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HUMAN RESOURCES

HOUSE FILE 2425  
BY MASCHER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the creation of the death with dignity Act,  
2 providing penalties, and providing a repeal.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2425

1 Section 1. NEW SECTION. 135N.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Death  
3 With Dignity Act".

4 Sec. 2. NEW SECTION. 135N.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "Adult" means an individual who is eighteen years of  
8 age or older.

9 2. "Attending physician" means the physician who has  
10 primary responsibility for the care of the patient and  
11 treatment of the patient's terminal disease.

12 3. "Capable" means that in the opinion of a court or in  
13 the opinion of the patient's attending physician or consulting  
14 physician, psychiatrist, or psychologist, a patient has the  
15 ability to make and communicate health care decisions to  
16 health care providers, including communication through persons  
17 familiar with the patient's manner of communicating if those  
18 persons are available.

19 4. "Consulting physician" means a physician who is  
20 qualified by specialty or experience to make a professional  
21 diagnosis and prognosis regarding the patient's disease.

22 5. "Counseling" means one or more consultations as  
23 necessary between a psychiatrist or psychologist and a patient  
24 for the purpose of determining that the patient is capable and  
25 not suffering from a psychiatric or psychological disorder or  
26 depression causing impaired judgment.

27 6. "Department" means the Iowa department of public  
28 health.

29 7. "Health care provider" means a person licensed,  
30 certified, or otherwise authorized or permitted by the law of  
31 this state to administer health care or dispense medication in  
32 the ordinary course of business or practice of a profession,  
33 and includes a health care facility as defined in section  
34 135C.1 and a hospital as defined in section 135B.1.

35 8. "Informed decision" means a decision by a qualified

1 patient to request and obtain a prescription to end the  
2 patient's life in a humane and dignified manner that is based  
3 on an appreciation of the relevant facts and after being fully  
4 informed by the attending physician as required by section  
5 135N.4, subsection 1, paragraph "c".

6 9. "Medically confirmed" means the medical opinion of the  
7 attending physician has been confirmed by a consulting  
8 physician who has examined the patient and the patient's  
9 relevant medical records.

10 10. "Patient" means a person who is under the care of a  
11 physician.

12 11. "Physician" means a person licensed to practice  
13 medicine and surgery, osteopathy, or osteopathic medicine and  
14 surgery in this state pursuant to chapter 148, 150, or 150A.

15 12. "Psychiatrist" means a psychiatrist licensed under  
16 chapter 148 or 150A.

17 13. "Psychologist" means a psychologist licensed pursuant  
18 to chapter 154B.

19 14. "Qualified patient" means a capable adult who is a  
20 resident of Iowa and has satisfied the requirements of this  
21 chapter to obtain a prescription for medication to end the  
22 patient's life in a humane and dignified manner.

23 15. "Terminal disease" means an incurable and irreversible  
24 disease that has been medically confirmed and will, based on  
25 reasonable medical judgment, result in death within six  
26 months.

27 Sec. 3. NEW SECTION. 135N.3 WRITTEN REQUEST -- FORM.

28 1. An adult who is capable, is a resident of Iowa, has  
29 been determined by the attending physician and consulting  
30 physician to be suffering from a terminal disease, and has  
31 voluntarily expressed the wish to die, may submit a written  
32 request for a prescription for medication for the purpose of  
33 ending the adult's life in a humane and dignified manner in  
34 accordance with this chapter.

35 2. A person is not a qualified patient under this chapter

1 solely based on age or disability.

2 3. A valid request for a prescription for medication shall  
3 be in substantially the form described in section 135N.22,  
4 signed and dated by the patient and witnessed by at least two  
5 individuals who, in the presence of the patient, attest that  
6 to the best of their knowledge and belief the patient is  
7 capable, acting voluntarily, and is not being coerced to sign  
8 the request.

9 a. One of the witnesses shall be a person who is not any  
10 of the following:

11 (1) A relative of the patient by blood, marriage, or  
12 adoption.

13 (2) A person who at the time the request is signed would  
14 be entitled to any portion of the estate of the patient upon  
15 death under any will or by operation of law.

16 (3) An owner, operator, or employee of a health care  
17 facility where the patient is receiving medical treatment or  
18 is a resident.

19 (4) The patient's attending physician at the time the  
20 request is signed.

21 b. If the patient is a patient in a long-term care  
22 facility at the time the written request is submitted, one of  
23 the witnesses shall be an individual designated by the  
24 facility and having the qualifications specified by rule of  
25 the department.

26 Sec. 4. NEW SECTION. 135N.4 ATTENDING PHYSICIAN  
27 RESPONSIBILITIES.

28 1. The attending physician shall do all of the following:

29 a. Make the initial determination of whether a patient has  
30 a terminal disease, is capable, and has made the request  
31 voluntarily.

32 b. Request that the patient demonstrate Iowa residency  
33 pursuant to section 135N.13.

34 c. To ensure that the patient is making an informed  
35 decision, inform the patient of all of the following:

- 1 (1) The patient's medical diagnosis.
- 2 (2) The patient's prognosis.
- 3 (3) The potential risks associated with taking the  
4 medication to be prescribed.
- 5 (4) The probable result of taking the medication to be  
6 prescribed.
- 7 (5) The feasible alternatives, including but not limited  
8 to comfort care, hospice care, and pain control.
- 9 d. Refer the patient to a consulting physician for medical  
10 confirmation of the diagnosis, and for a determination that  
11 the patient is capable and acting voluntarily.
- 12 e. Refer the patient for counseling, if appropriate,  
13 pursuant to section 135N.6.
- 14 f. Recommend that the patient notify next of kin.
- 15 g. Counsel the patient about the importance of having  
16 another person present when the patient takes the medication  
17 prescribed and of not taking the medication in a public place.
- 18 h. Inform the patient that the patient has an opportunity  
19 to rescind the request at any time and in any manner, and  
20 offer the patient an opportunity to rescind at the end of the  
21 fifteen-day waiting period pursuant to section 135N.9.
- 22 i. Verify, immediately prior to writing the prescription  
23 for medication, that the patient is making an informed  
24 decision.
- 25 j. Fulfill the medical record documentation requirements  
26 of section 135N.12.
- 27 k. Ensure that all appropriate steps are carried out in  
28 accordance with this chapter prior to writing a prescription  
29 for medication to enable a qualified patient to end the  
30 patient's life in a humane and dignified manner.
- 31 1. Dispense medications directly, including ancillary  
32 medications intended to facilitate the desired effect to  
33 minimize the patient's discomfort, provided the attending  
34 physician is registered as a dispensing physician with the  
35 board of medical examiners, has a current United States drug

1 enforcement administration certificate and complies with all  
2 applicable administrative rules, or, with the patient's  
3 written consent, contact a pharmacist and inform the  
4 pharmacist of the prescription and deliver the written  
5 prescription personally or by mail to the pharmacist, who will  
6 dispense the medications to either the patient, the attending  
7 physician, or an expressly identified agent of the patient.

8 2. Notwithstanding any other provision of law to the  
9 contrary, the attending physician may sign the patient's death  
10 certificate.

11 Sec. 5. NEW SECTION. 135N.5 CONSULTING PHYSICIAN  
12 CONFIRMATION.

13 Before a patient is qualified under this chapter, a  
14 consulting physician shall examine the patient and the  
15 patient's relevant medical records and confirm, in writing,  
16 the attending physician's diagnosis that the patient is  
17 suffering from a terminal disease, and verify that the patient  
18 is capable, is acting voluntarily, and has made an informed  
19 decision.

20 Sec. 6. NEW SECTION. 135N.6 COUNSELING REFERRAL.

21 If in the opinion of the attending physician or the  
22 consulting physician a patient may be suffering from a  
23 psychiatric or psychological disorder or depression causing  
24 impaired judgment, either physician shall refer the patient  
25 for counseling. Medication to end a patient's life in a  
26 humane and dignified manner shall not be prescribed until the  
27 person performing the counseling determines that the patient  
28 is not suffering from a psychiatric or psychological disorder  
29 or depression causing impaired judgment.

