

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to health care advance directive and
7 blood-type recordation; amending s. 322.051, F.S.;
8 providing a fee for persons applying for an identification
9 card who choose to participate in the health care advance
10 directive and blood-type registry; amending s. 322.08,
11 F.S.; providing a fee for persons applying for a driver's
12 license who choose to participate in the health care
13 advance directive and blood-type registry; creating s.
14 322.0812, F.S.; providing a fee for persons participating
15 in the health care advance directive and blood-type
16 registry; requiring certain uses for funds generated by
17 the fee; creating s. 765.3061, F.S.; requiring the Agency
18 for Health Care Administration and the Department of
19 Highway Safety and Motor Vehicles to develop and implement
20 a voluntary program for health care advance directive and
21 blood-type recordation; requiring certain health care
22 employees to confirm a principal's blood type; providing
23 for noting an individual's blood type and health care

24 advance directive relative to life-prolonging procedures
25 on the individual's driver's license or identification
26 card upon request; requiring the Division of Driver
27 Licenses offices to make forms available to the public;
28 requiring forms to be accessible electronically on the
29 Internet; requiring certain forms to contain certain
30 information; requiring the department to distribute
31 certain forms for the indication of health care directives
32 and blood type; providing a recordkeeping system;
33 requiring the agency to provide funds for certain
34 supplies; requiring the department to provide funds for
35 the recordkeeping system; creating s. 765.3062, F.S.;
36 establishing a health care advance directive and blood-
37 type registry; requiring the department to collect data
38 and provide collected data to the agency for the registry;
39 requiring the registry to record certain health care
40 advance directive and blood-type information; providing
41 access to the registry by certain persons; providing
42 guidelines for the processing of certain forms; providing
43 criteria for revocation or amendment of registry
44 information by certain individuals; providing for
45 recording certain documents with the registry; providing
46 criteria for certain health care advance directives being
47 submitted; requiring the department and the agency to
48 develop and implement a living will registry; creating s.
49 765.3063, F.S.; providing means to amend or revoke a
50 health care advance directive or blood type from the
51 registry; providing for the responsibility of the

52 principal to update forms; providing standards for
 53 controlling forms and recordings; creating s. 765.3064,
 54 F.S.; providing certain health care employees with civil
 55 and criminal immunity from acts performed in conjunction
 56 with certain information provided by the department;
 57 expressing the sovereign immunity of the agency, the
 58 department, and their employees from criminal prosecution
 59 and civil liability for certain acts or forms; creating s.
 60 765.3065, F.S.; requiring the agency, subject to the
 61 concurrence of the department, to develop a continuing
 62 education program relating to health care advance
 63 directives and the health care advance directive and
 64 blood-type registry; creating s. 765.3066, F.S.; providing
 65 for appointment of an education panel to create an end-of-
 66 life public education campaign; providing campaign
 67 criteria; providing contractual power for programs aimed
 68 at educating certain health care professionals; requiring
 69 a study to be conducted by the agency; providing for a
 70 report to the Legislature; providing issues for the study
 71 to address; providing effective dates.

72

73 Be It Enacted by the Legislature of the State of Florida:

74

75 Section 1. Subsection (8) is added to section 322.051,
 76 Florida Statutes, to read:

77 322.051 Identification Cards.--

78 (8) A fee of \$10 shall be assessed for any person choosing
 79 to submit an initial application to participate in the health

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80 | care advance directive and blood-type registry pursuant to s.
81 | 322.0812.

82 | Section 2. Paragraph (f) is added to subsection (6) of
83 | section 322.08, Florida Statutes, to read:

84 | 322.08 Application for license.--

85 | (6) The application form for a driver's license or
86 | duplicate thereof shall include language permitting the
87 | following:

88 | (f) Assessment of a fee of \$10 for any person choosing to
89 | submit an initial application to participate in the health care
90 | advance directive and blood-type registry pursuant to s.
91 | 322.0812.

92 |
93 | A statement providing an explanation of the purpose of the trust
94 | funds shall also be included.

