

As Reported by the House Judiciary Committee

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Am. H. B. No. 451

Representative Boose

**Cosponsors: Representatives Pelanda, Grossman, Baker, Becker, Zeltwanger,
Rogers, Butler, Manning, Celebrezze, Hambley, Sykes**

A BILL

To amend sections 2133.08, 2133.09, and 2133.12 of 1
the Revised Code to provide that an individual's 2
statutory priority to decide whether or not to 3
withhold or withdraw life-sustaining treatment 4
for the individual's relative is forfeited if 5
the individual is the subject of a temporary 6
protection order or civil protection order and 7
the relative is the alleged victim or if the 8
individual and the relative are married and the 9
parties to a divorce, dissolution, legal 10
separation, or annulment proceeding. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2133.08, 2133.09, and 2133.12 of 12
the Revised Code be amended to read as follows: 13

Sec. 2133.08. (A) (1) If written consent to the withholding 14
or withdrawal of life-sustaining treatment, witnessed by two 15
individuals who satisfy the witness eligibility criteria set 16
forth in division (B) (1) of section 2133.02 of the Revised Code, 17
is given by the appropriate individual or individuals as 18

specified in division (B) of this section to the attending 19
physician of a patient who is an adult, and if all of the 20
following apply in connection with the patient, then, subject to 21
section 2133.09 of the Revised Code, the patient's attending 22
physician may withhold or withdraw the life-sustaining 23
treatment: 24

(a) The attending physician and one other physician who 25
examines the patient determine, in good faith, to a reasonable 26
degree of medical certainty, and in accordance with reasonable 27
medical standards, that the patient is in a terminal condition 28
or the patient currently is and for at least the immediately 29
preceding twelve months has been in a permanently unconscious 30
state, and the attending physician additionally determines, in 31
good faith, to a reasonable degree of medical certainty, and in 32
accordance with reasonable medical standards, that the patient 33
no longer is able to make informed decisions regarding the 34
administration of life-sustaining treatment and that there is no 35
reasonable possibility that the patient will regain the capacity 36
to make those informed decisions. 37

(b) The patient does not have a declaration that addresses 38
the patient's intent should the patient be determined to be in a 39
terminal condition or in a permanently unconscious state, 40
whichever applies, or a durable power of attorney for health 41
care, or has a document that purports to be such a declaration 42
or durable power of attorney for health care but that document 43
is not legally effective. 44

(c) The consent of the appropriate individual or 45
individuals is given after consultation with the patient's 46
attending physician and after receipt of information from the 47
patient's attending physician or a consulting physician that is 48

sufficient to satisfy the requirements of informed consent. 49

(d) The appropriate individual or individuals who give a 50
consent are of sound mind and voluntarily give the consent. 51

(e) If a consent would be given under division (B) (3) of 52
this section, the attending physician made a good faith effort, 53
and used reasonable diligence, to notify the patient's adult 54
children who are available within a reasonable period of time 55
for consultation as described in division (A) (1) (c) of this 56
section. 57

(2) The consulting physician under division (A) (1) (a) of 58
this section associated with a patient allegedly in a 59
permanently unconscious state shall be a physician who, by 60
virtue of advanced education or training, of a practice limited 61
to particular diseases, illnesses, injuries, therapies, or 62
branches of medicine or surgery or osteopathic medicine and 63
surgery, of certification as a specialist in a particular branch 64
of medicine or surgery or osteopathic medicine and surgery, or 65
of experience acquired in the practice of medicine or surgery or 66
osteopathic medicine and surgery, is qualified to determine 67
whether the patient currently is and for at least the 68
immediately preceding twelve months has been in a permanently 69
unconscious state. 70

(B) For purposes of division (A) of this section and 71
subject to division (C) of this section, a consent to withhold 72
or withdraw life-sustaining treatment may be given by the 73
appropriate individual or individuals, in accordance with the 74
following descending order of priority: 75

