

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Simmons, Goodlette, Baxley, Stargel, and
2 Gardiner offered the following:

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4 **Amendment (with title amendment)**

5 Remove line(s) 155-211 and insert:

6 (1) Notwithstanding the provisions of s. 765.401,
7 artificially provided sustenance or hydration may not be
8 withheld or withdrawn from a person who is in a persistent
9 vegetative state except under the conditions prescribed in
10 paragraph (a), paragraph (b), paragraph (c), paragraph (d), or
11 paragraph (e).

12 (a) The person who is in a persistent vegetative state has
13 executed a written advance directive, executed a written living
14 will, or designated a health care surrogate which directive,
15 living will, or designation of a surrogate authorizes the

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16 withholding or withdrawing of life-prolonging procedures, as
17 defined in s. 765.101.

18 (b) Clear and convincing evidence exists that, while
19 competent and prior to entering into a persistent vegetative
20 state, the person, expressly and unequivocally, directed or
21 instructed the withholding or withdrawing of artificially
22 provided sustenance or hydration. For purposes of this section,
23 this paragraph does not authorize the application of substituted
24 judgment.

25 (c) The decision to withhold or withdraw sustenance or
26 hydration:

27 1. Would be authorized under s. 765.401(3), and the
28 parties identified in this paragraph agree that:

29 a. The decision is the one the person in a persistent
30 vegetative state would have chosen had the person been
31 competent; or

32 b. If there is no indication of what the person would have
33 chosen, that the decision is in the person's best interests.

34 2. The parties whose agreement is required under this
35 paragraph are all individuals or classes identified in s.
36 765.401(1)(a)-(f) who have:

37 a. Exhibited special care and concern for the person who
38 is in a persistent vegetative state;

39 b. Who have maintained regular contact with the person;
40 and

41 c. Who have expressed an opinion on the decision.

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42 (d) In the reasonable medical judgment of the person's
43 attending physician and a second consulting physician, and in
44 consultation with the medical ethics committee of the facility
45 where the person is located, maintenance of artificially
46 provided sustenance or hydration:

47 1. Is not medically possible;

48 2. Would hasten death;

49 3. Would cause severe, intractable, or significant long-
50 lasting pain to the person; or

51 4. Would not contribute to sustaining the person's life or
52 providing comfort to the person.

53 (e) In the reasonable medical judgment of the person's
54 attending physician and a second consulting physician, and in
55 consultation with the medical ethics committee of the facility
56 where the person is located:

57 1. Death is imminent;

58 2. Even with artificially provided sustenance or
59 hydration, the person will die within a reasonably short period
60 of time due to a terminal illness or injury; and

61 3. The purpose of withholding or withdrawing artificially
62 provided sustenance or hydration is not to cause death by
63 starvation or dehydration.

64 (2) For purposes of making the determination in paragraph
65 (1)(d) or paragraph (1)(e), if there is no medical ethics
66 committee at the facility, the facility must have an arrangement
67 with the medical ethics committee of another facility or with a
68 community-based ethics committee approved by the Florida Bio-

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69 ethics Network. The individual committee members and the
70 facility associated with an ethics committee shall not be held
71 liable in any civil action related to the performance of any
72 duties required in paragraph (1)(d) or paragraph (1)(e).

73 (3) Any interested party who may reasonably be expected to
74 be directly affected by the decision to withhold or withdraw
75 artificially provided sustenance or hydration from a person in a
76 persistent vegetative state may petition for enforcement of this
77 section.

78 Section 4. The provisions of this act apply to every
79 living person on and after the effective date of this act.
80 Specifically, it is the intent of the Legislature and the policy
81 of this state to apply the provisions of this act to all
82 situations in which a person is in a persistent vegetative state
83 on or after the effective date of this act.

84
85 ===== T I T L E A M E N D M E N T =====

86 Remove line(s) and insert: