

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1117

S.P. 389

In Senate, March 26, 2015

### **An Act To Clarify the Policy for Withdrawal of Life Support from Minors**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.  
Cosponsored by Representative HILLIARD of Belgrade and  
Senators: EDGECOMB of Aroostook, HASKELL of Cumberland, VOLK of Cumberland,  
Representatives: HANLEY of Pittston, MAKER of Calais, PICCHIOTTI of Fairfield,  
TIMBERLAKE of Turner, VEROW of Brewer.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 18-A MRSA §5-819** is enacted to read:

3 **§5-819. Withholding and withdrawal of life-sustaining treatment for minors**

4 (a). As used in this section, unless the context otherwise indicates, the following  
5 terms have the following meanings.

6 (1). "Attending physician" means the physician who has primary responsibility for  
7 the medical care and treatment of a minor.

8 (2). "Authorized legal surrogate" means the person or persons with legal custody of a  
9 minor and with the authority to make legal medical decisions for that minor,  
10 including that minor's parent or parents. "Authorized legal surrogate" does not  
11 include a legal guardian or a state agency or representative for a minor when the  
12 minor's parents' full parental rights have not been permanently terminated.

13 (3). "Communication" means an in-person or telephone conversation, a message  
14 such as a voicemail or a letter or other written communication including e-mail.

15 (4). "Health care facility" means a hospital or ambulatory surgical center licensed  
16 under Title 22, chapter 405.

17 (5). "Life-sustaining treatment" means the short-term or long-term use of a medical  
18 device or procedure, drugs, surgery or therapy that uses mechanical or other artificial  
19 means to sustain, restore or supplant a vital bodily function, the withholding of which  
20 is more likely than not to lead to severe physical harm or death. "Life-sustaining  
21 treatment" does not include the provision of nutrition and hydration.

22 (6). "Minor" means a person under 18 years of age.

23 (7). "Physician" means a person licensed under Title 32, chapter 36 or 48 to practice  
24 medicine in the State as a medical or osteopathic physician.

25 (b). A physician may withhold or withdraw life-sustaining treatment for a minor,  
26 institute a do-not-resuscitate order for a minor or take other action that is more likely than  
27 not to lead to severe physical harm or death of a minor only if the authorized legal  
28 surrogate for the minor gives direction in writing. Before giving a direction under this  
29 subsection, the authorized legal surrogate shall consult with the minor's attending  
30 physician and follow all procedures required by the health care facility. The authorized  
31 legal surrogate shall also obtain a 2nd opinion from another physician with adequate  
32 expertise and experience of the minor's diagnosis, prognosis and risks and the probable  
33 result of the proposed action and available alternatives. The authorized legal surrogate  
34 may rescind the direction at any time by a communication, which takes effect upon  
35 receipt, to the attending physician or health care facility.

36 **SUMMARY**

37 This bill authorizes a physician to withhold or withdraw life sustaining treatment for  
38 a minor or institute a do-not-resuscitate order for a minor only if the authorized legal

1 surrogate for the minor gives direction in writing. This bill specifies that an "authorized  
2 legal surrogate" does not include a legal guardian or state agency or representative for a  
3 minor when the minor's parents' full parental rights have not been terminated.