

HB0074S01 compared with HB0074

~~deleted text~~ shows text that was in HB0074 but was deleted in HB0074S01.

inserted text shows text that was not in HB0074 but was inserted into HB0074S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jennifer Dailey-Provost proposes the following substitute bill:

END OF LIFE PRESCRIPTION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer ~~Dailey-Provost~~ Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Uniform Probate Code to enact the End of Life Options Act (the "Act").

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes a procedure for an individual with a terminal disease to obtain a prescription to end the individual's life;
- ▶ describes when an individual may make a request for a prescription for aid-in-dying medication;
- ▶ establishes attending and consulting physician responsibilities if an individual requests a prescription for aid-in-dying medication;

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- ▶ includes documentation and reporting requirements;
- ▶ establishes the effect of the decision to utilize aid-in-dying medication on an individual's will, contracts, and insurance and annuity contracts;
- ▶ provides limited immunities for good faith application of the Act;
- ▶ prohibits euthanasia or mercy killing;
- ▶ establishes criminal penalties and civil liability for certain actions;
- ▶ ~~{clarifies}~~provides that a health care provider does not commit manslaughter by following the ~~{procedure}~~procedures established in the Act;
- ▶ provides a uniform form for an individual's written request for a prescription for aid-in-dying medication;
- ▶ provides safe disposal requirements for unused aid-in-dying medication;
- ▶ includes a severability clause; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2021, Chapters 100, 143, and 367

76-5-205, as last amended by Laws of Utah 2018, Chapter 372

ENACTS:

75-2c-101, Utah Code Annotated 1953

75-2c-102, Utah Code Annotated 1953

75-2c-103, Utah Code Annotated 1953

75-2c-104, Utah Code Annotated 1953

75-2c-105, Utah Code Annotated 1953

75-2c-106, Utah Code Annotated 1953

75-2c-107, Utah Code Annotated 1953

75-2c-108, Utah Code Annotated 1953

75-2c-109, Utah Code Annotated 1953

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75-2c-110, Utah Code Annotated 1953
75-2c-111, Utah Code Annotated 1953
75-2c-112, Utah Code Annotated 1953
75-2c-113, Utah Code Annotated 1953
75-2c-114, Utah Code Annotated 1953
75-2c-115, Utah Code Annotated 1953
75-2c-116, Utah Code Annotated 1953
75-2c-117, Utah Code Annotated 1953
75-2c-118, Utah Code Annotated 1953
75-2c-119, Utah Code Annotated 1953
75-2c-120, Utah Code Annotated 1953
75-2c-121, Utah Code Annotated 1953
75-2c-122, Utah Code Annotated 1953
75-2c-123, Utah Code Annotated 1953
75-2c-124, Utah Code Annotated 1953
75-2c-125, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-2-302** is amended to read:

63G-2-302. Private records.

- (1) The following records are private:
- (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
 - (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
 - (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
 - (d) records received by or generated by or for:
 - (i) the Independent Legislative Ethics Commission, except for:
 - (A) the commission's summary data report that is required under legislative rule; and
 - (B) any other document that is classified as public under legislative rule; or

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(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

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- (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;
- (n) a record that:
 - (i) contains information about an individual;
 - (ii) is voluntarily provided by the individual; and
 - (iii) goes into an electronic database that:
 - (A) is designated by and administered under the authority of the Chief Information Officer; and
 - (B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;
- (o) information provided to the Commissioner of Insurance under:
 - (i) Subsection 31A-23a-115(3)(a);
 - (ii) Subsection 31A-23a-302(4); or
 - (iii) Subsection 31A-26-210(4);
- (p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- (q) information provided by an offender that is:
 - (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
 - (ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);
- (r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;
- (s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;
- (t) an email address provided by a military or overseas voter under Section 20A-16-501;

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(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; [~~and~~]

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii)[-]; and

(cc) a dispensing or medical record that is classified as a private record under Section 75-2c-114.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection

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63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics,

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doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

- (i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or
- (ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 2. Section **75-2c-101** is enacted to read:

CHAPTER 2c. END OF LIFE OPTIONS ACT

75-2c-101. Title.

