

**INITIATIVE 119**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** the People of the State of Washington.

1 AN ACT Relating to the natural death act; and amending RCW  
2 70.122.010, 70.122.020, 70.122.030, 70.122.040, 70.122.050, 70.122.060,  
3 70.122.070, 70.122.080, 70.122.090, 70.122.100, and 70.122.900.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.122.010 and 1979 c 112 s 2 are each amended to read  
6 as follows:

7 The (~~legislature~~) people find(~~s~~) that adult persons have the  
8 fundamental right to control the decisions relating to the rendering of  
9 their own medical care, including the decision to have all life-  
10 sustaining procedures withheld or withdrawn in instances of a terminal  
11 condition, and including the right to death with dignity through  
12 voluntary aid-in-dying if suffering from a terminal condition.

1       The (~~legislature~~) people further find(~~s~~) that modern medical  
2 technology has made possible the artificial prolongation of human life  
3 beyond natural limits.

4       The (~~legislature~~) people further find(~~s~~) that, in the interest  
5 of protecting individual autonomy, such prolongation of life for  
6 persons with a terminal condition may cause loss of patient dignity,  
7 and unnecessary pain and suffering, while providing nothing medically  
8 necessary or beneficial to the patient.

9       The (~~legislature~~) people further find(~~s~~) that there exists  
10 considerable uncertainty in the medical and legal professions as to the  
11 legality of terminating the use or application of life-sustaining  
12 procedures where the patient has voluntarily and in sound mind  
13 evidenced a desire that such procedures be withheld or withdrawn.

14       The people further find that existing law does not allow willing  
15 physicians to render aid-in-dying to qualified patients who request it.

16       In recognition of the dignity and privacy which patients have a  
17 right to expect, the (~~legislature~~) people hereby declare(~~s~~) that  
18 the laws of the state of Washington shall recognize the right of an  
19 adult person to make a written directive instructing such person's  
20 physician to withhold or withdraw life-sustaining procedures in the  
21 event of a terminal condition, and/or to request and receive aid-in-  
22 dying under the provisions of this chapter.

23       **Sec. 2.** RCW 70.122.020 and 1979 c 112 s 3 are each amended to read  
24 as follows:

25       Unless the context clearly requires otherwise, the definitions  
26 contained in this section shall apply throughout this chapter.

27       (1) "Attending physician" means the physician selected by, or  
28 assigned to, the patient who has primary responsibility for the  
29 treatment and care of the patient.

1 (2) "Directive" means a written document voluntarily executed by  
2 the declarer in accordance with the requirements of RCW 70.122.030.

3 (3) "Health facility" means a hospital as defined in RCW  
4 (~~(70.38.020(7) or)~~) 70.41.020(2), a nursing home as defined in RCW  
5 (~~(70.38.020(8))~~) 18.51.010, or a home health agency or hospice agency  
6 as defined in RCW 70.126.010.

7 (4) "Life-sustaining procedure" means any medical or surgical  
8 procedure or intervention which utilizes mechanical or other artificial  
9 means to sustain, restore, or supplant a vital function, which, when  
10 applied to a qualified patient, would serve only to artificially  
11 prolong the moment of death (~~(and where, in the judgment of the~~  
12 ~~attending physician, death is imminent whether or not such procedures~~  
13 ~~are utilized)~~). "Life-sustaining procedure" includes, but is not  
14 limited to, cardiac resuscitation, respiratory support, and  
15 artificially administered nutrition and hydration, but shall not  
16 include the administration of medication to relieve pain or the  
17 performance of any medical procedure deemed necessary to alleviate  
18 pain.

19 (5) "Physician" means a person licensed under chapter(~~(s)~~) 18.71 or  
20 18.57 RCW.

21 (6) "Qualified patient" means a patient diagnosed and certified in  
22 writing to be afflicted with a terminal condition by two physicians one  
23 of whom shall be the attending physician, who have personally examined  
24 the patient.