30 Sec. 7. NEW SECTION. 135N.7 INFORMED DECISION.

31 A person shall not receive a prescription for medication to  
32 end the person's life in a humane and dignified manner unless  
33 the person has made an informed decision. Immediately prior  
34 to writing a prescription for medication under this chapter,  
35 the attending physician shall verify that the patient is

1 making an informed decision.

2 Sec. 8. NEW SECTION. 135N.8 FAMILY NOTIFICATION.

3 The attending physician shall recommend that the patient  
4 notify the next of kin of the patient's request for a  
5 prescription for medication pursuant to this chapter. A  
6 patient who declines or is unable to notify next of kin shall  
7 not have the patient's request denied for that reason.

8 Sec. 9. NEW SECTION. 135N.9 WRITTEN AND ORAL REQUESTS.

9 In order to receive a prescription for medication to end a  
10 patient's life in a humane and dignified manner, a qualified  
11 patient shall have made an oral request and a written request,  
12 and reiterate the oral request to the patient's attending  
13 physician no less than fifteen days after making the initial  
14 oral request. At the time the qualified patient makes the  
15 second oral request, the attending physician shall offer the  
16 patient an opportunity to rescind the request.

17 Sec. 10. NEW SECTION. 135N.10 RIGHT TO RESCIND REQUEST.

18 A patient may rescind the patient's request at any time and  
19 in any manner without regard to the patient's mental state. A  
20 prescription for medication under this chapter shall not be  
21 written without the attending physician offering the qualified  
22 patient an opportunity to rescind the request.

23 Sec. 11. NEW SECTION. 135N.11 WAITING PERIODS.

24 At least fifteen days shall elapse between the patient's  
25 initial oral request and the writing of a prescription under  
26 this chapter. At least forty-eight hours shall elapse between  
27 the patient's written request and the writing of a  
28 prescription under this chapter.

29 Sec. 12. NEW SECTION. 135N.12 MEDICAL RECORD  
30 DOCUMENTATION REQUIREMENTS.

31 All of the following shall be documented or filed in the  
32 patient's medical record:

33 1. All oral requests by a patient for a prescription for  
34 medication to end the patient's life in a humane and dignified  
35 manner.

1        2. All written requests by a patient for a prescription  
2 for medication to end the patient's life in a humane and  
3 dignified manner.

4        3. The attending physician's diagnosis and prognosis,  
5 determination that the patient is capable, is acting  
6 voluntarily, and has made an informed decision.

7        4. The consulting physician's diagnosis and prognosis, and  
8 verification that the patient is capable, is acting  
9 voluntarily, and has made an informed decision.

10       5. A report of the outcome and determinations made during  
11 counseling, if performed.

12       6. The attending physician's offer to the patient to  
13 rescind the patient's request at the time of the patient's  
14 second oral request pursuant to section 135N.9.

15       7. A note by the attending physician indicating that all  
16 requirements under this chapter have been met and indicating  
17 the steps taken to carry out the request, including a notation  
18 of the medication prescribed.

19       Sec. 13. NEW SECTION. 135N.13 RESIDENCY REQUIREMENT.

20       Only requests made by residents of this state under this  
21 chapter shall be granted. Factors demonstrating residency  
22 include but are not limited to:

23       1. Possession of an Iowa driver's license.

24       2. Registration to vote in this state.

25       3. Evidence that the person owns or leases property in  
26 this state.

27       4. Filing of an Iowa tax return for the most recent tax  
28 year.

29       Sec. 14. NEW SECTION. 135N.14 REPORTING REQUIREMENTS.

30       The department shall do all of the following:

31       1. Annually review a sample of records maintained pursuant  
32 to this chapter.

33       2. Require any health care provider upon dispensing  
34 medication pursuant to this chapter to file a copy of the  
35 dispensing record with the department.

1 3. Adopt rules to facilitate the collection of information  
2 regarding compliance with this chapter. Except as otherwise  
3 required by law, the information collected shall not be a  
4 public record and shall not be made available for inspection  
5 by the public.

6 4. Generate and make available to the public an annual  
7 statistical report of information collected under subsection  
8 3.

