

By Senator Torres

25-00281-24

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1 A bill to be entitled
2 An act relating to death with dignity; creating ch.
3 764, F.S., to be entitled "Personal Autonomy";
4 creating s. 764.101, F.S.; providing a short title;
5 creating s. 764.102, F.S.; defining terms; creating s.
6 764.103, F.S.; providing legislative findings and
7 intent; creating s. 764.104, F.S.; providing criteria
8 for individuals to request certain medication as
9 qualified patients; providing criteria to demonstrate
10 residency; requiring qualified patients to make both
11 verbal and written requests for medication; providing
12 requirements and waiting periods for such requests;
13 providing requirements for a form for written
14 requests; specifying requirements for the valid
15 execution of the form; authorizing a qualified patient
16 to rescind a request at any time and in any manner;
17 creating s. 764.105, F.S.; specifying requirements for
18 attending physicians; authorizing an attending
19 physician to sign a qualified patient's death
20 certificate; specifying requirements for consulting
21 physicians; specifying recordkeeping requirements;
22 requiring certain health care providers to report
23 certain information to the Department of Health;
24 requiring the department to annually review certain
25 records for compliance and publish a report on
26 activities and compliance; requiring the department to
27 adopt rules for a specified purpose; creating s.
28 764.106, F.S.; making certain provisions of certain
29 legal instruments void and unenforceable under certain

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30 circumstances; prohibiting an individual's decisions
31 or actions under certain provisions from affecting the
32 sale, procurement, or issuance of certain insurance
33 policies or the rates charged for such policies;
34 creating s. 764.107, F.S.; providing criminal
35 penalties, liabilities, and immunities; defining
36 terms; authorizing employing health care providers to
37 prohibit health care providers from participating
38 under the act while on the premises of facilities that
39 they own or operate if they have provided prior notice
40 of their policy; authorizing employing health care
41 providers to impose specified sanctions against its
42 facilities, operators, and other employees for
43 violating such policies; providing construction;
44 requiring the sanctioning health care providers to use
45 due process procedures when imposing such sanctions;
46 providing that certain sanctions may not be the sole
47 basis for certain disciplinary action against a health
48 care provider's license; providing construction;
49 creating s. 764.108, F.S.; authorizing claims for
50 costs and attorney fees in certain circumstances;
51 creating s. 764.109, F.S.; providing construction and
52 severability; providing an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Chapter 764, Florida Statutes, consisting of
57 sections 764.101-764.109, Florida Statutes, entitled "Personal
58 Autonomy," is created.

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59 Section 2. Section 764.101, Florida Statutes, is created to
60 read:

61 764.101 Short title.—Sections 764.101-764.109 may be cited
62 as the “Death with Dignity Act.”

63 Section 3. Section 764.102, Florida Statutes, is created to
64 read:

65 764.102 Definitions.—As used in this chapter, the term:

66 (1) “Attending physician” means a physician who has primary
67 responsibility for the care and treatment of a patient with a
68 terminal condition.

69 (2) “Competent” means that in the opinion of a court or in
70 the opinion of a patient’s attending physician, consulting
71 physician, psychiatrist, or psychologist, the patient has the
72 ability to make and communicate health care decisions to health
73 care providers, including communication through individuals
74 familiar with the patient’s manner of communicating if such
75 individuals are available.

76 (3) “Consulting physician” means a physician who is
77 qualified by specialty or experience to make a professional
78 diagnosis and prognosis regarding the patient’s medical
79 condition.

80 (4) “Counseling” means one or more consultations as
81 necessary between a psychiatrist or psychologist and a patient
82 for the purpose of determining whether the patient is competent
83 and whether the patient is suffering from a psychiatric or
84 psychological disorder or depression causing impaired judgment.

85 (5) “Department” means the Department of Health.

86 (6) “Health care provider” means a health care
87 practitioner, a health care facility, or an entity licensed or

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88 certified to provide health services in this state.