25 (7) "Terminal condition" means an incurable (~~(condition caused by~~  
26 ~~injury, disease, or illness, which, regardless of the application of~~  
27 ~~life-sustaining procedures, would, within reasonable medical judgment,~~  
28 ~~produce death, and where the application of life-sustaining procedures~~  
29 ~~serve only to postpone the moment of death of the patient)~~) or  
30 irreversible condition which, in the written opinion of two physicians

1 having examined the patient and exercising reasonable medical judgment,  
2 will result in death within six months, or a condition in which the  
3 patient has been determined in writing by two physicians as having no  
4 reasonable probability of recovery from an irreversible coma or  
5 persistent vegetative state.

6 (8) "Adult person" means a person attaining the age of majority as  
7 defined in RCW 26.28.010 and 26.28.015.

8 (9) "Aid-in-dying" means aid in the form of a medical service  
9 provided in person by a physician that will end the life of a conscious  
10 and mentally competent qualified patient in a dignified, painless and  
11 humane manner, when requested voluntarily by the patient through a  
12 written directive in accordance with this chapter at the time the  
13 medical service is to be provided.

14 **Sec. 3.** RCW 70.122.030 and 1979 c 112 s 4 are each amended to read  
15 as follows:

16 (1) Any adult person may execute at any time a directive directing  
17 the withholding or withdrawal of life-sustaining procedures and/or  
18 requesting the provision of aid-in-dying when in a terminal condition.  
19 The directive shall be signed by the declarer in the presence of two  
20 witnesses not related to the declarer by blood or marriage and who  
21 would not be entitled to any portion of the estate of the declarer upon  
22 declarer's decease under any will of the declarer or codicil thereto  
23 then existing or, at the time of the directive, by operation of law  
24 then existing. In addition, a witness to a directive shall not be the  
25 attending physician, an employee of the attending physician or a health  
26 facility in which the declarer is a patient, or any person who has a  
27 claim against any portion of the estate of the declarer upon declarer's  
28 decease at the time of the execution of the directive. The directive,  
29 or a copy thereof, shall be made part of the patient's medical records

1 retained by the attending physician, a copy of which shall be forwarded  
2 to the health facility upon the withdrawal of life-sustaining  
3 procedures, and/or provision of aid-in-dying. No person shall be  
4 required to execute a directive in accordance with this chapter. Any  
5 person who has not executed such a directive is ineligible for aid-in-  
6 dying under any circumstances. The directive shall be essentially in  
7 the following form, but in addition may include other specific  
8 directions:

9 DIRECTIVE TO PHYSICIANS

10 Directive made this .... day of ..... (month, year).

11 I ....., being of sound mind, willfully, and voluntarily make  
12 known my desire that my life shall not be artificially prolonged under  
13 the circumstances set forth below, and do hereby declare that:

14 (a) If at any time I should have an incurable injury, disease, or  
15 illness certified to be a terminal condition by two physicians, and  
16 where the application of life-sustaining procedures would serve only to  
17 artificially prolong the moment of my death (~~and where my physician~~  
18 ~~determines that my death is imminent whether or not life-sustaining~~  
19 ~~procedures are utilized,)).~~

20 Declarant must initial one or both of the following:

21 ..... I direct that such procedures be withheld or withdrawn, and  
22 that I be permitted to die naturally.

23 ..... I direct that upon my request my physician provide aid-in-  
24 dying so that I might die in a dignified, painless and humane manner.

25 (b) In the absence of my ability to give directions regarding the  
26 use of such life-sustaining procedures, such as while in an  
27 irreversible coma or persistent vegetative state, it is my intention  
28 that this directive shall be honored by my family and physician(s) as

1 the final expression of my legal right to refuse medical or surgical  
2 treatment and I accept the consequences (~~from~~) of such refusal.

3 (c) If I have been diagnosed as pregnant and that diagnosis is  
4 known to my physician, this directive shall have no force or effect  
5 during the course of my pregnancy.

6 (d) I understand the full import of this directive and I am  
7 emotionally and mentally competent to make this directive.