(1) If any, the guardian of the patient. This division 76
does not permit or require, and shall not be construed as 77

permitting or requiring, the appointment of a guardian for the patient.	78 79
(2) The patient's spouse;	80
(3) An adult child of the patient or, if there is more than one adult child, a majority of the patient's adult children who are available within a reasonable period of time for consultation with the patient's attending physician;	81 82 83 84
(4) The patient's parents;	85
(5) An adult sibling of the patient or, if there is more than one adult sibling, a majority of the patient's adult siblings who are available within a reasonable period of time for that consultation;	86 87 88 89
(6) The nearest adult who is not described in divisions (B) (1) to (5) of this section, who is related to the patient by blood or adoption, and who is available within a reasonable period of time for that consultation.	90 91 92 93
(C) <u>(1)</u> If an appropriate individual or class of individuals entitled to decide under division (B) of this section whether or not to consent to the withholding or withdrawal of life-sustaining treatment for a patient is not available within a reasonable period of time for the consultation and competent to so decide, or declines to so decide, then the next priority individual or class of individuals specified in that division is authorized to make the decision. However, an equal division in a priority class of individuals under that division does not authorize the next class of individuals specified in that division to make the decision. If an equal division in a priority class of individuals under that division occurs, no written consent to	94 95 96 97 98 99 100 101 102 103 104 105 106

the withholding or withdrawal of life-sustaining treatment from 107
the patient can be given pursuant to this section. 108

(2) (a) If an appropriate individual entitled to decide 109
under division (B) of this section whether or not to consent to 110
the withholding or withdrawing of life-sustaining treatment for 111
a patient and that patient are married and are the parties to a 112
pending divorce, dissolution, legal separation, or annulment 113
proceeding, the individual is not competent to so decide, and 114
the next priority individual or class of individuals specified 115
in that division is authorized to make the decision. 116

(b) If an appropriate individual entitled to decide under 117
division (B) of this section whether or not to consent to the 118
withholding or withdrawing of life-sustaining treatment for a 119
patient is subject to a temporary protection order, civil 120
protection order, or any other protection order issued by a 121
court in this state or another state and the patient is the 122
alleged victim, the individual is not competent to so decide, 123
and the next priority individual or class of individuals 124
specified in that division is authorized to make that decision. 125

(c) If a member of a class of individuals entitled to 126
decide under division (B) of this section whether or not to 127
consent to the withholding or withdrawal of life-sustaining 128
treatment for a patient is subject to a temporary protection 129
order, civil protection order, or any other protection order 130
issued by a court in this state or another state and the patient 131
is the alleged victim, the member is not competent to so decide, 132
and the other members of the class of individuals are authorized 133
to make the decision. 134

(D) (1) A decision to consent pursuant to this section to 135
the use or continuation, or the withholding or withdrawal, of 136

life-sustaining treatment for a patient shall be made in good 137
faith. 138

(2) Except as provided in division (D)(4) of this section, 139
if the patient previously expressed an intention with respect to 140
the use or continuation, or the withholding or withdrawal, of 141
life-sustaining treatment should the patient subsequently be in 142
a terminal condition or in a permanently unconscious state, 143
whichever applies, and no longer able to make informed decisions 144
regarding the administration of life-sustaining treatment, a 145
consent given pursuant to this section shall be valid only if it 146
is consistent with that previously expressed intention. 147

(3) Except as provided in division (D)(4) of this section, 148
if the patient did not previously express an intention with 149
respect to the use or continuation, or the withholding or 150
withdrawal, of life-sustaining treatment should the patient 151
subsequently be in a terminal condition or in a permanently 152
unconscious state, whichever applies, and no longer able to make 153
informed decisions regarding the administration of life- 154
sustaining treatment, a consent given pursuant to this section 155
shall be valid only if it is consistent with the type of 156
informed consent decision that the patient would have made if 157
the patient previously had expressed an intention with respect 158
to the use or continuation, or the withholding or withdrawal, of 159
life-sustaining treatment should the patient subsequently be in 160
a terminal condition or in a permanently unconscious state, 161
whichever applies, and no longer able to make informed decisions 162
regarding the administration of life-sustaining treatment, as 163
inferred from the lifestyle and character of the patient, and 164
from any other evidence of the desires of the patient, prior to 165
the patient's becoming no longer able to make informed decisions 166
regarding the administration of life-sustaining treatment. The 167