89 (7) "Informed decision" means a decision voluntarily made
90 by a qualified patient to request and obtain a prescription to
91 end his or her life after a sufficient explanation and
92 disclosure of information on the subject has been given by his
93 or her attending physician to enable the qualified patient to
94 appreciate the relevant facts, including the qualified patient's
95 medical diagnosis and prognosis, the potential risks associated
96 with taking the medication to be prescribed, the probable
97 results of taking such medication, and any feasible alternatives
98 to taking the medication, and to make an informed health care
99 decision without coercion or undue influence.

100 (8) "Medically confirmed" means the medical opinion of an
101 attending physician has been confirmed by a consulting physician
102 who has examined the patient and the patient's relevant medical
103 records.

104 (9) "Medication" means a drug as defined in s. 465.003(15)
105 which an attending physician prescribes to a qualified patient
106 under this chapter to end his or her life in a humane and
107 dignified manner.

108 (10) "Physician" means a person licensed to practice
109 medicine under chapter 458 or osteopathic medicine under chapter
110 459.

111 (11) "Psychiatrist" means a physician who has primarily
112 diagnosed and treated nervous and mental disorders for a period
113 of at least 3 years, including a psychiatric residency.

114 (12) "Psychologist" means a person licensed to practice
115 psychology under chapter 490.

116 (13) "Qualified patient" means an individual who has

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117 satisfied the requirements of this chapter to obtain a
118 prescription for medication to end his or her life in a humane
119 and dignified manner.

120 (14) "Terminal condition" means a medically confirmed
121 condition caused by an injury, illness, or disease which is
122 incurable and irreversible and which will, within reasonable
123 medical judgment, cause the patient's death within 6 months.

124 Section 4. Section 764.103, Florida Statutes, is created to
125 read:

126 764.103 Legislative findings and intent.—The Legislature
127 finds that every competent adult has the fundamental right of
128 self-determination regarding decisions pertaining to his or her
129 own health and recognizes that for some individuals faced with a
130 terminal condition, prolonging life may result in a painful or
131 burdensome existence. It is the intent of the Legislature to
132 establish a procedure to allow a competent individual who has a
133 terminal condition, and who makes a fully informed decision that
134 he or she no longer wants to live, to obtain medication to end
135 his or her life in a humane and dignified manner.

136 Section 5. Section 764.104, Florida Statutes, is created to
137 read:

138 764.104 Qualified patients; residency requirements; written
139 and verbal requests for medication; waiting periods; form
140 requirements; right to rescind requests.—

141 (1) (a) An individual may request medication as a qualified
142 patient under this chapter for the purpose of ending his or her
143 life in a humane and dignified manner if the individual:

- 144 1. Is 18 years of age or older;
145 2. Is a resident of Florida;

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146 3. Has been clinically diagnosed with a terminal condition
147 by his or her attending physician which has been medically
148 confirmed by a consulting physician;

149 4. Is competent;

150 5. Is making an informed decision; and

151 6. Has voluntarily expressed his or her wish to die.

152 (b) An individual may not qualify for medication under this
153 chapter solely because of age or disability.

154 (c) An individual imprisoned or incarcerated in this state
155 who otherwise meets the requirements of this section qualifies
156 for medication under this chapter.

157 (2) Criteria demonstrating an individual's Florida
158 residency include, but are not limited to:

159 (a) Possession of a valid Florida driver license or Florida
160 identification card issued by the Department of Highway Safety
161 and Motor Vehicles;

162 (b) Proof of registration to vote in Florida;

163 (c) Evidence that the individual owns or leases property in
164 Florida; or

165 (d) If an individual is unable to otherwise demonstrate
166 residency due to his or her imprisonment or incarceration,
167 evidence that the individual has been imprisoned or incarcerated
168 in this state for the 6 months immediately preceding the request
169 for medication under this chapter.

170 (3) To obtain medication under this chapter, a qualified
171 patient must first make two verbal requests and then one written
172 request for the medication to his or her attending physician.

173 (a) A qualified patient may not make the second verbal
174 request to his or her attending physician for at least 15 days

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175 after making the first verbal request. However, if the qualified
 176 patient's attending physician has medically confirmed that the
 177 qualified patient will, within reasonable medical judgment, die
 178 within 15 days after making the first verbal request, the
 179 qualified patient may make the second verbal request to his or
 180 her attending physician at any time after making the first
 181 verbal request.