8 (e) I understand that I may add to or delete from or otherwise  
9 change the wording of this directive before I sign it, and that I may  
10 revoke this directive at any time.

11 Signed.....

12 City, County, and State of Residence

13 The declarer has been personally known to me and I believe him or her  
14 to be of sound mind.

15 Witness.....

16 Witness.....

17 (2) Prior to effectuating a directive the diagnosis of a terminal  
18 condition by two physicians shall be verified in writing, attached to  
19 the directive, and made a permanent part of the patient's medical  
20 records.

21 (3) Similar directives to physicians lawfully executed in other  
22 states shall be recognized within Washington state as having the same  
23 authority as in the state where executed.

24 **Sec. 4.** RCW 70.122.040 and 1979 c 112 s 5 are each amended to read  
25 as follows:

26 (1) A directive may be revoked at any time by the declarer, without  
27 regard to declarer's mental state or competency, by any of the  
28 following methods:

1 (a) By being canceled, defaced, obliterated, burned, torn, or  
2 otherwise destroyed by the declarer or by some person in declarer's  
3 presence and by declarer's direction.

4 (b) By a written revocation of the declarer expressing declarer's  
5 intent to revoke, signed, and dated by the declarer. Such revocation  
6 shall become effective only upon communication to the attending  
7 physician by the declarer or by a person acting on behalf of the  
8 declarer. The attending physician shall record in the patient's  
9 medical record the time and date when said physician received  
10 notification of the written revocation.

11 (c) By a verbal expression by the declarer of declarer's intent to  
12 revoke the directive. Such revocation shall become effective only upon  
13 communication to the attending physician by the declarer or by a person  
14 acting on behalf of the declarer. The attending physician shall record  
15 in the patient's medical record the time, date, and place of the  
16 revocation and the time, date, and place, if different, of when said  
17 physician received notification of the revocation.

18 (2) There shall be no criminal (~~(or)~~), civil, or administrative  
19 liability on the part of any person for failure to act upon a  
20 revocation made pursuant to this section unless that person has actual  
21 or constructive knowledge of the revocation.

22 (3) If the declarer becomes comatose or is rendered incapable of  
23 communicating with the attending physician, the directive shall remain  
24 in effect for the duration of the comatose condition or until such time  
25 as the declarer's condition renders declarer able to communicate with  
26 the attending physician.

27 **Sec. 5.** RCW 70.122.050 and 1979 c 112 s 6 are each amended to read  
28 as follows:

1 No physician or health facility which, acting in good faith in  
2 accordance with the requirements of this chapter, causes the  
3 withholding or withdrawal of life-sustaining procedures from a  
4 qualified patient, shall be subject to civil liability therefrom. No  
5 licensed health personnel, acting under the direction of a physician,  
6 who participates in good faith in the withholding or withdrawal of  
7 life-sustaining procedures in accordance with the provisions of this  
8 chapter shall be subject to any civil liability. No physician, or  
9 licensed health personnel acting under the direction of a physician, or  
10 health facility ethics committee member who participates in good faith  
11 in the withholding or withdrawal of life-sustaining procedures and no  
12 physician who provides aid-in-dying to a qualified patient in  
13 accordance with the provisions of this chapter shall be subject to  
14 prosecution for or be guilty of any criminal act or of unprofessional  
15 conduct.

16 **Sec. 6.** RCW 70.122.060 and 1979 c 112 s 7 are each amended to read  
17 as follows:

18 (1) Prior to effectuating a withholding or withdrawal of life-  
19 sustaining procedures from or provision of aid-in-dying to a qualified  
20 patient pursuant to the directive, the attending physician shall make  
21 a reasonable effort to determine that the directive complies with RCW  
22 70.122.030 and, if the patient is mentally competent, that the  
23 directive and all steps proposed by the attending physician to be  
24 undertaken are currently in accord with the desires of the qualified  
25 patient.