Rules of Evidence shall not be binding for purposes of this 168
division. 169

(4) (a) The attending physician of the patient, and other 170
health care personnel acting under the direction of the 171
attending physician, who do not have actual knowledge of a 172
previously expressed intention as described in division (D) (2) 173
of this section or who do not have actual knowledge that the 174
patient would have made a different type of informed consent 175
decision under the circumstances described in division (D) (3) of 176
this section, may rely on a consent given in accordance with 177
this section unless a probate court decides differently under 178
division (E) of this section. 179

(b) The immunity conferred by division (C) (1) of section 180
2133.11 of the Revised Code is not forfeited by an individual 181
who gives a consent to the use or continuation, or the 182
withholding or withdrawal, of life-sustaining treatment for a 183
patient under division (B) of this section if the individual 184
gives the consent in good faith and without actual knowledge, at 185
the time of giving the consent, of either a contrary previously 186
expressed intention of the patient, or a previously expressed 187
intention of the patient, as described in division (D) (2) of 188
this section, that is revealed to the individual subsequent to 189
the time of giving the consent. 190

(E) (1) Within forty-eight hours after a priority 191
individual or class of individuals gives a consent pursuant to 192
this section to the use or continuation, or the withholding or 193
withdrawal, of life-sustaining treatment and communicates the 194
consent to the patient's attending physician, any individual 195
described in divisions (B) (1) to (5) of this section, except an 196
individual who is not competent to give consent under division 197

(C) (2) of this section, who objects to the application of this 198
section to the patient shall advise the attending physician of 199
the grounds for the objection. If an objection is so 200
communicated to the attending physician, then, within two 201
business days after that communication, the objecting individual 202
shall file a complaint against the priority individual or class 203
of individuals, the patient's attending physician, and the 204
consulting physician associated with the determination that the 205
patient is in a terminal condition or that the patient currently 206
is and for at least the immediately preceding twelve months has 207
been in a permanently unconscious state, in the probate court of 208
the county in which the patient is located for the issuance of 209
an order reversing the consent of the priority individual or 210
class of individuals. If the objecting individual fails to so 211
file a complaint, the individual's objections shall be 212
considered to be void. 213

A probate court in which a complaint is filed in 214
accordance with this division shall conduct a hearing on the 215
complaint after a copy of the complaint and a notice of the 216
hearing have been served upon the defendants. The clerk of the 217
probate court in which the complaint is filed shall cause the 218
complaint and the notice of the hearing to be so served in 219
accordance with the Rules of Civil Procedure, which service 220
shall be made, if possible, within three days after the filing 221
of the complaint. The hearing shall be conducted at the earliest 222
possible time, but no later than the third business day after 223
the service has been completed. Immediately following the 224
hearing, the court shall enter on its journal its determination 225
whether the decision of the priority individual or class of 226
individuals to consent to the use or continuation, or the 227
withholding or withdrawal, of life-sustaining treatment in 228

connection with the patient will be confirmed or reversed.	229
(2) If the decision of the priority individual or class of	230
individuals was to consent to the use or continuation of life-	231
sustaining treatment in connection with the patient, the court	232
only may reverse that consent if the objecting individual	233
establishes, by clear and convincing evidence and, if	234
applicable, to a reasonable degree of medical certainty and in	235
accordance with reasonable medical standards, one or more of the	236
following:	237
(a) The patient is able to make informed decisions	238
regarding the administration of life-sustaining treatment.	239
(b) The patient has a legally effective declaration that	240
addresses the patient's intent should the patient be determined	241
to be in a terminal condition or in a permanently unconscious	242
state, whichever applies, or a legally effective durable power	243
of attorney for health care.	244
(c) The decision to use or continue life-sustaining	245
treatment is not consistent with the previously expressed	246
intention of the patient as described in division (D) (2) of this	247
section.	248
(d) The decision to use or continue life-sustaining	249
treatment is not consistent with the type of informed consent	250
decision that the patient would have made if the patient	251
previously had expressed an intention with respect to the use or	252
continuation, or the withholding or withdrawal, of life-	253
sustaining treatment should the patient subsequently be in a	254
terminal condition or in a permanently unconscious state,	255
whichever applies, and no longer able to make informed decisions	256
regarding the administration of life-sustaining treatment as	257