182 (b) After a qualified patient makes a second verbal
 183 request, the attending physician must give the qualified patient
 184 an opportunity to rescind the request.

185 (c) A qualified patient may make a written request for
 186 medication under this chapter only after he or she has made a
 187 second verbal request for the medication and has been offered
 188 the opportunity to rescind the request.

189 (d) An attending physician may not prescribe medication to
 190 a qualified patient under this chapter for at least 48 hours
 191 after the qualified patient makes a written request for the
 192 medication.

193 (4) (a) A written request for medication under this chapter
 194 must be made using a form substantially similar to the
 195 following:

REQUEST FOR MEDICATION
TO END MY LIFE IN A HUMANE
AND DIGNIFIED MANNER

200 I, ...(name of qualified patient)..., am an adult of sound
 201 mind.

202
 203 I have been diagnosed with ...(medical condition)..., which

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204 my attending physician has determined is a terminal condition
205 and which has been medically confirmed by a consulting
206 physician.

207
208 I have been fully informed of my diagnosis, prognosis, the
209 nature of the medication to be prescribed pursuant to this
210 request and potential associated risks of taking such
211 medication, the expected result of taking such medication, and
212 any feasible alternatives, including comfort care, hospice care,
213 and pain control.

214
215 Pursuant to chapter 764, Florida Statutes, I request that
216 my attending physician prescribe medication that will end my
217 life in a humane and dignified manner.

218
219 INITIAL ONE:

220 [....] I have informed my family members of my decision and
221 taken their opinions into consideration.

222 [....] I have decided not to inform my family members of my
223 decision.

224 [....] I have no family members to inform of my decision.

225
226 PURSUANT TO SECTION 764.104, FLORIDA STATUTES, I UNDERSTAND
227 THAT I HAVE THE RIGHT TO RESCIND THIS REQUEST AT ANY TIME AND IN
228 ANY MANNER, REGARDLESS OF MY MENTAL STATE.

229
230 I understand the full import of this request, and I expect
231 to die when I take the medication to be prescribed. I further
232 understand that although most deaths occur within 3 hours of

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233 taking such medication, my death may take longer, and my
234 physician has counseled me about this possibility.

236 I make this request voluntarily and without reservation,
237 and I accept full moral responsibility for my actions.

239 Signed: ... (signature of qualified patient)...

240 Dated: ... (date)...

242 DECLARATION OF WITNESSES

243 We declare that the person signing this request:

244 1. Is personally known to us or has provided proof of
245 identity;

246 2. Signed this request in our presence;

247 3. Appears to be of sound mind and not under duress, fraud,
248 or undue influence; and

249 4. Is not a patient for whom either of us is the attending
250 physician.

252	<u>First witness</u>	<u>Second witness</u>
253	<u>... (print name)...</u>	<u>... (print name)...</u>
254	<u>... (signature)...</u>	<u>... (signature)...</u>
255	<u>... (date)...</u>	<u>... (date)...</u>

257 NOTE: At least one witness may not be a relative (by blood,
258 marriage, or adoption) of the person signing this request, may
259 not be entitled to any portion of the person's estate upon
260 death, and may not be an owner, operator, or employee of a
261 health care facility where the person is a patient or resident.

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262 (b) To be valid, the written request must be signed by the
263 qualified patient and witnessed by at least two individuals who,
264 in the presence of the qualified patient, attest that, to the
265 best of their knowledge and belief, the qualified patient is
266 competent, is acting voluntarily, and is not being coerced to
267 sign the request. At least one of the witnesses must be a person
268 who is not:

269 1. A relative of the patient by blood, marriage, or
270 adoption;

271 2. Entitled, at the time the request is signed, to any
272 portion of the estate of the qualified patient upon death under
273 any will or by operation of law; or

274 3. An owner, operator, or employee of a health care
275 facility where the qualified patient is receiving medical
276 treatment or is a resident.

277 (c) The qualified patient's attending physician at the time
278 the request is signed may not serve as a witness.

279 (5) A qualified patient may rescind his or her request at
280 any time and in any manner without regard to his or her mental
281 state.