9 Sec. 15. NEW SECTION. 135N.15 EFFECT ON CONSTRUCTION OF  
10 WILLS, CONTRACTS, AND STATUTES.

11 1. A provision in a contract, will, or other agreement,  
12 whether written or oral, to the extent the provision would  
13 affect whether a person may make or rescind a request for a  
14 prescription for medication to end the person's life under  
15 this chapter, shall not be valid.

16 2. An obligation owing under any currently existing  
17 contract shall not be conditioned or affected by the making or  
18 rescinding of a request, by a person, for a prescription for  
19 medication to end the person's life under this chapter.

20 Sec. 16. NEW SECTION. 135N.16 INSURANCE OR ANNUITY  
21 POLICIES.

22 The sale, procurement, or issuance of any life, health, or  
23 accident insurance or annuity policy or the rate charged for  
24 any policy shall not be conditioned upon or affected by the  
25 making or rescinding of a request, by a person, for a  
26 prescription for medication to end the person's life under  
27 this chapter. A qualified patient's act of ingesting  
28 medication to end the patient's life under this chapter shall  
29 not have an effect upon a life, health, or accident insurance  
30 or annuity policy.

31 Sec. 17. NEW SECTION. 135N.17 CONSTRUCTION.

32 1. This chapter shall not be construed to authorize a  
33 physician or any other person to end a patient's life by  
34 lethal injection, mercy killing, or active euthanasia.  
35 Actions taken in accordance with this chapter shall not, for

1 any purpose, constitute suicide, assisted suicide, mercy  
2 killing, or homicide, under the law.

3 2. This chapter shall not be construed to allow a lower  
4 standard of care for patients in the community where the  
5 patients are treated or in a similar community.

6 Sec. 18. NEW SECTION. 135N.18 IMMUNITIES -- BASIS FOR  
7 PROHIBITING HEALTH CARE PROVIDER FROM PARTICIPATION --  
8 NOTIFICATION -- PERMISSIBLE SANCTIONS.

9 1. Except as provided in section 135N.19:

10 a. A person shall not be subject to civil or criminal  
11 liability or professional disciplinary action for  
12 participating in good faith compliance with this chapter.  
13 This participation includes being present when a qualified  
14 patient takes the prescribed medication to end the patient's  
15 life under this chapter.

16 b. A professional organization or association, or health  
17 care provider, shall not subject a person to censure,  
18 discipline, suspension, loss of license, loss of privileges,  
19 loss of membership, or other penalty for participating or  
20 refusing to participate in good faith compliance with this  
21 chapter.

22 c. A request by a patient for or provision by an attending  
23 physician of medication in good faith compliance with this  
24 chapter shall not constitute neglect for any purpose of law or  
25 provide the sole basis for the appointment of a guardian or  
26 conservator.

27 d. A health care provider shall not be under any duty,  
28 whether by contract, by statute, or by any other legal  
29 requirement to participate in the provision to a qualified  
30 patient of medication to end the qualified patient's life  
31 under this chapter. If a health care provider is unable or  
32 unwilling to carry out a qualified patient's request under  
33 this chapter, and the qualified patient transfers the  
34 qualified patient's care to a new health care provider, the  
35 prior health care provider shall transfer, upon request, a

1 copy of the qualified patient's relevant medical records to  
2 the new health care provider.

3 e. (1) Notwithstanding any other provision of law to the  
4 contrary, a health care provider may prohibit another health  
5 care provider from participating in this chapter on the  
6 premises of the prohibiting provider if the prohibiting  
7 provider has notified the health care provider of the  
8 prohibiting provider's policy regarding participating in this  
9 chapter. This subparagraph shall not prevent a health care  
10 provider from providing health care services to a patient that  
11 do not constitute participation in this chapter.

12 (2) Notwithstanding the provisions of paragraphs "a"  
13 through "d", a health care provider may subject another health  
14 care provider to the following sanctions if the sanctioning  
15 health care provider has notified the sanctioned health care  
16 provider prior to participation in this chapter that the  
17 sanctioning health care provider prohibits participation in  
18 this chapter.