described in division (D) (3) of this section.	258
(e) The decision of the priority individual or class of individuals was not made after consultation with the patient's attending physician and after receipt of information from the patient's attending physician or a consulting physician that is sufficient to satisfy the requirements of informed consent.	259 260 261 262 263
(f) The priority individual, or any member of the priority class of individuals, who made the decision to use or continue life-sustaining treatment was not of sound mind or did not voluntarily make the decision.	264 265 266 267
(g) If the decision of a priority class of individuals under division (B) (3) of this section is involved, the patient's attending physician did not make a good faith effort, and use reasonable diligence, to notify the patient's adult children who were available within a reasonable period of time for consultation as described in division (A) (1) (c) of this section.	268 269 270 271 272 273
(h) The decision of the priority individual or class of individuals otherwise was made in a manner that does not comply with this section.	274 275 276
(3) If the decision of the priority individual or class of individuals was to consent to the withholding or withdrawal of life-sustaining treatment in connection with the patient, the court only may reverse that consent if the objecting individual establishes, by a preponderance of the evidence and, if applicable, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, one or more of the following:	277 278 279 280 281 282 283 284
(a) The patient is not in a terminal condition, the patient is not in a permanently unconscious state, or the	285 286

patient has not been in a permanently unconscious state for at least the immediately preceding twelve months.	287 288
(b) The patient is able to make informed decisions regarding the administration of life-sustaining treatment.	289 290
(c) There is a reasonable possibility that the patient will regain the capacity to make informed decisions regarding the administration of life-sustaining treatment.	291 292 293
(d) The patient has a legally effective declaration that addresses the patient's intent should the patient be determined to be in a terminal condition or in a permanently unconscious state, whichever applies, or a legally effective durable power of attorney for health care.	294 295 296 297 298
(e) The decision to withhold or withdraw life-sustaining treatment is not consistent with the previously expressed intention of the patient as described in division (D) (2) of this section.	299 300 301 302
(f) The decision to withhold or withdraw life-sustaining treatment is not consistent with the type of informed consent decision that the patient would have made if the patient previously had expressed an intention with respect to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should the patient subsequently be in a terminal condition or in a permanently unconscious state, whichever applies, and no longer able to make informed decisions regarding the administration of life-sustaining treatment as described in division (D) (3) of this section.	303 304 305 306 307 308 309 310 311 312
(g) The decision of the priority individual or class of individuals was not made after consultation with the patient's attending physician and after receipt of information from the	313 314 315

patient's attending physician or a consulting physician that is 316
sufficient to satisfy the requirements of informed consent. 317

(h) The priority individual, or any member of the priority 318
class of individuals, who made the decision to withhold or 319
withdraw life-sustaining treatment was not of sound mind, was 320
not competent to make the decision under division (C) (2) of this 321
section, or did not voluntarily make the decision. 322

(i) If the decision of a priority class of individuals 323
under division (B) (3) of this section is involved, the patient's 324
attending physician did not make a good faith effort, and use 325
reasonable diligence, to notify the patient's adult children who 326
were available within a reasonable period of time for 327
consultation as described in division (A) (1) (c) of this section. 328

(j) The decision of the priority individual or class of 329
individuals otherwise was made in a manner that does not comply 330
with this section. 331

(4) Notwithstanding any contrary provision of the Revised 332
Code or of the Rules of Civil Procedure, the state and persons 333
other than individuals described in divisions (B) (1) to (5) of 334
this section are prohibited from filing a complaint under 335
division (E) of this section and from joining or being joined as 336
parties to a hearing conducted under division (E) of this 337
section, including joining by way of intervention. 338

(F) A valid consent given in accordance with this section 339
supersedes any general consent to treatment form signed by or on 340
behalf of the patient prior to, upon, or after the patient's 341
admission to a health care facility to the extent there is a 342
conflict between the consent and the form. 343

(G) Life-sustaining treatment shall not be withheld or 344

withdrawn from a patient pursuant to a consent given in 345
accordance with this section if the patient is pregnant and if 346
the withholding or withdrawal of the treatment would terminate 347
the pregnancy, unless the patient's attending physician and one 348
other physician who has examined the patient determine, to a 349
reasonable degree of medical certainty and in accordance with 350
reasonable medical standards, that the fetus would not be born 351
alive. 352