282 Section 6. Section 764.105, Florida Statutes, is created to
283 read:

284 764.105 Attending physician responsibilities; consulting
285 physician responsibilities; reporting requirements.-

286 (1) An attending physician shall do all of the following:

287 (a) Make the initial determination of whether a patient has
288 a terminal condition, is competent, and has voluntarily made the
289 request for medication to end his or her life.

290 (b) Refer the patient to a consulting physician for medical

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291 confirmation of the diagnosis and for a determination that the
292 patient is competent and acting voluntarily.

293 (c) Ensure that the patient is making an informed decision
294 by fully informing the patient of the facts relevant to all of
295 the following:

296 1. The patient's medical diagnosis.

297 2. The patient's prognosis.

298 3. The potential risks associated with taking the requested
299 medication.

300 4. The probable result of taking the requested medication.

301 5. Any feasible alternatives, including, but not limited
302 to, comfort care, hospice care, and pain control.

303 (d) Verify the patient's Florida residency.

304 (e) Refer the patient to a psychiatrist or psychologist for
305 counseling if the physician believes the patient may be
306 suffering from a psychiatric or psychological disorder or
307 depression causing impaired judgment. A physician may not
308 prescribe medication under this chapter until the psychiatrist
309 or psychologist counseling the patient determines that the
310 patient is not suffering from a psychiatric or psychological
311 disorder or depression causing impaired judgment.

312 (f) Recommend that the qualified patient notify next of kin
313 of his or her decision. A physician may not refuse to prescribe
314 medication to a qualified patient because he or she declines or
315 is unable to notify next of kin.

316 (g) Inform the qualified patient that he or she has an
317 opportunity to rescind the request at any time and in any
318 manner, and offer the qualified patient an opportunity to
319 rescind the request after his or her second verbal request at

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320 the end of the 15-day waiting period pursuant to s. 764.104.

321 (h) Immediately before writing a prescription for
322 medication under this chapter, verify that the qualified patient
323 is making an informed decision.

324 (i) Counsel the qualified patient about the importance of
325 having another person present when taking the medication
326 prescribed under this chapter and of not taking the medication
327 in a public place.

328 (j) Comply with the medical record documentation
329 requirements of this section.

330 (k) Ensure that all appropriate steps are carried out in
331 accordance with this chapter before writing a prescription for
332 medication to enable a qualified patient to end his or her life
333 in a humane and dignified manner.

334 (l)1. Dispense medication directly, including ancillary
335 medications intended to minimize the qualified patient's
336 discomfort, provided the attending physician is registered as a
337 dispensing practitioner under s. 465.0276, has a current Drug
338 Enforcement Administration number, and complies with applicable
339 laws and rules; or

340 2. With the qualified patient's written consent:

341 a. Contact a pharmacist and inform the pharmacist of the
342 prescription; and

343 b. Deliver the written prescription personally or by mail
344 to the pharmacist, who will dispense the medication to either
345 the qualified patient, the attending physician, the qualified
346 patient's legal representative, or an individual whom the
347 qualified patient designates in writing.

348 (2) Notwithstanding any other law, an attending physician

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349 may sign a qualified patient's death certificate.

350 (3) A consulting physician shall examine the patient and
351 his or her relevant medical records to confirm, in writing,
352 whether the consulting physician agrees with the attending
353 physician's diagnosis of the patient's terminal condition, and
354 verify whether the patient is competent, is acting voluntarily,
355 and has made an informed decision. A consulting physician must
356 refer the patient to a psychiatrist or psychologist for
357 counseling if the physician believes the patient may be
358 suffering from a psychiatric or psychological disorder or
359 depression causing impaired judgment.

360 (4) An attending physician is responsible for ensuring that
361 all of the following are documented or filed in the patient's
362 medical record:

363 (a) All written and verbal requests by a patient for
364 medication under this chapter.

365 (b) The attending physician's diagnosis, prognosis, and
366 determination that the patient is competent, is acting
367 voluntarily, and has made an informed decision.

368 (c) The consulting physician's diagnosis, prognosis, and
369 verification that the patient is competent, is acting
370 voluntarily, and has made an informed decision.

371 (d) A report of the outcome and determinations made during
372 counseling, if applicable.