This chapter is known as the "End of Life Options Act."

Section 3. Section **75-2c-102** is enacted to read:

75-2c-102. Definitions.

As used in this chapter:

- (1) "Adult" means an individual who is 18 years old or older.
- (2) "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.
- (3) "Capable" means that in the opinion of the patient's attending physician, consulting physician, and licensed mental health professional, if any, the patient has the ability to make and communicate health care decisions to a health care provider, including communication through an individual familiar with the patient's manner of communicating.
- (4) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.
- (5) "Counseling" means one or more consultations as necessary between a licensed mental health professional and a patient for the purpose of determining whether the patient is capable.
- (6) "Health care provider" means an individual licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care or dispense medication in the ordinary course of business or practice of a profession.

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(7) "Informed decision" means a decision that is made by a patient to request aid-in-dying medication to end the patient's life in a humane and dignified manner that is based on an appreciation of the relevant facts, after being fully informed by the attending physician:

(a) of the patient's medical diagnosis;

(b) of the patient's prognosis;

(c) of the potential risks associated with taking the aid-in-dying medication;

(d) of the probable result of taking the aid-in-dying medication; and

(e) of the feasible alternatives, including concurrent or additional treatment alternatives, palliative care, comfort care, hospice care, disability resources available in the community, and pain control.

(8) "Medically confirmed" means the medical opinion of the attending physician is confirmed by a consulting physician who examined the patient and the patient's relevant medical records.

(9) "Patient" means an adult who is under the care of a physician.

(10) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(11) "Qualified patient" means a capable adult who has satisfied the requirements of this chapter to obtain a prescription for aid-in-dying medication to end the patient's life in a humane and dignified manner.

(12) "Self-administer" means a qualified patient's affirmative, conscious act of using the aid-in-dying medication to bring about the qualified patient's own death in a humane and dignified manner.

(13) "Terminal disease" means an incurable and irreversible disease that is medically confirmed and will, within reasonable medical judgment, produce death within six months after the day on which the disease is medically confirmed.

Section 4. Section **75-2c-103** is enacted to read:

75-2c-103. Requests for medication -- Opportunity to rescind.

(1) In order to receive a prescription for aid-in-dying medication to end the patient's life in a humane and dignified manner, a patient shall:

(a) make an initial oral request for the aid-in-dying medication to the patient's attending physician;

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(b) make a written request for the aid-in-dying medication to the patient's attending physician in accordance with Section 75-2c-104; and

(c) repeat the oral request to the patient's attending physician no less than 15 days after the day on which the patient makes the initial oral request.

(2) At the time the patient repeats the oral request as described in Subsection (1)(c), the attending physician shall offer the patient an opportunity to rescind the request.

(3) (a) A patient may rescind the patient's oral or written request at any time and in any manner without regard to the patient's mental state.

(b) A physician may not write a prescription for aid-in-dying medication under this chapter unless the attending physician offers the patient an opportunity to rescind the patient's request in accordance with Subsection 75-2c-106(1)(g).

Section 5. Section **75-2c-104** is enacted to read:

75-2c-104. Written request for medication.

(1) A patient may make a written request for aid-in-dying medication to end the patient's life in a humane and dignified manner if the patient:

(a) is suffering from a terminal disease;

(b) is capable;

(c) is a resident of Utah; and

(d) has voluntarily made an oral request for aid-in-dying medication under Subsection 75-2c-103(1)(a).

(2) A patient may not make a written request under Subsection (1) solely because of age or disability.

(3) (a) Only the patient may make a written request under Subsection (1).

(b) A written request under Subsection (1) may not be made by the patient's qualified power of attorney, durable medical power of attorney, advanced health care directive, or any other means.

Section 6. Section **75-2c-105** is enacted to read:

75-2c-105. Form of written request for medication -- Witnesses.