(H) As used in this section, "civil protection order" and 353
"temporary protection order" have the same meanings as in 354
section 2923.124 of the Revised Code. 355

Sec. 2133.09. (A) The attending physician of a patient who 356
is an adult and who currently is and for at least the 357
immediately preceding twelve months has been in a permanently 358
unconscious state may withhold or withdraw nutrition and 359
hydration in connection with the patient only if all of the 360
following apply: 361

(1) Written consent to the withholding or withdrawal of 362
life-sustaining treatment in connection with the patient has 363
been given by an appropriate individual or individuals in 364
accordance with section 2133.08 of the Revised Code, and 365
divisions (A) (1) (a) to (e) and (2) of that section have been 366
satisfied. 367

(2) A probate court has not reversed the consent to the 368
withholding or withdrawal of life-sustaining treatment in 369
connection with the patient pursuant to division (E) of section 370
2133.08 of the Revised Code. 371

(3) The attending physician of the patient and one other 372
physician as described in division (A) (2) of section 2133.08 of 373

the Revised Code who examines the patient determine, in good 374
faith, to a reasonable degree of medical certainty, and in 375
accordance with reasonable medical standards, that nutrition and 376
hydration will not or no longer will provide comfort or 377
alleviate pain in connection with the patient. 378

(4) Written consent to the withholding or withdrawal of 379
nutrition and hydration in connection with the patient, 380
witnessed by two individuals who satisfy the witness eligibility 381
criteria set forth in division (B) (1) of section 2133.02 of the 382
Revised Code, is given to the attending physician of the patient 383
by an appropriate individual or individuals as specified in 384
division (B) of section 2133.08 of the Revised Code. 385

(5) The written consent to the withholding or withdrawal 386
of the nutrition and hydration in connection with the patient is 387
given in accordance with division (B) of this section. 388

(6) The probate court of the county in which the patient 389
is located issues an order to withhold or withdraw the nutrition 390
and hydration in connection with the patient pursuant to 391
division (C) of this section. 392

(B) (1) A decision to consent pursuant to this section to 393
the withholding or withdrawal of nutrition and hydration in 394
connection with a patient shall be made in good faith. 395

(2) Except as provided in division (B) (4) of this section, 396
if the patient previously expressed an intention with respect to 397
the use or continuation, or the withholding or withdrawal, of 398
nutrition and hydration should the patient subsequently be in a 399
permanently unconscious state and no longer able to make 400
informed decisions regarding the administration of nutrition and 401
hydration, a consent given pursuant to this section shall be 402

valid only if it is consistent with that previously expressed 403
intention. 404

(3) Except as provided in division (B)(4) of this section, 405
if the patient did not previously express an intention with 406
respect to the use or continuation, or the withholding or 407
withdrawal, of nutrition and hydration should the patient 408
subsequently be in a permanently unconscious state and no longer 409
able to make informed decisions regarding the administration of 410
nutrition and hydration, a consent given pursuant to this 411
section shall be valid only if it is consistent with the type of 412
informed consent decision that the patient would have made if 413
the patient previously had expressed an intention with respect 414
to the use or continuation, or the withholding or withdrawal, of 415
nutrition and hydration should the patient subsequently be in a 416
permanently unconscious state and no longer able to make 417
informed decisions regarding the administration of nutrition and 418
hydration, as inferred from the lifestyle and character of the 419
patient, and from any other evidence of the desires of the 420
patient, prior to the patient's becoming no longer able to make 421
informed decisions regarding the administration of nutrition and 422
hydration. The Rules of Evidence shall not be binding for 423
purposes of this division. 424

(4) (a) The attending physician of the patient, and other 425
health care personnel acting under the direction of the 426
attending physician, who do not have actual knowledge of a 427
previously expressed intention as described in division (B)(2) 428
of this section or who do not have actual knowledge that the 429
patient would have made a different type of informed consent 430
decision under the circumstances described in division (B)(3) of 431
this section, may rely on a consent given in accordance with 432
this section unless a probate court decides differently under 433

division (C) of this section. 434

(b) The immunity conferred by division (C) (2) of section 435
2133.11 of the Revised Code is not forfeited by an individual 436
who gives a consent to the withholding or withdrawal of 437
nutrition and hydration in connection with a patient under 438
division (A) (4) of this section if the individual gives the 439
consent in good faith and without actual knowledge, at the time 440
of giving the consent, of either a contrary previously expressed 441
intention of the patient, or a previously expressed intention of 442
the patient, as described in division (B) (2) of this section, 443
that is revealed to the individual subsequent to the time of 444
giving the consent. 445

