily provide his or her blood  
121 type, both of which may be noted on the person's driver's  
122 license or identification card, upon issuance or renewal of  
123 these documents.

124 (2) The health care advance directive form and blood-type  
125 confirmation form, both of which are to be distributed by the  
126 department, shall be developed by the agency in consultation  
127 with the department. The health care advance directive form  
128 shall include the living will specified in s. 765.303, which  
129 must be executed in accordance with s. 765.302. The blood-type  
130 confirmation form must be signed by a person's physician or an  
131 agent of a blood bank or laboratory that has documentation of  
132 the person's blood type. The health care advance directive and  
133 blood-type confirmation forms may require additional information  
134 and may include additional material as deemed necessary by the  
135 agency and the department. An individual completing a health  
136 care advance directive form or blood-type confirmation form  
137 shall have included on his or her driver's license or  
138 identification card a notation on the front of the card clearly  
139 indicating the individual's intent concerning life-prolonging  
140 procedures and the individual's blood type. A notation on an  
141 individual's driver's license or identification card that the  
142 individual has a health care advance directive or that provides  
143 the individual's blood type is sufficient to satisfy all  
144 requirements concerning life-prolonging procedures and necessary  
145 blood-type information for health care providers.

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146 (3)(a) All forms relating to the execution, amendment, or  
 147 revocation of a health care advance directive or blood-type  
 148 confirmation for the purpose of participating in the registry  
 149 shall be made available to the public at all offices of the  
 150 Division of Driver Licenses, as well as electronically on the  
 151 Internet.

152 (b) The forms relating to the execution of a health care  
 153 advance directive or confirmation of blood type, for purposes of  
 154 participating in the registry, shall:

155 1. Require an express declaration that the principal has  
 156 read the form and understands its contents.

157 2. Require an express waiver of any privacy rights granted  
 158 under state or federal law.

159 3. Require an express waiver of liability for health care  
 160 providers who rely upon the information contained on the  
 161 principal's driver's license or the registry.

162 4. Require an acknowledgment from the principal that it is  
 163 the responsibility of the principal to submit an amendment form  
 164 or revocation form to the Division of Driver Licenses if it is  
 165 the principal's desire to change or remove any document recorded  
 166 in the registry.

167 5. Require acknowledgment from the principal that a  
 168 reasonable delay will occur in the recording of a newly executed  
 169 form in the registry by the agency and department, regardless of  
 170 whether it is a health care advance directive or blood-type  
 171 confirmation form, or any amendment or revocation thereof, and  
 172 that health care providers will rely on the information in the  
 173 registry available at the time such information is obtained by a  
 174 health care provider.

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175       (4) The agency shall provide the necessary supplies and  
 176 forms through funds appropriated from general revenue, any  
 177 authorized fees, or contributions from interested, voluntary,  
 178 nonprofit organizations. The department shall provide the  
 179 necessary recordkeeping system through funds appropriated from  
 180 general revenue.

181       Section 5. Section 765.3062, Florida Statutes, is created  
 182 to read:

183       765.3062 Health care advance directive and blood-type  
 184 registry; use of forms and delivery of documents.--

185       (1) There is established a health care advance directive  
 186 and blood-type registry. This registry shall be an expansion of  
 187 the organ and tissue donor registry that is created,  
 188 administered, and maintained in accordance with part V of this  
 189 chapter.

190       (2) The forms to be recorded in the registry shall be  
 191 collected by the Department of Highway Safety and Motor Vehicles  
 192 and provided to the Agency for Health Care Administration in a  
 193 manner similar to the forms and information collected for  
 194 anatomical gifts as provided in part V of this chapter. The  
 195 registry shall record, through electronic means, health care  
 196 advance directive and blood-type documents submitted through the  
 197 driver's license identification program or obtained from other  
 198 sources. The registry shall be maintained in a manner that will  
 199 allow, through electronic and telephonic methods, immediate  
 200 access to health care advance directive and blood-type documents  
 201 24 hours a day, 7 days a week. Hospitals and other parties  
 202 identified by rule of the agency shall be allowed access,  
 203 through coded means, to the information stored in the registry.

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204       (3) If a health care advance directive is made through the  
 205 program established under s. 765.3061, the completed health care  
 206 advance directive shall be delivered to the department and  
 207 processed in the manner specified in subsection (4). Delivery of  
 208 the health care advance directive is not necessary for the  
 209 validity of the health care advance directive. If a person  
 210 amends or revokes a health care advance directive in accordance  
 211 with s. 765.3063, the records of the department shall be updated  
 212 to reflect such status of the health care advance directive.

213       (4) If a health care advance directive is made by an  
 214 individual, other than through the program established by the  
 215 agency and the department, the document may be recorded in the  
 216 registry administered by the agency and noted on an individual's  
 217 driver's license, if the individual follows the procedure and  
 218 the health care advance directive meets the criteria set forth  
 219 in this chapter and in any rules of the department and the  
 220 agency.

221       (5) The agency and the department shall develop and  
 222 implement a living will registry as an expansion and improvement  
 223 of the organ donor database maintained by the agency.