(1) A written request for aid-in-dying medication under Section 75-2c-103 shall be in substantially the form described in Section 75-2c-124, signed and dated by the patient, and witnessed by at least two adults who, in the presence of the patient, attest that to the best of

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each adult's knowledge and belief the patient:

- (a) is capable;
- (b) is acting voluntarily; and
- (c) is not being coerced to sign the request.

(2) At least one witness to the patient's written request may not:

- (a) be a relative of the patient by blood, marriage, or adoption;
- (b) at the time the request is signed, be entitled to any portion of the estate of the

patient upon death under any will or by operation of law; or

(c) be an owner, operator, or employee of a health care facility where the patient is receiving medical treatment or is a resident.

(3) The patient's attending physician at the time the patient's written request is signed may not be a witness.

Section 7. Section **75-2c-106** is enacted to read:

75-2c-106. Attending physician responsibilities.

(1) The attending physician for a patient who requests aid-in-dying medication under Section 75-2c-103 shall:

(a) make an initial determination of whether the patient:

- (i) has a terminal disease;
- (ii) is capable; and
- (iii) is acting voluntarily;

(b) request that the patient attest to Utah residency under Section 75-2c-113;

(c) inform the patient:

- (i) of the patient's medical diagnosis;
- (ii) of the patient's prognosis;
- (iii) of the potential risks associated with taking the aid-in-dying medication;
- (iv) of the probable result of taking the aid-in-dying medication; and
- (v) of the feasible alternatives, including concurrent or additional treatments, palliative

care, comfort care, hospice care, disability resources available in the community, and pain control;

(d) refer the patient to a consulting physician for confirmation under Section 75-2c-107;

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(e) counsel the patient about the importance of having another individual present when the patient takes the aid-in-dying medication and not taking the aid-in-dying medication in a public place;

(f) inform the patient upon the patient's initial request under Section 75-2c-103 that the patient may rescind the patient's request for aid-in-dying medication at any time and in any manner;

(g) at the end of the 15-day waiting period described in Section 75-2c-111 and as described in Section 75-2c-109, offer the patient an opportunity to rescind the patient's request for aid-in-dying medication; and

(h) comply with the other requirements of this chapter.

(2) (a) The attending physician shall ensure that all appropriate steps are carried out in accordance with this chapter before:

(i) determining that the patient is a qualified patient; and

(ii) writing a prescription for aid-in-dying medication to enable the patient to end the patient's life in a humane and dignified manner.

(b) If the attending physician writes a prescription for aid-in-dying medication, the attending physician shall:

(i) electronically contact a pharmacist and inform the pharmacist of the prescription for the aid-in-dying medication;

(ii) personally send an electronic prescription to the pharmacist for the aid-in-dying medication; and

(iii) inform the Department of Health of the prescription for the aid-in-dying medication, including the name of the aid-in-dying medication prescribed.

(c) The pharmacist shall dispense the aid-in-dying medication described in Subsection (2)(b) to:

(i) the qualified patient;

(ii) the attending physician; or

(iii) an expressly identified agent of the qualified patient.

Section 8. Section **75-2c-107** is enacted to read:

75-2c-107. Consulting physician confirmation.

Before an attending physician may determine a patient is a qualified patient, a

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consulting physician shall:

(1) examine the patient and the patient's relevant medical records and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease;
and

(2) verify that the patient:

(a) is capable;

(b) is acting voluntarily; and

(c) is making an informed decision.

Section 9. Section **75-2c-108** is enacted to read:

75-2c-108. Counseling referral.

(1) If the attending physician or the consulting physician determines a patient who makes a request for aid-in-dying medication under Section 75-2c-103 may be suffering from impaired judgment, the physician who makes the determination shall refer the patient for counseling.

(2) The attending physician may not prescribe aid-in-dying medication to enable the patient described in Subsection (1) to end the patient's life in a humane and dignified manner unless a counselor determines that the patient:

(a) is capable;

(b) is acting voluntarily; and

(c) is making an informed decision.

Section 10. Section **75-2c-109** is enacted to read:

75-2c-109. Informed decision.

(1) A patient may not receive a prescription for aid-in-dying medication to end the patient's life in a humane and dignified manner unless the patient has made an informed decision.