(C) (1) Prior to the withholding or withdrawal of nutrition 446
and hydration in connection with a patient pursuant to this 447
section, the priority individual or class of individuals that 448
consented to the withholding or withdrawal of the nutrition and 449
hydration shall apply to the probate court of the county in 450
which the patient is located for the issuance of an order that 451
authorizes the attending physician of the patient to commence 452
the withholding or withdrawal of the nutrition and hydration in 453
connection with the patient. Upon the filing of the application, 454
the clerk of the probate court shall schedule a hearing on it 455
and cause a copy of it and a notice of the hearing to be served 456
in accordance with the Rules of Civil Procedure upon the 457
applicant, the attending physician, the consulting physician 458
associated with the determination that nutrition and hydration 459
will not or no longer will provide comfort or alleviate pain in 460
connection with the patient, and the individuals described in 461
divisions (B) (1) to (5) of section 2133.08 of the Revised Code 462
who are not applicants, which service shall be made, if 463
possible, within three days after the filing of the application. 464

The hearing shall be conducted at the earliest possible time, 465
but no sooner than the thirtieth business day, and no later than 466
the sixtieth business day, after the service has been completed. 467

At the hearing, any individual described in divisions (B) 468
(1) to (5) of section 2133.08 of the Revised Code who is not an 469
applicant, except an individual who is not competent under 470
division (C) (2) of section 2133.08 of the Revised Code, and who 471
disagrees with the decision of the priority individual or class 472
of individuals to consent to the withholding or withdrawal of 473
nutrition and hydration in connection with the patient shall be 474
permitted to testify and present evidence relative to the use or 475
continuation of nutrition and hydration in connection with the 476
patient. Immediately following the hearing, the court shall 477
enter on its journal its determination whether the requested 478
order will be issued. 479

(2) The court shall issue an order that authorizes the 480
patient's attending physician to commence the withholding or 481
withdrawal of nutrition and hydration in connection with the 482
patient only if the applicants establish, by clear and 483
convincing evidence, to a reasonable degree of medical 484
certainty, and in accordance with reasonable medical standards, 485
all of the following: 486

(a) The patient currently is and for at least the 487
immediately preceding twelve months has been in a permanently 488
unconscious state. 489

(b) The patient no longer is able to make informed 490
decisions regarding the administration of life-sustaining 491
treatment. 492

(c) There is no reasonable possibility that the patient 493

will regain the capacity to make informed decisions regarding 494
the administration of life-sustaining treatment. 495

(d) The conditions specified in divisions (A) (1) to (4) of 496
this section have been satisfied. 497

(e) The decision to withhold or withdraw nutrition and 498
hydration in connection with the patient is consistent with the 499
previously expressed intention of the patient as described in 500
division (B) (2) of this section or is consistent with the type 501
of informed consent decision that the patient would have made if 502
the patient previously had expressed an intention with respect 503
to the use or continuation, or the withholding or withdrawal, of 504
nutrition and hydration should the patient subsequently be in a 505
permanently unconscious state and no longer able to make 506
informed decisions regarding the administration of nutrition and 507
hydration as described in division (B) (3) of this section. 508

(3) Notwithstanding any contrary provision of the Revised 509
Code or of the Rules of Civil Procedure, the state and persons 510
other than individuals described in division (A) (4) of this 511
section or in divisions (B) (1) to (5) of section 2133.08 of the 512
Revised Code and other than the attending physician and 513
consulting physician associated with the determination that 514
nutrition and hydration will not or no longer will provide 515
comfort or alleviate pain in connection with the patient are 516
prohibited from filing an application under this division and 517
from joining or being joined as parties to a hearing conducted 518
under this division, including joining by way of intervention. 519

