

HOUSE RESEARCH

Bill Summary

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Authors: Wilkin and others

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Analyst: Janelle Taylor, 651-296-5808

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Overview

This bill establishes the "Minnesota Starvation and Dehydration of Persons with Disabilities Prevention Act."

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1 Starvation and dehydration prevention. Adds § 144.995.

Subd. 1. Citation. States that the act may be cited as the "Minnesota Starvation and Dehydration of Persons with Disabilities Prevention Act."

Subd. 2. Definitions. Defines "attending physician," "express and informed consent," "health care provider," "hydration," "nutrition," "person legally incapable of making health care decisions," "physician," and "reasonable medical judgment."

Subd. 3. Public information for completing an advance directive. Paragraph (a) requires the commissioner of health to develop and carry out a statewide public campaign, for a minimum of two years, that educates the public of: (1) the importance of completing a health care directive or living will; and (2) the presumptions to provide nutrition and hydration sufficient to sustain life established in subdivision 4.

Paragraph (b) requires the public information campaign materials to be: objective, nonjudgmental, and designed to convey only accurate scientific information; and designed to reach populations of different ages, languages, social and economic backgrounds. Allows the public information campaign to include: (1) the preparation,

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publication, and dissemination of information, pamphlets, brochures, and other reports; and (2) the preparation and dissemination of a statewide media and public relations campaign, including public service advertising.

Paragraph (c) requires the commissioner of health to develop and maintain a website, a link to which is featured on the Department of Health's homepage, that provides information concerning advance directives. The website is prohibited from collecting information revealing the personal identity of individuals using the website and the commissioner is required to monitor on a weekly basis the website to prevent and correct tampering. The website must contain downloadable and printable versions of: the established health care living will form; the health care directive form; and any other alternative health care directive form and explanatory information submitted to the commissioner with a request to be included on the website if it meets the requirements for legal sufficiency, without containing provisions that would direct or authorize conduct prohibited under section 609.215 (prohibiting anyone from advising, encouraging, or assisting another's suicide). Allows the commissioner to exclude forms or material containing obscene or libelous matter, and requires that the section of the website containing alternative health care directive forms prominently display a disclosure statement (the text is provided in the subdivision).

Subd. 4. Presumption of nutrition and hydration sufficient to sustain life.

Establishes a presumption that every person legally incapable of making health care decisions has directed his/her health care providers to provide nutrition and hydration sufficient to sustain life. Exempts minors from this because they are covered by the federal "Baby Doe" law. Prohibits any other person, agency or court from making a decision on behalf of the person to withhold or withdraw nutrition and hydration sufficient to sustain the person's life except for the circumstances stated in subdivision 5.

Subd. 5. Presumption of nutrition and hydration, when inapplicable. States that the presumption to provide nutrition and hydration sufficient to sustain life does not apply: (1) when the medical condition of the person, in reasonable medical judgment, is such that doing so would not contribute to sustaining the person's life or provide comfort; (2) when in reasonable medical judgment the person will die imminently of underlying condition and not of dehydration or starvation; (3) if the person executed a living will under chapter 145B or a health care directive under chapter 145C that specifically authorizes withholding or the withdrawal of nutrition and hydration, to the extent the authorization applies; or (4) if clear and convincing evidence that the person, when legally capable of making health care decisions, gave express and informed consent to withdraw or withhold nutrition or hydration in applicable circumstances.

Subd. 6. Civil remedies. Allows a cause of action for injunctive relief to be maintained against any person, who is reasonably believed to be violating or about to violate this section or who is securing a court determination despite the position of a guardian or surrogate or whether there is clear and convincing evidence that the person gave consent to withdrawing or withholding hydration or nutrition. Allows the action to be brought by: the person's spouse, parent, child, sibling, current or former

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health care provider, legally appointed guardian; or a state protection agency, an advocacy agency, or a public official with appropriate jurisdiction. Requires the court to direct that nutrition and hydration be provided unless the court determines that the medical condition of the person, in reasonable medical judgment, is such that doing so would not contribute to sustaining the person's life or provide comfort (subdivision 5, clause (1)).

Subd. 7. Severability. States that the provisions of the section are severable.