(2) Immediately before prescribing a patient aid-in-dying medication under this chapter, the attending physician shall verify that the patient is making an informed decision.

Section 11. Section **75-2c-110** is enacted to read:

75-2c-110. Family notification.

(1) The attending physician shall recommend that the patient notify the patient's next of kin of the patient's request for aid-in-dying medication under Section 75-2c-103.

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(2) The attending physician may not deny a patient's request for aid-in-dying medication on the basis of the patient's declination or inability to notify the patient's next of kin.

Section 12. Section **75-2c-111** is enacted to read:

75-2c-111. Waiting periods.

A physician may not prescribe aid-in-dying medication to enable a patient to end the patient's life in a humane and dignified manner unless:

(1) no less than 15 days have passed since the day on which the patient made the initial oral request for aid-in-dying medication under Section 75-2c-103;

(2) the patient repeats the oral request for aid-in-dying medication as described in Section 75-2c-103; and

(3) at least 48 hours have passed since the patient made the patient's written request for aid-in-dying medication under Section 75-2c-103.

Section 13. Section **75-2c-112** is enacted to read:

75-2c-112. Medical record documentation requirements.

The following shall be documented or filed in the medical record of a patient who requests aid-in-dying medication under Section 75-2c-103:

(1) all oral and written requests by the patient for aid-in-dying medication;

(2) the attending physician's diagnosis, prognosis, and determination whether the patient:

(a) is capable;

(b) is acting voluntarily; and

(c) has made an informed decision;

(3) the consulting physician's diagnosis, prognosis, and determination whether the patient:

(a) is capable;

(b) is acting voluntarily; and

(c) has made an informed decision;

(4) if applicable, a report of the outcome and determinations made during the patient's counseling under Section 75-2c-108;

(5) the attending physician's offer to the patient to rescind the patient's request under

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Subsection 75-2c-106(1)(g); and

(6) a note by the attending physician indicating that all requirements under this chapter have been met and describing the steps taken to carry out the patient's request, including a notation of the aid-in-dying medication prescribed.

Section 14. Section **75-2c-113** is enacted to read:

75-2c-113. Residency requirement.

(1) A patient who requests aid-in-dying medication under Section 75-2c-103 shall attest to the attending physician that the patient:

(a) is a resident of Utah; and

(b) (i) possesses a Utah driver license or Utah identification card;

(ii) is registered to vote in Utah;

(iii) owns or leases property in Utah;

(iv) filed a Utah tax return for the most recent tax year, and did not file a Non and Part-year Resident Schedule; or

(v) has some other indication of Utah residency that is recognized by state law.

(2) A patient who relies on Subsection (1)(b)(v) to attest to residency in Utah shall specifically describe the factors that the patient is relying upon in the attestation to the attending physician.

(3) An attending physician may rely on the patient's attestation under this section to determine that the patient is a qualified patient.

Section 15. Section **75-2c-114** is enacted to read:

75-2c-114. Reporting requirements -- Rulemaking.

(1) A health care provider who dispenses aid-in-dying medication under this chapter shall file a copy of the dispensing record with the Department of Health in accordance with Subsection (3).

(2) (a) The Department of Health may review a sample of the medical records of patients who receive aid-in-dying medication under this chapter.

(b) Except as otherwise provided by law, information collected by the Department of Health under Subsections (1) and (2)(a) is a private record under Section 63G-2-302.

(3) The Department of Health shall:

(a) generate and make available to the public an annual statistical report of

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de-identified information collected under this section;

(b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the collection of information to determine compliance with this chapter; and

(c) provide an annual report to the Health and Human Services Interim Committee regarding the statistical report described in Subsection (3)(a).

Section 16. Section **75-2c-115** is enacted to read:

75-2c-115. Effect on construction of wills, contracts, and statutes.

(1) A provision in a contract, will, or other agreement, whether oral or written, is not valid to the extent the provision would affect whether an individual may make or rescind a request for aid-in-dying under this chapter.

