



Rep. Daniel J. Burke

**Filed: 4/12/2005**

09400HB2149ham001

LRB094 03004 LCB 45051 a

1 AMENDMENT TO HOUSE BILL 2149

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2149 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Living Will Act is amended by  
5 changing Sections 3 and 7 as follows:

6 (755 ILCS 35/3) (from Ch. 110 1/2, par. 703)

7 Sec. 3. Execution of a Document.

8 (a) An individual of sound mind and having reached the age  
9 of majority or having obtained the status of an emancipated  
10 person pursuant to the "~~Emancipation of Mature~~ Emancipation of Mature Minors Act", as  
11 now or hereafter amended, may execute a document directing that  
12 if he is suffering from a terminal condition, then death  
13 delaying procedures shall not be utilized for the prolongation  
14 of his life.

15 (b) The declaration must be signed by the declarant, or  
16 another at the declarant's direction, and witnessed by 2  
17 individuals 18 years of age or older.

18 (c) The declaration of a qualified patient diagnosed as  
19 pregnant by the attending physician shall be given no force and  
20 effect as long as in the opinion of the attending physician it  
21 is possible that the fetus could develop to the point of live  
22 birth with the continued application of death delaying  
23 procedures.

24 (d) If the patient is able, it shall be the responsibility

1 of the patient to provide for notification to his or her  
2 attending physician of the existence of a declaration, to  
3 provide the declaration to the physician and to ask the  
4 attending physician whether he or she is willing to comply with  
5 its provisions. An attending physician who is so notified shall  
6 make the declaration, or copy of the declaration, a part of the  
7 patient's medical records. If the physician is at any time  
8 unwilling to comply with its provisions, the physician shall  
9 promptly so advise the declarant. If the physician is unwilling  
10 to comply with its provisions and the patient is able, it is  
11 the patient's responsibility to initiate the transfer to  
12 another physician of the patient's choosing. If the physician  
13 is unwilling to comply with its provisions and the patient is  
14 at any time not able to initiate the transfer, then the  
15 attending physician shall without delay notify the person with  
16 the highest priority, as set forth in this subsection, who is  
17 available, able, and willing to make arrangements for the  
18 transfer of the patient and the appropriate medical records to  
19 another physician for the effectuation of the patient's  
20 declaration. The order of priority is as follows: (1) any  
21 person authorized in writing by the patient to make such  
22 arrangements, (2) a surrogate decision maker, as provided in  
23 Section 25 of the Health Care Surrogate Act, and (3) a guardian  
24 of the person of the patient, without the necessity of  
25 obtaining a court order to do so, and (3) any member of the  
26 patient's family.

27 (e) The declaration may, but need not, be in the following  
28 form, and in addition may include other specific directions.  
29 Should any specific direction be determined to be invalid, such  
30 invalidity shall not affect other directions of the declaration  
31 which can be given effect without the invalid direction, and to  
32 this end the directions in the declaration are severable.

33 DECLARATION

34 This declaration is made this ..... day of

1 ..... (month, year). I, ....., being of  
 2 sound mind, willfully and voluntarily make known my desires  
 3 that my moment of death shall not be artificially postponed.

4 If at any time I should have an incurable and irreversible  
 5 injury, disease, or illness judged to be a terminal condition  
 6 by my attending physician who has personally examined me and  
 7 has determined that my death is imminent except for death  
 8 delaying procedures, I direct that such procedures which would  
 9 only prolong the dying process be withheld or withdrawn, and  
 10 that I be permitted to die naturally with only the  
 11 administration of medication, sustenance, or the performance  
 12 of any medical procedure deemed necessary by my attending  
 13 physician to provide me with comfort care.

14 In the absence of my ability to give directions regarding  
 15 the use of such death delaying procedures, it is my intention  
 16 that this declaration shall be honored by my family and  
 17 physician as the final expression of my legal right to refuse  
 18 medical or surgical treatment and accept the consequences from  
 19 such refusal.

20 Signed .....  
 21 City, County and State of Residence .....

22 The declarant is personally known to me and I believe him  
 23 or her to be of sound mind. I saw the declarant sign the  
 24 declaration in my presence (or the declarant acknowledged in my  
 25 presence that he or she had signed the declaration) and I  
 26 signed the declaration as a witness in the presence of the  
 27 declarant. I did not sign the declarant's signature above for  
 28 or at the direction of the declarant. At the date of this  
 29 instrument, I am not entitled to any portion of the estate of  
 30 the declarant according to the laws of intestate succession or,  
 31 to the best of my knowledge and belief, under any will of  
 32 declarant or other instrument taking effect at declarant's  
 33 death, or directly financially responsible for declarant's  
 34 medical care.

1 Witness .....

2 Witness .....

3 (Source: P.A. 85-1209; revised 10-9-03.)

4 (755 ILCS 35/7) (from Ch. 110 1/2, par. 707)

5 Sec. 7. Immunity. The desires of a qualified patient shall  
6 at all times supersede the effect of the declaration.

7 A physician or other health-care provider may presume, in  
8 the absence of knowledge to the contrary, that a declaration  
9 complies with this Act and is valid.

10 No physician, health care provider or employee thereof who  
11 in good faith and pursuant to reasonable medical standards  
12 causes or participates in the withholding or withdrawing of  
13 death delaying procedures from a qualified patient pursuant to  
14 a declaration which purports to have been made in accordance  
15 with this Act shall as a result thereof, be subject to criminal  
16 or civil liability, or be found to have committed an act of  
17 unprofessional conduct.

18 Any person authorized under subsection (d) of Section 3  
19 this Act, who acts in good faith, is not liable for any civil  
20 or criminal damages as a result of any act or omission, except  
21 for willful and wanton misconduct.

22 (Source: P.A. 85-860.)".