373 (e) The attending physician's offer to the patient to
374 rescind his or her request at the time of the patient's second
375 verbal request.

376 (f) A note by the attending physician indicating that all
377 requirements under this chapter have been met and detailing the

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378 steps taken to carry out the request, including a notation of
379 the medication prescribed.

380 (5) A health care provider who dispenses medication
381 prescribed under this chapter shall file a copy of the
382 dispensing record with the department.

383 (6) The department shall annually review a sample of
384 records maintained under this chapter for compliance and
385 annually publish a statistical report on activities and
386 compliance pursuant to this chapter. The department shall adopt
387 rules to collect information for this purpose.

388 Section 7. Section 764.106, Florida Statutes, is created to
389 read:

390 764.106 Effect on construction of wills, contracts, and
391 statutes; insurance or annuity policies.-

392 (1) A provision in a contract, will, or other agreement,
393 whether written or verbal, to the extent the provision would
394 affect whether a person may make or rescind a request for
395 medication under this chapter, is void and unenforceable.

396 (2) An obligation owed under any existing contract may not
397 be conditioned or affected by a person making or rescinding a
398 request for medication under this chapter.

399 (3) The sale, procurement, or issuance of any life, health,
400 or accident insurance or annuity policy, or the rate charged for
401 any policy, may not be conditioned upon or affected by a person
402 making or rescinding a request for medication under this
403 chapter. A qualified patient's act of ingesting medication
404 prescribed under this chapter may not affect a life, health, or
405 accident insurance or annuity policy.

406 Section 8. Section 764.107, Florida Statutes, is created to

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407 read:

408 764.107 Penalties; liabilities; immunities; grounds for
409 prohibiting health care provider participation; notification;
410 permissible sanctions.-

411 (1) A person who:

412 (a) Without authorization of the patient, willfully alters
413 or forges a request for medication under this chapter or
414 conceals or destroys a rescission of that request with the
415 intent or effect of causing the patient's death commits a felony
416 of the first degree, punishable as provided in s. 775.082, s.
417 775.083, or s. 775.084.

418 (b) Coerces or exerts undue influence on a patient to
419 request medication under this chapter for the purpose of ending
420 the patient's life or to destroy a rescission of a medication
421 request commits a felony of the first degree, punishable as
422 provided in s. 775.082, s. 775.083, or s. 775.084.

423 (2) This chapter does not limit further liability for civil
424 damages resulting from other negligent conduct or intentional
425 misconduct by any person.

426 (3) The penalties in this chapter do not preclude criminal
427 penalties applicable under any other law for conduct that is
428 inconsistent with this chapter.

429 (4) Except as provided in subsections (1) and (5):

430 (a) A person is not subject to civil or criminal liability
431 or professional disciplinary action for participating in good
432 faith compliance with this chapter. This includes being present
433 when a qualified patient takes the medication prescribed under
434 this chapter.

435 (b) A professional organization or association or a health

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436 care provider may not subject a person to censure, discipline,
437 suspension, loss of license, loss of privileges, loss of
438 membership, or other penalty solely for refusing to participate
439 in this chapter or for participating in good faith compliance
440 with this chapter.

441 (c) A request by a patient for, or provision by an
442 attending physician of, medication in good faith compliance with
443 this chapter does not constitute neglect for any purpose of law
444 or provide the sole basis for the appointment of a guardian or
445 conservator.

446 (d) A health care provider is not under any duty, whether
447 by contract, by statute, or by any other legal requirement, to
448 participate in the provision of medication prescribed under this
449 chapter to a qualified patient. If a health care provider is
450 unable or unwilling to carry out a patient's request under this
451 chapter, and the patient transfers his or her care to a new
452 health care provider, the prior health care provider must
453 transfer, upon request, a copy of the patient's relevant medical
454 records to the new health care provider.

455 (5) (a) As used in this subsection, the term:

456 1. "Notify" means to produce a written statement
457 specifically informing employees, before their participation in
458 this chapter, of the employing health care provider's policy
459 prohibiting participation in activities covered by this chapter.

460 2. "Participation in this chapter" means performing the
461 duties of an attending physician, the function of a consulting
462 physician, or the function of counseling pursuant to s. 764.105.

