

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1120

H.P. 797

House of Representatives, February 9, 1999

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### An Act to Amend the Uniform Health Care Decisions Act.

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JABAR of Waterville.  
Cosponsored by Representatives: BRYANT of Dixfield, POWERS of Rockport, WATSON of Farmingdale.

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

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**Sec. 1. 18-A MRSA §5-801, sub-§(q),** as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(q) "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make a decision to withhold or withdraw life-sustaining treatment for a patient who does not have capacity and who is either in a terminal condition or in a persistent vegetative state or to make any other health care decision for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity and no agent or guardian exists.

**Sec. 2. 18-A MRSA §5-805, sub-§(a),** as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(a) A surrogate may make a decision to withhold or withdraw life-sustaining treatment for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity, no agent or guardian has been appointed or the agent or guardian is not reasonably available and the patient is in a terminal condition or a persistent vegetative state as determined by the primary physician. A surrogate is also authorized to make any health care decision, other than to withhold or withdraw life-sustaining treatment, for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity and no agent or guardian exists.

**Sec. 3. 18-A MRSA §5-805, sub-§(b), ¶(4-A)** is enacted to read:

(4-A) An adult who shares an emotional, physical and financial relationship with the patient similar to that of a spouse;

**SUMMARY**

Current law provides that the only health care decision a surrogate is specifically authorized to make is whether to withhold or withdraw life-sustaining treatment for a patient who lacks capacity and is either in a terminal condition or a persistent vegetative state. The surrogate can act only if there is no agent or guardian for the patient or if the agent or guardian is not reasonably available.

2 This bill retains the current law concerning a patient in a  
terminal condition or persistent vegetative state. In addition,  
4 it authorizes a surrogate to make any health care decision for a  
patient if the patient lacks capacity and no agent or guardian  
6 exists. The decision whether to withhold or withdraw  
life-sustaining treatment is limited to the following  
8 circumstances described by current law: when the patient is in a  
terminal condition or a persistent vegetative state. The  
10 surrogate can make any health care decision other than  
withholding or withdrawing life-sustaining treatment for a  
12 patient in any circumstance as long as there is no agent or  
guardian.

14 The bill also expands the list of persons who can act as a  
surrogate for a patient. Added to the list after immediate  
16 family members is an adult who shares an emotional, physical and  
financial relationship with the patient similar to that of a  
18 spouse.