(D) A valid consent given in accordance with this section 520
supersedes any general consent to treatment form signed by or on 521
behalf of the patient prior to, upon, or after the patient's 522
admission to a health care facility to the extent there is a 523

conflict between the consent and the form. 524

Sec. 2133.12. (A) The death of a qualified patient or 525
other patient resulting from the withholding or withdrawal of 526
life-sustaining treatment in accordance with sections 2133.01 to 527
2133.15 of the Revised Code does not constitute for any purpose 528
a suicide, aggravated murder, murder, or any other homicide 529
offense. 530

(B) (1) The execution of a declaration shall not do either 531
of the following: 532

(a) Affect the sale, procurement, issuance, or renewal of 533
any policy of life insurance or annuity, notwithstanding any 534
term of a policy or annuity to the contrary; 535

(b) Be deemed to modify or invalidate the terms of any 536
policy of life insurance or annuity that is in effect on October 537
10, 1991. 538

(2) Notwithstanding any term of a policy of life insurance 539
or annuity to the contrary, the withholding or withdrawal of 540
life-sustaining treatment from an insured, qualified patient or 541
other patient in accordance with sections 2133.01 to 2133.15 of 542
the Revised Code shall not impair or invalidate any policy of 543
life insurance or annuity. 544

(3) Notwithstanding any term of a policy or plan to the 545
contrary, the use or continuation, or the withholding or 546
withdrawal, of life-sustaining treatment from an insured, 547
qualified patient or other patient in accordance with sections 548
2133.01 to 2133.15 of the Revised Code shall not impair or 549
invalidate any policy of health insurance or any health care 550
benefit plan. 551

(4) No physician, health care facility, other health care 552

provider, person authorized to engage in the business of 553
insurance in this state under Title XXXIX of the Revised Code, 554
health insuring corporation, other health care plan, legal 555
entity that is self-insured and provides benefits to its 556
employees or members, or other person shall require any 557
individual to execute or refrain from executing a declaration, 558
or shall require an individual to revoke or refrain from 559
revoking a declaration, as a condition of being insured or of 560
receiving health care benefits or services. 561

(C) (1) Sections 2133.01 to 2133.15 of the Revised Code do 562
not create any presumption concerning the intention of an 563
individual who has revoked or has not executed a declaration 564
with respect to the use or continuation, or the withholding or 565
withdrawal, of life-sustaining treatment if the individual 566
should be in a terminal condition or in a permanently 567
unconscious state at any time. 568

(2) Sections 2133.01 to 2133.15 of the Revised Code do not 569
affect the right of a qualified patient or other patient to make 570
informed decisions regarding the use or continuation, or the 571
withholding or withdrawal, of life-sustaining treatment as long 572
as the qualified patient or other patient is able to make those 573
decisions. 574

(3) Sections 2133.01 to 2133.15 of the Revised Code do not 575
require a physician, other health care personnel, or a health 576
care facility to take action that is contrary to reasonable 577
medical standards. 578

(4) Sections 2133.01 to 2133.15 of the Revised Code and, 579
if applicable, a declaration do not affect or limit the 580
authority of a physician or a health care facility to provide or 581
not to provide life-sustaining treatment to a person in 582

accordance with reasonable medical standards applicable in an 583
emergency situation. 584

(D) Nothing in sections 2133.01 to 2133.15 of the Revised 585
Code condones, authorizes, or approves of mercy killing, 586
assisted suicide, or euthanasia. 587

(E) (1) Sections 2133.01 to 2133.15 of the Revised Code do 588
not affect the responsibility of the attending physician of a 589
qualified patient or other patient, or other health care 590
personnel acting under the direction of the patient's attending 591
physician, to provide comfort care to the patient. Nothing in 592
sections 2133.01 to 2133.15 of the Revised Code precludes the 593
attending physician of a qualified patient or other patient who 594
carries out the responsibility to provide comfort care to the 595
patient in good faith and while acting within the scope of the 596
attending physician's authority from prescribing, dispensing, 597
administering, or causing to be administered any particular 598
medical procedure, treatment, intervention, or other measure to 599
the patient, including, but not limited to, prescribing, 600
personally furnishing, administering, or causing to be 601
administered by judicious titration or in another manner any 602
form of medication, for the purpose of diminishing the qualified 603
patient's or other patient's pain or discomfort and not for the 604
purpose of postponing or causing the qualified patient's or 605
other patient's death, even though the medical procedure, 606
treatment, intervention, or other measure may appear to hasten 607
or increase the risk of the patient's death. Nothing in sections 608
2133.01 to 2133.15 of the Revised Code precludes health care 609
personnel acting under the direction of the patient's attending 610
physician who carry out the responsibility to provide comfort 611
care to the patient in good faith and while acting within the 612
scope of their authority from dispensing, administering, or 613