95 | Section 3. Section 322.0812, Florida Statutes, is created
96 | to read:

97 | 322.0812 Additional fee imposed for persons participating
98 | in health care advance directive and blood-type registry.--

99 | (1) Persons submitting initial application forms for
100 | participation in the health care advance directive and blood-
101 | type registry created under s. 765.3062 shall be assessed a fee
102 | of \$10.

103 | (2) The fee provided for in subsection (1) shall be used
104 | by the Agency for Health Care Administration to establish and
105 | maintain the health care advance directive and blood-type
106 | registry. Funds received by the agency from such fees shall be
107 | used to:

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

111 (b) Employ persons necessary to ensure the proper
 112 operation of the equipment used to maintain the registry.

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

115 Section 4. Section 765.3061, Florida Statutes, is created
 116 to read:

117 765.3061 Health care advance directives and blood-type
 118 indication as part of driver's license or identification card
 119 process.--

120 (1) The Agency for Health Care Administration and the
 121 Department of Highway Safety and Motor Vehicles shall develop
 122 and implement a program encouraging and allowing a person, at
 123 the person's request, to voluntarily make a health care advance
 124 directive, as well as to voluntarily provide his or her blood
 125 type, both of which may be noted on the person's driver's
 126 license or identification card, upon issuance or renewal of
 127 these documents.

128 (2) The health care advance directive form and blood-type
 129 confirmation form, both of which are to be distributed by the
 130 department, shall be developed by the agency in consultation
 131 with the department. The health care advance directive form
 132 shall include the living will specified in s. 765.303, which
 133 must be executed in accordance with s. 765.302. The blood-type
 134 confirmation form must be signed by a person's physician or an
 135 agent of a blood bank or laboratory that has documentation of

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136 the person's blood type. The health care advance directive and
 137 blood-type confirmation forms may require additional information
 138 and may include additional material as deemed necessary by the
 139 agency and the department. An individual completing a health
 140 care advance directive form or blood-type confirmation form
 141 shall have included on his or her driver's license or
 142 identification card a notation on the front of the card clearly
 143 indicating the individual's intent concerning life-prolonging
 144 procedures and the individual's blood type. A notation on an
 145 individual's driver's license or identification card that the
 146 individual has a health care advance directive or that provides
 147 the individual's blood type is sufficient to satisfy all
 148 requirements concerning life-prolonging procedures and necessary
 149 blood-type information for health care providers.

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

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

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

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

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163 3. Require an express waiver of liability for health care
 164 providers who rely upon the information contained on the
 165 principal's driver's license or identification card or the
 166 registry.

167 4. Require an acknowledgment from the principal that it is
 168 the responsibility of the principal to submit an amendment form
 169 or revocation form to the Division of Driver Licenses if it is
 170 the principal's desire to change or remove any document recorded
 171 in the registry.

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

180 (4) The agency shall provide the necessary supplies and
 181 forms through funds appropriated from general revenue, any
 182 authorized fees, or contributions from interested, voluntary,
 183 nonprofit organizations. The department shall provide the
 184 necessary recordkeeping system through funds appropriated from
 185 general revenue.

186 Section 5. Section 765.3062, Florida Statutes, is created
 187 to read:

188 765.3062 Health care advance directive and blood-type
 189 registry; use of forms and delivery of documents.--

190 (1) There is established a health care advance directive
 191 and blood-type registry. This registry shall be an expansion of
 192 the organ and tissue donor registry that is created,
 193 administered, and maintained in accordance with part V of this
 194 chapter.

195 (2) The forms to be recorded in the registry shall be
 196 collected by the Department of Highway Safety and Motor Vehicles
 197 and provided to the Agency for Health Care Administration in a
 198 manner similar to the forms and information collected for
 199 anatomical gifts as provided in part V of this chapter. The
 200 registry shall record, through electronic means, health care
 201 advance directive and blood-type documents submitted through the
 202 driver's license identification program or obtained from other
 203 sources. The registry shall be maintained in a manner that will
 204 allow, through electronic and telephonic methods, immediate
 205 access to health care advance directive and blood-type documents
 206 24 hours a day, 7 days a week. Hospitals and other parties
 207 identified by rule of the agency shall be allowed access,
 208 through coded means, to the information stored in the registry.