19 (a) Loss of privileges, loss of membership, or other  
20 sanctions provided pursuant to the medical staff bylaws,  
21 policies, and procedures of the sanctioning health care  
22 provider if the sanctioned health care provider is a member of  
23 the sanctioning health care provider's medical staff and  
24 participates in this chapter while on the premises of the  
25 sanctioning health care provider, but not including the  
26 private medical office of a physician or other health care  
27 provider.

28 (b) Termination of lease or other property contract or  
29 other nonmonetary remedies provided by lease contract, not  
30 including loss or restriction of medical staff privileges or  
31 exclusion from a health care provider panel, if the sanctioned  
32 health care provider participates in this chapter while on the  
33 premises of the sanctioning health care provider or on  
34 property that is owned by or under the direct control of the  
35 sanctioning health care provider.

1 (c) Termination of contract or other nonmonetary remedies  
2 provided by contract if the sanctioned health care provider  
3 participates in this chapter while acting in the course and  
4 scope of the sanctioned health care provider's capacity as an  
5 employee or independent contractor of the sanctioning health  
6 care provider. Nothing in this subparagraph subdivision (c)  
7 shall be construed to prevent any of the following:

8 (i) A health care provider from participating in this  
9 chapter while acting outside the course and scope of the  
10 health care provider's capacity as an employee or independent  
11 contractor.

12 (ii) A patient from contracting with the patient's  
13 attending physician and consulting physician to act outside  
14 the course and scope of the health care provider's capacity as  
15 an employee or independent contractor of the sanctioning  
16 health care provider.

17 (3) A health care provider that imposes sanctions pursuant  
18 to paragraph "e", subparagraph (2), shall follow all due  
19 process and other procedures the sanctioning health care  
20 provider may have in place that are related to the imposition  
21 of sanctions on another health care provider.

22 2. For purposes of this section:

23 a. "Notify" means a separate statement in writing to the  
24 health care provider specifically informing the health care  
25 provider prior to the health care provider's participation in  
26 this chapter of the sanctioning health care provider's policy  
27 about participation in activities covered by this chapter.

28 b. "Participate" means to perform the duties of an  
29 attending physician pursuant to section 135N.4, the consulting  
30 physician function pursuant to section 135N.5, or the  
31 counseling function pursuant to section 135N.6. "Participate"  
32 does not include any of the following:

33 (1) Making an initial determination that a patient has a  
34 terminal disease and informing the patient of the medical  
35 prognosis.

1 (2) Providing information about this chapter to a patient  
2 upon the request of the patient.

3 (3) Providing a patient, upon the request of the patient,  
4 with a referral to another physician.

5 (4) A patient contracting with the patient's attending  
6 physician and consulting physician to act outside of the  
7 course and scope of the provider's capacity as an employee or  
8 independent contractor of the sanctioning health care  
9 provider.

10 3. Suspension or termination of staff membership or  
11 privileges under subsection 1, paragraph "e", is not  
12 reportable to the board of medical examiners as medical  
13 incompetence or unprofessional or dishonorable conduct.  
14 Action taken pursuant to section 135N.3, 135N.4, 135N.5, or  
15 135N.6 shall not be the sole basis for a report to the board  
16 of medical examiners of unprofessional or dishonorable  
17 conduct.

18 Sec. 19. NEW SECTION. 135N.19 CRIMINAL PENALTIES.

19 1. A person who without authorization of the patient  
20 willfully alters or forges a request for a prescription for  
21 medication or conceals or destroys a recision of that request  
22 with the intent or effect of causing the patient's death is  
23 guilty of a class "A" felony.

24 2. A person who coerces or exerts undue influence on a  
25 patient to request a prescription for medication for the  
26 purpose of ending the patient's life, or to conceal or destroy  
27 a recision of such a request, is guilty of a class "A" felony.

28 3. This chapter shall not be construed to limit further  
29 liability for civil damages resulting from other negligent  
30 conduct or intentional misconduct by any person.

31 4. The penalties specified in this section do not preclude  
32 the application of other criminal penalties under law for  
33 conduct which is inconsistent with this chapter.