26 (2) The directive shall be conclusively presumed, unless revoked,  
27 to be the directions of the patient regarding the withholding or  
28 withdrawal of life-sustaining procedures and/or the provision of aid-  
29 in-dying. No physician, and no licensed health personnel acting in

1 good faith under the direction of a physician, shall be criminally or  
2 civilly liable for failing to effectuate the directive of the qualified  
3 patient pursuant to this subsection, and no health facility may be  
4 required to permit the provision of aid-in-dying within its facility.  
5 If the physician or health care facility refuses to effectuate the  
6 directive, such physician or facility shall make a good faith effort to  
7 transfer the qualified patient to another physician who will effectuate  
8 the directive of the qualified patient or to another facility.

9       **Sec. 7.** RCW 70.122.070 and 1979 c 112 s 8 are each amended to read  
10 as follows:

11       (1) The withholding or withdrawal of life-sustaining procedures  
12 from or the provision of aid-in-dying to a qualified patient pursuant  
13 to the patient's directive in accordance with the provisions of this  
14 chapter shall not, for any purpose, constitute a suicide.

15       (2) The making of a directive pursuant to RCW 70.122.030 shall not  
16 restrict, inhibit, or impair in any manner the sale, procurement, or  
17 issuance of any policy of life insurance, nor shall it be deemed to  
18 modify the terms of an existing policy of life insurance. No policy of  
19 life insurance shall be legally impaired or invalidated in any manner  
20 by the withholding or withdrawal of life-sustaining procedures from or  
21 the provision of aid-in-dying to an insured qualified patient,  
22 notwithstanding any term of the policy to the contrary.

23       (3) No physician, health facility, or other health provider, and no  
24 health ((care)) service plan, insurer issuing disability insurance,  
25 self-insured employee welfare benefit plan, or nonprofit hospital  
26 service plan, shall require any person to execute a directive as a  
27 condition for being insured for, or receiving, health care services.

1       **Sec. 8.** RCW 70.122.080 and 1979 c 112 s 10 are each amended to  
2 read as follows:

3       The act of withholding or withdrawing life-sustaining procedures or  
4 providing aid-in-dying, when done pursuant to a directive described in  
5 RCW 70.122.030 and which causes the death of the declarer, shall not be  
6 construed to be an intervening force or to affect the chain of  
7 proximate cause between the conduct of any person that placed the  
8 declarer in a terminal condition and the death of the declarer.

9       **Sec. 9.** RCW 70.122.090 and 1979 c 112 s 9 are each amended to read  
10 as follows:

11       Any person who willfully conceals, cancels, defaces, obliterates,  
12 or damages the directive of another without such declarer's consent  
13 shall be guilty of a gross misdemeanor. Any person who falsifies or  
14 forges the directive of another((~~7~~)) or willfully conceals or withholds  
15 personal knowledge of a revocation as provided in RCW 70.122.040, with  
16 the intent to cause a withholding or withdrawal of life-sustaining  
17 procedures or the provision of aid-in-dying contrary to the wishes of  
18 the declarer((~~7~~)) and thereby, because of any such act, directly causes  
19 life-sustaining procedures to be withheld or withdrawn or aid-in-dying  
20 to be provided and death to thereby be hastened, shall be subject to  
21 prosecution for murder in the first degree as defined in RCW 9A.32.030.

22       **Sec. 10.** RCW 70.122.100 and 1979 c 112 s 11 are each amended to  
23 read as follows:

24       Nothing in this chapter shall be construed to condone, authorize,  
25 or approve mercy killing, or to permit any affirmative or deliberate  
26 act or omission to end life other than to permit the natural process of  
27 dying and to permit death with dignity through the provision of aid-in-

1 dying only by a physician when voluntarily requested in writing as  
2 provided in this chapter by a conscious and mentally competent  
3 qualified patient at the time aid-in-dying is to be provided.

4       **Sec. 11.** RCW 70.122.900 and 1979 c 112 s 1 are each amended to  
5 read as follows:

6       This act shall be known and may be cited as the "~~(Natural)~~ Death  
7 With Dignity Act(")."\_"

8       NEW SECTION. **Sec. 12.**       If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.