(2) An obligation owing under any currently existing contract is not conditioned or affected by the making or rescinding of a request for aid-in-dying medication under this chapter.

Section 17. Section **75-2c-116** is enacted to read:

75-2c-116. Insurance or annuity policies.

(1) A qualified patient's act of ingesting aid-in-dying medication to end the patient's life in a humane and dignified manner in accordance with this chapter does not affect a life, health, or accident insurance or annuity policy.

(2) An insurer may not:

(a) deny or alter health care benefits otherwise available to an individual with a terminal illness based on the availability of aid-in-dying medication; or

(b) coerce or attempt to coerce an individual to make a request for aid-in-dying medication.

Section 18. Section **75-2c-117** is enacted to read:

75-2c-117. Construction of chapter.

(1) This chapter does not authorize a physician or another person to end a patient's life by lethal injection, mercy killing, or euthanasia.

(2) Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide.

Section 19. Section **75-2c-118** is enacted to read:

75-2c-118. Immunity for action in good faith -- Prohibition against reprisal --

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Acceptable prohibitions.

(1) A person is not subject to civil or criminal liability or professional disciplinary action for actions resulting from good faith compliance with this chapter, including being present when a qualified patient takes the prescribed aid-in-dying medication to end the qualified patient's life in a humane and dignified manner.

(2) A professional organization or association, or health care provider, may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this chapter.

(3) A request by a patient for, or provision by an attending physician of, aid-in-dying medication in good faith compliance with the provisions of this chapter is not neglect for any purpose of law and may not form nor contribute to the basis for the appointment of a guardian or conservator.

(4) A health care facility may not prohibit a health care provider from providing medical aid-in-dying care, except that the health care facility may prohibit the patient from self-administration of aid-in-dying medication on the premises of the facility.

(5) A health care facility may not prohibit the lawful self-administration of aid-in-dying medication on the premises of the facility unless the health care facility provides written notification of the prohibition to the attending physician and any qualified patient.

(6) If a health care facility prohibits the self-administration of aid-in-dying medication, the facility shall refer a qualified patient to a health care facility that does not have a prohibition against the self-administration of aid-in-dying medication on the premises.

Section 20. Section **75-2c-119** is enacted to read:

75-2c-119. Liabilities.

(1) A person may not:

(a) without authorization of the patient, willfully alter or forge a request for aid-in-dying medication or conceal or destroy a rescission of the request with the intent or effect of causing the patient's death; or

(b) coerce or exert undue influence on a patient to request aid-in-dying medication or destroy a rescission of the request.

(2) A violation of Subsection (1) is a first degree felony.

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

(4) The penalties in this chapter do not preclude criminal penalties applicable under other law for conduct that is inconsistent with the provisions of this chapter.

Section 21. Section **75-2c-120** is enacted to read:

75-2c-120. Claims by governmental entity for costs incurred.

A governmental entity that incurs costs resulting from an individual ending the individual's life under this chapter in a public place shall have a claim against the estate of the individual to recover the costs and reasonable attorney fees related to enforcing the claim.

Section 22. Section **75-2c-121** is enacted to read:

75-2c-121. No duty to provide medical aid-in-dying care.

(1) A health care provider may choose whether to provide medical aid-in-dying care in accordance with this chapter.

(2) If a health care provider is unwilling to provide medical aid-in-dying care to a requesting, capable patient, the health care provider shall make reasonable efforts to transfer the care of the patient to a health care provider who willingly provides medical aid-in-dying care.

(3) If a health care provider transfers the care of a patient under Subsection (2), the health care provider shall coordinate the transfer of the patient's medical records to the new health care provider.

Section 23. Section **75-2c-122** is enacted to read:

75-2c-122. Death certificate.

(1) Unless otherwise prohibited, the attending physician or the hospice medical director shall sign the death certificate of a qualified patient who obtained and self-administered aid-in-dying medication under this chapter.

(2) If a death occurs as a result of aid-in-dying medication prescribed under this chapter:

(a) the cause of death shall be listed on the death certificate as the underlying terminal illness for which the patient qualified to obtain the aid-in-dying medication; and

(b) the manner of death may not be listed as suicide or homicide.