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

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

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

229 Section 6. Section 765.3063, Florida Statutes, is created
 230 to read:

231 765.3063 Amendment to or revocation of a health care
 232 advance directive or removal of blood type from the registry;
 233 responsibility of the participant; last documents submitted and
 234 recorded are controlling documents.--

235 (1) A person may amend or revoke a health care advance
 236 directive by the execution and delivery of the appropriate form,
 237 signed and properly executed, to the Department of Highway
 238 Safety and Motor Vehicles to be transmitted to the Agency for
 239 Health Care Administration for recording in or removal from the
 240 registry.

241 (2) If a person participates in the health care advance
 242 directive and blood-type registry, it is the responsibility of
 243 the principal to complete and submit the appropriate forms
 244 needed to amend or revoke the health care advance directive or
 245 blood-type information. If a person chooses to participate in

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246 the registry, the most recently submitted forms recorded in the
 247 registry shall be considered the controlling documents of the
 248 participant in any dispute or decision by a health care
 249 provider.

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

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

259 Section 7. Section 765.3064, Florida Statutes, is created
 260 to read:

261 765.3064 Immunity from liability.--

262 (1) Notwithstanding the express waiver of liability signed
 263 by the person who chooses to participate in the health care
 264 advance directive and blood-type registry, a health care
 265 facility or a health care provider, or any other person acting
 266 under the direction of a health care facility or health care
 267 provider, carrying out a health care decision made in accordance
 268 with a properly recorded health care advance directive or blood-
 269 type confirmation transmitted by the Department of Highway
 270 Safety and Motor Vehicles, is not subject to criminal
 271 prosecution or civil liability and will not be deemed to have
 272 engaged in unprofessional conduct.

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

279 Section 8. Section 765.3065, Florida Statutes, is created
 280 to read:

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

292 Section 9. Section 765.3066, Florida Statutes, is created
 293 to read:

294 765.3066 Health care advance directives education panel.--
 295 The Legislature recognizes that every competent adult has the
 296 fundamental right of self-determination regarding decisions
 297 pertaining to his or her health. This includes the right to
 298 choose or refuse medical treatment. A panel of three members
 299 appointed by the secretary of the Department of Elderly Affairs,
 300 the secretary of the Agency for Health Care Administration, and

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301 the secretary of the Department of Health shall jointly create a
 302 campaign on end-of-life care for purposes of educating the
 303 public. This campaign shall include culturally sensitive
 304 programs to improve understanding of end-of-life issues.
 305 Existing community resources, when available, shall be used to
 306 support the program, and volunteers and health care
 307 professionals may assist in the program to the maximum extent
 308 possible. The program aimed at educating health care
 309 professionals may be implemented by contract with one or more
 310 medical schools located in the state.

311 Section 10. Effective upon this act becoming a law, the
 312 Agency for Health Care Administration shall conduct a study on
 313 how to implement the health care advance directive and blood-
 314 registry and report its findings and recommendations to the
 315 Speaker of the House of Representatives and the President of the
 316 Senate by January 1, 2005. The study shall, at a minimum,
 317 examine and make recommendations concerning the following:

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

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

325 (3) The reasonable timeframes necessary to record forms
 326 and other information in the registry and make such information
 327 available to health care facilities and appropriate
 328 professionals.

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

332 (5) The projected number of persons who may participate in
333 the health care advance directive and blood-type registry and
334 the sufficiency of the fees assessed to fund the registry and
335 health care advance directive education efforts.

336 (6) The most effective and cost-efficient means to
337 implement the educational requirements contained in ss. 765.3065
338 and 765.3066, Florida Statutes.

339 Section 11. Except as otherwise provided herein, this act
340 shall take effect September 1, 2005.