causing to be administered any particular medical procedure, 614
treatment, intervention, or other measure to the patient, 615
including, but not limited to, personally furnishing, 616
administering, or causing to be administered by judicious 617
titration or in another manner any form of medication, for the 618
purpose of diminishing the qualified patient's or other 619
patient's pain or discomfort and not for the purpose of 620
postponing or causing the qualified patient's or other patient's 621
death, even though the medical procedure, treatment, 622
intervention, or other measure may appear to hasten or increase 623
the risk of the patient's death. 624

(2) (a) If, at any time, a person described in division (A) 625
(2) (a) (i) of section 2133.05 of the Revised Code or the 626
individual or a majority of the individuals in either of the 627
first two classes of individuals that pertain to a declarant in 628
the descending order of priority set forth in division (A) (2) (a) 629
(ii) of section 2133.05 of the Revised Code believes in good 630
faith that both of the following circumstances apply, the person 631
or the individual or majority of individuals in either of the 632
first two classes of individuals may commence an action in the 633
probate court of the county in which a declarant who is in a 634
terminal condition or permanently unconscious state is located 635
for the issuance of an order mandating the use or continuation 636
of comfort care in connection with the declarant in a manner 637
that is consistent with division (E) (1) of this section: 638

(i) Comfort care is not being used or continued in 639
connection with the declarant. 640

(ii) The withholding or withdrawal of the comfort care is 641
contrary to division (E) (1) of this section. 642

(b) If a declarant did not designate in the declarant's 643

declaration a person as described in division (A) (2) (a) (i) of 644
section 2133.05 of the Revised Code and if, at any time, a 645
priority individual or any member of a priority class of 646
individuals under division (A) (2) (a) (ii) of section 2133.05 of 647
the Revised Code or, at any time, the individual or a majority 648
of the individuals in the next class of individuals that 649
pertains to the declarant in the descending order of priority 650
set forth in that division believes in good faith that both of 651
the following circumstances apply, the priority individual, the 652
member of the priority class of individuals, or the individual 653
or majority of individuals in the next class of individuals that 654
pertains to the declarant may commence an action in the probate 655
court of the county in which a declarant who is in a terminal 656
condition or permanently unconscious state is located for the 657
issuance of an order mandating the use or continuation of 658
comfort care in connection with the declarant in a manner that 659
is consistent with division (E) (1) of this section: 660

(i) Comfort care is not being used or continued in 661
connection with the declarant. 662

(ii) The withholding or withdrawal of the comfort care is 663
contrary to division (E) (1) of this section. 664

(c) If, at any time, a priority individual or any member 665
of a priority class of individuals under division (B) of section 666
2133.08 of the Revised Code or, at any time, the individual or a 667
majority of the individuals in the next class of individuals 668
that pertains to the patient in the descending order of priority 669
set forth in that division believes in good faith that both of 670
the following circumstances apply, the priority individual, the 671
member of the priority class of individuals, or the individual 672
or majority of individuals in the next class of individuals that 673

pertains to the patient may commence an action in the probate court of the county in which a patient as described in division (A) of section 2133.08 of the Revised Code is located for the issuance of an order mandating the use or continuation of comfort care in connection with the patient in a manner that is consistent with division (E) (1) of this section, unless the individual is not competent under division (C) (2) of section 2133.08 of the Revised Code:

(i) Comfort care is not being used or continued in connection with the patient.

(ii) The withholding or withdrawal of the comfort care is contrary to division (E) (1) of this section.

Section 2. That existing sections 2133.08, 2133.09, and 2133.12 of the Revised Code are hereby repealed.

Section 3. Section 2133.12 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 354 and Am. Sub. S.B. 66 of the 122nd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.