(3) Notwithstanding Section 26-4-7, a death that results in accordance with this chapter

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may not form the sole basis for a postmortem investigation.

Section 24. Section **75-2c-123** is enacted to read:

75-2c-123. Safe disposal of unused aid-in-dying medication.

A person who has custody or control of aid-in-dying medication that is dispensed under this chapter and that is unused after the qualified patient who obtained the aid-in-dying medication has died shall dispose of the aid-in-dying medication by any lawful means, including taking the unused aid-in-dying medication to:

(1) the attending physician who wrote the prescription for the aid-in-dying medication, who shall dispose of the medication by lawful means;

(2) a federally approved medication take-back program; or

(3) a local medication take-back program supported by a law enforcement agency, pharmacy, or health care provider.

Section 25. Section **75-2c-124** is enacted to read:

75-2c-124. Form of the request.

A request for aid-in-dying medication under this chapter shall be in substantially the following form:_____

REQUEST FOR MEDICATION

TO END MY LIFE IN A HUMANE

AND DIGNIFIED MANNER

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed, and potential associated risks, the expected result, and the feasible alternatives, including palliative care, comfort care, hospice care, disability resources available in the community, and pain control.

I request that my attending physician prescribe medication that will end my life in a humane and dignified manner.

INITIAL ONE:

_____ I have informed my family of my decision and taken their opinions into consideration.

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_____ I have decided not to inform my family of my decision.

_____ I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

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

Signed: _____

Dated: _____

DECLARATION OF WITNESSES

We declare that the individual signing this request:

- (a) is personally known to us or has provided proof of identity;
- (b) signed this request in our presence;
- (c) appears to be of sound mind and not under duress, fraud, or undue influence; and
- (d) is not a patient for whom either of us is the attending physician.

_____ Witness 1/Date

_____ Witness 2/Date

NOTE: At least one witness shall be an adult who is not a relative (by blood, marriage, or adoption) of the individual signing this request, is not entitled to any portion of the requestor's estate upon death, and does not own, operate, and is not employed at a health care facility where the requestor is a patient or resident.

Section 26. Section **75-2c-125** is enacted to read:

75-2c-125. Severability.

(1) If a final decision of a court of competent jurisdiction holds invalid any provision of this chapter or the application of any provision to any person or circumstance, the remaining provisions of this chapter remain effective without the invalidated provision or application.

(2) The provisions of this chapter are severable.

Section 27. Section **76-5-205** is amended to read:

76-5-205. Manslaughter.

(1) As used in this section:

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(a) (i) "Aid" means the act of providing the physical means.

(ii) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75, Chapter 2a, Advance Health Care Directive Act, or any other laws of this state.

(b) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.

(c) "Provides" means to administer, prescribe, distribute, or dispense.

(2) Except as provided in Subsection (5), criminal homicide constitutes manslaughter if the actor:

(a) recklessly causes the death of another;

(b) intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the other individual to commit suicide;

(c) commits a homicide which would be murder, but the offense is reduced [pursuant to] under Subsection 76-5-203(4); or

(d) commits murder, but special mitigation is established under Section 76-5-205.5.

(3) Manslaughter is a felony of the second degree.

(4) (a) In addition to the penalty described under this section or any other section, an individual who is convicted of violating this section shall have the individual's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.

(b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.

(5) (a) A practitioner does not violate Subsection (2)(b) if the practitioner provides ~~the~~ (a) medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual ~~to~~ to whom the practitioner provides the medication or procedure ~~to~~ unless

(b) Notwithstanding Subsection (5)(a), a practitioner violates Subsection (2)(b) if the practitioner intentionally and knowingly provides ~~the~~ medication or a procedure to aid ~~the~~ an individual to commit suicide or attempt to commit suicide~~[-] or~~

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~~(b) medication to an individual } in {accordance with}~~ a manner not authorized under

Title 75, Chapter 2c, End of Life Options Act.