224       Section 6. Section 765.3063, Florida Statutes, is created  
 225 to read:

226       765.3063 Amendment to or revocation of a health care  
 227 advance directive or removal of blood type from the registry;  
 228 responsibility of the participant; last documents submitted and  
 229 recorded are controlling documents.--

230       (1) A person may amend or revoke a health care advance  
 231 directive by the execution and delivery of the appropriate form,  
 232 signed and properly executed, to the Department of Highway



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233 Safety and Motor Vehicles to be transmitted to the Agency for  
 234 Health Care Administration for recording in or removal from the  
 235 registry.

236 (2) If a person participates in the health care advance  
 237 directive and blood-type registry, it is the responsibility of  
 238 the principal to complete and submit the appropriate forms  
 239 needed to amend or revoke the health care advance directive or  
 240 blood-type information. If a person chooses to participate in  
 241 the registry, the most recently submitted forms recorded in the  
 242 registry shall be considered the controlling documents of the  
 243 participant in any dispute or decision by a health care  
 244 provider.

245 (3) A person may remove the record of his or her blood  
 246 type from the registry by signing a form provided by the  
 247 department, as developed in conjunction with the agency, that is  
 248 signed in the presence of an employee of the department.

249 (4) Nothing in this section shall affect a principal's  
 250 right to amend or revoke a health care advance directive or  
 251 designation of a surrogate as authorized under s. 765.104 if the  
 252 principal is not participating in the agency's health care  
 253 advance directive and blood-type registry.

254 Section 7. Section 765.3064, Florida Statutes, is created  
 255 to read:

256 765.3064 Immunity from liability.--

257 (1) Notwithstanding the express waiver of liability signed  
 258 by the person who chooses to participate in the health care  
 259 advance directive and blood-type registry, a health care  
 260 facility or a health care provider, or any other person acting  
 261 under the direction of a health care facility or health care

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262 provider, carrying out a health care decision made in accordance  
 263 with a properly recorded health care advance directive or blood-  
 264 type confirmation transmitted by the Department of Highway  
 265 Safety and Motor Vehicles, is not subject to criminal  
 266 prosecution or civil liability and will not be deemed to have  
 267 engaged in unprofessional conduct.

268 (2) The Agency for Health Care Administration and the  
 269 Department of Highway Safety and Motor Vehicles and any  
 270 employees acting within the scope of their employment are immune  
 271 from criminal prosecution and civil liability for any acts or  
 272 forms recorded in compliance with the provisions of this  
 273 chapter.

274 Section 8. Section 765.3065, Florida Statutes, is created  
 275 to read:

276 765.3065 Education program relating to health care advance  
 277 directives and blood-type registries.--The Agency for Health  
 278 Care Administration, subject to the concurrence of the  
 279 Department of Highway Safety and Motor Vehicles, shall develop a  
 280 continuing education program to educate and inform health care  
 281 professionals, including emergency medical personnel, law  
 282 enforcement agencies and officers, state and local government  
 283 employees, and the public regarding the laws of this state  
 284 relating to the health care advance directives and the health  
 285 care advance directive and blood-type registry as described in  
 286 this chapter.

287 Section 9. Section 765.3066, Florida Statutes, is created  
 288 to read:

289 765.3066 Health care advance directives education panel.--  
 290 The Legislature recognizes that every competent adult has the

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291 fundamental right of self-determination regarding decisions  
 292 pertaining to his or her health. This includes the right to  
 293 choose or refuse medical treatment. A panel of three members  
 294 appointed by the secretary of the Department of Elderly Affairs,  
 295 the secretary of the Agency for Health Care Administration, and  
 296 the secretary of the Department of Health shall jointly create a  
 297 campaign on end-of-life care for purposes of educating the  
 298 public. This campaign shall include culturally sensitive  
 299 programs to improve understanding of end-of-life issues.  
 300 Existing community resources, when available, shall be used to  
 301 support the program, and volunteers and health care  
 302 professionals may assist in the program to the maximum extent  
 303 possible. The program aimed at educating health care  
 304 professionals may be implemented by contract with one or more  
 305 medical schools located in the state.

306 Section 10. Effective upon this act becoming a law, the  
 307 Agency for Health Care Administration shall conduct a study of  
 308 the implementation of the health care advance directive and  
 309 blood-type registry and report its findings and recommendations  
 310 to the Speaker of the House of Representatives and the President  
 311 of the Senate by January 1, 2005. The study shall, at a minimum,  
 312 examine and make recommendations concerning the following:

313 (1) The nonrecurring capital outlay and recurring  
 314 operational funding necessary to establish and maintain the  
 315 health care advance directive and blood-type registry.

316 (2) The efficiency and cost-effectiveness of databases and  
 317 procedures used to maintain the data in the registry and to  
 318 transfer forms between the Department of Highway Safety and  
 319 Motor Vehicles and the Agency for Health Care Administration.

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320       (3) The reasonable timeframes necessary to record forms  
321 and other information in the registry and make such information  
322 available to health care facilities and appropriate  
323 professionals.

324       (4) The types of disclosures and disclaimers necessary to  
325 be included in the forms used for the health care advance  
326 directive and blood-type registry.

327       (5) The projected number of persons who may participate in  
328 the health care advance directive and blood-type registry and  
329 the sufficiency of the fees assessed to fund the registry and  
330 health care advance directive education efforts.

331       Section 11. This act shall take effect upon becoming a  
332 law.