463 The term does not include:

464 a. Making an initial determination that a patient has a

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465 terminal disease and informing the patient of the medical
466 prognosis;

467 b. Providing information about the Death with Dignity Act
468 to a patient upon the request of the patient;

469 c. Providing a patient, upon the request of the patient,
470 with a referral to another physician; or

471 d. A patient contracting with his or her attending
472 physician and consulting physician to act outside of the course
473 and scope of the provider's capacity as an employee or
474 independent contractor of an employing health care provider that
475 prohibits participation in this chapter.

476 (b) Notwithstanding any other law, an employing health care
477 provider may prohibit participation in this chapter on the
478 premises of facilities that it owns or operates if it has
479 notified the health care providers practicing in its facilities
480 of its policy. This paragraph does not prevent a health care
481 provider from otherwise providing health care services to a
482 patient which do not constitute participation in this chapter.

483 (c) Notwithstanding subsection (4), if an employing health
484 care provider has a policy prohibiting its facilities,
485 operators, or employees from participation in this chapter and
486 has notified them of the policy, the employing health care
487 provider may subject its facilities, operators, or employees to
488 any of the following sanctions for participating in this chapter
489 in violation of that policy:

490 1. Loss of privileges, loss of membership, or other
491 sanctions provided under the medical staff bylaws, policies, and
492 procedures of the employing health care provider if the
493 sanctioned health care provider is a member of the employing

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494 health care provider's medical staff and participates in this
495 chapter while on the facility premises of the employing health
496 care provider, not including the private medical office of a
497 physician or other provider;

498 2. Termination of lease or other property contract or other
499 nonmonetary remedies provided by lease contract, not including
500 loss or restriction of medical staff privileges or exclusion
501 from a provider panel, if the sanctioned provider participates
502 in this chapter while on the premises of the sanctioning health
503 care provider or on property that is owned by or under the
504 direct control of the sanctioning health care provider; or

505 3. Termination of contract or other nonmonetary remedies
506 provided by contract if the sanctioned provider participates in
507 this chapter while acting in the course and scope of the
508 sanctioned health care provider's capacity as an employee or
509 independent contractor of the sanctioning health care provider.
510 This subparagraph may not be construed to prevent:

511 a. A health care provider from participating in carrying
512 out the provisions of this chapter while acting outside the
513 course and scope of the provider's capacity as an employee or
514 independent contractor; or

515 b. A patient from contracting with his or her attending
516 physician and consulting physician to act outside the course and
517 scope of the provider's capacity as an employee or independent
518 contractor of the sanctioning health care provider.

519 (d) A health care provider that imposes sanctions under
520 paragraph (c) shall follow all due process and other procedures
521 the sanctioning health care provider may have which are related
522 to the imposition of sanctions on another health care provider.

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523 (6) Suspension or termination of staff membership or
524 privileges under subsection (5) may not be the sole basis for a
525 disciplinary complaint or investigation against a health care
526 provider's license.

527 (7) This chapter may not be construed to allow a lower
528 standard of care for patients.

529 Section 9. Section 764.108, Florida Statutes, is created to
530 read:

531 764.108 Claims by governmental entity for costs incurred.-
532 Any governmental entity that incurs costs resulting from a
533 person terminating his or her life pursuant to this chapter in a
534 public place shall have a claim against the estate of the person
535 to recover the costs and reasonable attorney fees related to
536 enforcing the claim.

537 Section 10. Section 764.109, Florida Statutes, is created
538 to read:

539 764.109 Construction; severability.-

540 (1) This chapter may not be construed to authorize a
541 physician or any other person to end a patient's life by lethal
542 injection, mercy killing, or active euthanasia. Actions taken in
543 accordance with this chapter do not constitute suicide, assisted
544 suicide, mercy killing, or homicide for any purpose under the
545 law.

546 (2) Any section of this chapter being held invalid as to
547 any person or circumstance does not affect the application of
548 any other section of this chapter which can be given full effect
549 without the invalid section or application, and to this end the
550 provisions of this chapter are severable.

551 Section 11. This act shall take effect July 1, 2024.