34 Sec. 20. NEW SECTION. 135N.20 ACTS OR OMISSIONS NOT  
35 CONSIDERED VIOLATIONS.

1 1. A health care provider who administers, prescribes, or  
2 dispenses medications or who performs or prescribes procedures  
3 to relieve another person's pain or discomfort, even if the  
4 medication or procedure may hasten or increase the risk of  
5 death, does not violate this chapter.

6 2. A health care provider who withholds or withdraws a  
7 life-sustaining procedure in compliance with chapter 144A or  
8 144B does not violate this chapter.

9 Sec. 21. NEW SECTION. 135N.21 CLAIMS BY GOVERNMENTAL  
10 ENTITY FOR COSTS INCURRED.

11 A governmental entity that incurs costs resulting from a  
12 person terminating the person's life under this chapter in a  
13 public place shall have a claim against the estate of the  
14 person to recover such costs and reasonable attorney fees  
15 related to enforcing the claim.

16 Sec. 22. NEW SECTION. 135N.22 FORM OF THE REQUEST FOR  
17 MEDICATION.

18 A request for a prescription for medication as authorized  
19 by this chapter shall be in substantially the following form:

20 REQUEST FOR PRESCRIPTION FOR MEDICATION

21 TO END MY LIFE IN A HUMANE

22 AND DIGNIFIED MANNER

23 I, \_\_\_\_\_, am an adult of sound mind.

24 I am suffering from \_\_\_\_\_, which my attending  
25 physician has determined is a terminal disease and which has  
26 been medically confirmed by a consulting physician.

27 I have been fully informed of my diagnosis, prognosis, the  
28 nature of medication to be prescribed and potential associated  
29 risks, the expected result, and the feasible alternatives,  
30 including comfort care, hospice care, and pain control.

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

33 INITIAL ONE:

34 \_\_\_\_\_ I have informed my family of my decision and taken  
35 their opinions into consideration.

1 \_\_\_\_\_ I have decided not to inform my family of my  
2 decision.

3 \_\_\_\_\_ I have no family to inform of my decision.

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

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

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

13 Signed: \_\_\_\_\_

14 Dated: \_\_\_\_\_

15 DECLARATION OF WITNESSES

16 We declare that the person signing this request:

- 17 1. Is personally known to us or has provided proof of  
18 identity.
- 19 2. Signed this request in our presence.
- 20 3. Appears to be of sound mind and not under duress,  
21 fraud, or undue influence.
- 22 4. Is not a patient for whom either of us is the attending  
23 physician.

24 \_\_\_\_\_ Witness 1/Date

25 \_\_\_\_\_ Witness 2/Date

26 NOTE: One witness shall not be a relative (by blood,  
27 marriage, or adoption) of the person signing this request,  
28 shall not be entitled to any portion of the person's estate  
29 upon death, and shall not own, operate, or be employed at a  
30 health care facility where the person is a patient or  
31 resident. If the patient is an inpatient at a health care  
32 facility, one of the witnesses shall be an individual  
33 designated by the facility.

34 Sec. 23. Section 901.3, subsection 7, Code 2005, is  
35 amended by striking the subsection.

1     Sec. 24. Chapter 707A, Code 2005, is repealed.

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EXPLANATION

3     This bill provides a procedure for a person to request, in  
4 writing, medication for the purpose of ending the person's  
5 life in a humane and dignified manner. The bill requires that  
6 a person making such a request must be an adult who is  
7 capable, is a resident of Iowa, and has been determined by the  
8 attending physician and consulting physician to be suffering  
9 from a terminal illness and who has voluntarily expressed the  
10 person's wish to die. The bill provides for the form of the  
11 written request, the duties of the attending physician, the  
12 confirmation by a consulting physician, counseling, family  
13 notification, the right to rescind the request, waiting  
14 periods, medical record documentation, residency requirements,  
15 reporting requirements, the effect on construction of wills,  
16 contracts, and statutes, the effect on insurance or annuity  
17 policies, immunities, and criminal penalties. The bill also  
18 provides that the form used for the request be in  
19 substantially the form described in the bill. The bill  
20 repeals the current chapter of the Code that prohibits  
21 assisting suicide.

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