MAINE STATE LEGISLATURE

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(EMERGENCY) FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 451

S.P. 154

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In Senate, February 20, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate Presented by Senator GAUVREAU of Androscoggin. Cosponsored by Senator BUSTIN of Kennebec, Senator GILL of Cumberland, Representative ROLDE of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SEVEN

Resolve, to Establish a Commission to Study Treatment Protocol for Severely Incompetent Patients.

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in order for the Commission on Treatment Protocol for Severely Incompetent Patients to complete its study and make its report it is necessary that the commission begin its tasks prior to the ex-

13 piration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of

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the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

5 Commission established; membership. Resolved: 6 That the Commission on Treatment Protocol for Severe-7 ly Incompetent Patients is established. The sion shall be comprised of the following members: Two 8 9 Senators to be appointed by the President of the Sen-10 2 members of the House of Representatives to be appointed by the Speaker of the House; the Chief Jus-11 12 tice of the Supreme Judicial Court or his designee: 13 one member of the Executive Department; one member of 14 the clergy; one attorney-at-law; one physician; 2 15 members representing hospitals and other health care 16 professionals; and one member of the public to be ap-17 pointed by the Governor; and be it further

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Duties. Resolved: That the commission review the status of medical treatment and protocol for severely injured or incompetent individuals when no reasonable expectation of recovery exists; and be it further

Staff; compensation. Resolved: That the commission be provided with all necessary independent staff assistance and receive information about problems and services from all appropriate offices of State Government.

Legislative members of the commission shall receive per diem compensation and all members shall receive compensation for travel and other necessary expenses incurred in the performance of their duties; and be it further

Report. Resolved: That the commission make its report, together with any necessary implementing legislation, to the Second Regular Session of the 113th Legislature no later than January 15, 1988; and be it further

Appropriation. Resolved: That the sum of \$10,000 be appropriated from the General Fund to the Legislative Account for the Commission to Study Treatment Protocol for Severely Incompetent Patients, to carry out the purposes of this resolve.

Emergency clause. In view of the emergency cited in the preamble, this Resolve shall take effect when approved.

STATEMENT OF FACT

5 Hospitals, physicians, medical providers, rela-6 tives and other interested parties are in a legal 7 quandary with respect to defining and delivering an 8 appropriate level of care to incompetent patients who exist in "vegetative" status. There is no statutory, 9 10 constitutional or common law in Maine which establishes the patient's right to live or die or the ex-11 . tent to which medical providers and relatives must 12 13 provide medical care.

14 suggest that the community limit application 15 of medical technologies to preserve life inevitably 16 raises troubling moral issues of the right of society 17 to allow individuals to die. Health care providers, 18 law enforcement authorities, relatives and the public 19 require an appropriate form in which these issues can 20 be raised and resolved. This bill establishes a commission to report to the Second Regular Session of 21 the 113th Legislature as to the need for legislation 22 23 to establish a protocol for the resolution of these 24 issues. The commission would be comprised of representatives from hospitals, physicians and other 25 26 health professionals, the clergy, the Legislature, the Governor's office, the public, law enforcement authorities, the bar and the judiciary. 27 28

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