



# HOUSE BILL No. 5966

November 29, 1994, Introduced by Reps Jondahl Wallace and Martinez and referred to the Committee on Judiciary

A bill to provide a process for authorizing and requesting or refusing aid-in-dying to provide that aid-in-dying be provided or not provided in response to a written directive and request to provide for the revocation of a directive and rescission of a request to prescribe penalties and liabilities and to repeal acts and parts of acts

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1       Sec 1    This act shall be known and may be cited as the  
2 death with dignity act'

3       Sec 2    As used in this act

4       (a) Aid-in-dying' means the provision, to another person,  
5 of a lethal agent with the primary purpose of substantially  
6 increasing the probability of the other person's death

7       (b) 'Attending physician means the physician who  
8 administers aid-in-dying

1 (c) Directive means a document setting forth a patient s  
2 wishes concerning the provision of aid-in-dying

3 (d) Health facility means a health facility or agency as  
4 defined in section 20106 of the public health code Act No 368  
5 of the Public Acts of 1978 being section 333 20106 of the  
6 Michigan Compiled Laws

7 (e) Home for the aged means that term as defined in  
8 section 20106 of Act No 368 of the Public Acts of 1978

9 (f) Lethal agent" means a substance that, through direct  
10 contact with the human body substantially increases the proba-  
11 bility of death

12 (g) Patient means a person who executes a directive in  
13 accordance with the provisions of this act

14 (h) Patient advocate' means a person who has been desig-  
15 nated to exercise powers concerning care custody and medical  
16 treatment decisions of another person pursuant to section 496 of  
17 the revised probate code, Act No 642 of the Public Acts of 1978,  
18 being section 700 496 of the Michigan Compiled Laws

19 (i) Physician means a person licensed by the state to  
20 engage in the practice of medicine or osteopathic medicine and  
21 surgery under article 15 of the public health code, Act No 368  
22 of the Public Acts of 1978 being sections 333 16101 to 333 18838  
23 of the Michigan Compiled Laws

24 (j) Primary purpose means a purpose but for the achieve-  
25 ment of which a person would not have acted

1 (k) Psychologist means a person licensed to engage in the  
2 practice of psychology under article 15 of Act No 368 of the  
3 Public Acts of 1978

4 (l) Request means a request for the carrying out of a  
5 directive authorizing aid-in-dying

6 (m) Social worker means a person registered in this state  
7 under article 16 of the occupational code, Act No 299 of the  
8 Public Acts of 1980 being sections 339 1601 to 339 1610 of the  
9 Michigan Compiled Laws

10 Sec 3 (1) A patient 18 years of age or older who is men-  
11 tally competent to consent to aid-in-dying may execute a direc-  
12 tive to authorize or reject aid-in-dying

13 (2) A directive shall be in writing, dated, and executed  
14 voluntarily The directive shall be signed by the patient, or in  
15 the patient's presence at his or her direction The directive  
16 may specify conditions under which aid-in-dying will be  
17 authorized

18 (3) A physician or health facility that is provided a copy  
19 of a directive shall immediately make the directive part of the  
20 patient's medical record

21 Sec 4 (1) Aid-in-dying shall be administered by a physi-  
22 cian pursuant to a valid directive only if all the following con-  
23 ditions are satisfied

24 (a) At least 15 days before aid-in-dying is administered,  
25 both of the following have occurred

26 (1) A copy of the directive has been delivered to the  
27 attending physician

1       (11) The patient has communicated to the attending physician  
2 the patient s request that the directive be carried out

3       (b) Immediately after the communication required under sub-  
4 division (a)(11) the attending physician has caused reasonable  
5 steps to be taken to notify the patient s spouse parents, chil-  
6 dren and patient advocate of the communication

7       (c) Between the communication required under subdivision  
8 (a)(11) and administration of aid-in-dying, each of the following  
9 has occurred

10       (1) The attending physician and at least 1 other physician  
11 have counseled the patient regarding the patient s diagnosis and  
12 prognosis, treatment options and the nature and risks of the  
13 aid-in-dying procedure

14       (11) A psychologist or physician specializing in psychiatry  
15 other than the attending physician has certified in writing that  
16 the patient is mentally competent to consent to aid-in-dying,  
17 acting voluntarily and in an informed manner, and under no  
18 duress fraud or undue influence

19       (111) A social worker has counseled the patient regarding  
20 both the patient s motivations for requesting aid-in-dying and  
21 alternatives to aid-in-dying

22       (d) At least 3 days have elapsed since satisfaction of the  
23 requirement of subdivision (c)

24       (e) The patient is conscious and mentally competent to con-  
25 sent to aid-in-dying at the time the directive is carried out

26       (f) The lethal agent is provided with the intent of causing  
27 swift and painless death

1 (g) The attending physician has no knowledge that the  
2 directive has been revoked or that the request has been  
3 rescinded

4 (2) A person who administers aid-in-dying in violation of  
5 this section is guilty of a felony punishable by imprisonment for  
6 not more than 5 years or a fine of not more than \$10,000 00, or  
7 both

8 Sec 5 A patient may revoke a directive authorizing  
9 aid-in-dying or rescind a request for aid-in-dying, at any time  
10 and in any manner by which he or she is able to communicate an  
11 intent to do so If the revocation or rescission is not in writ-  
12 ing a person who observes the revocation or rescission may  
13 describe the circumstances of the revocation or rescission in  
14 writing and sign the writing A revocation of a directive or  
15 rescission of a request is binding upon a physician or health  
16 facility upon actual notice of the revocation or rescission A  
17 physician or health facility that has notice of a revocation of a  
18 directive or a rescission of a request shall immediately make the  
19 revocation or rescission part of the patient's medical record and  
20 note the revocation or rescission on the directive If a direc-  
21 tive is revoked or a request is rescinded it shall be as if the  
22 directive was never executed or the request was never  
23 communicated

24 Sec 6 (1) If a dispute arises as to whether a patient has  
25 requested aid-in-dying revoked a directive, or rescinded a  
26 request or whether the requirements of this act for aid-in-dying  
27 have been satisfied, a petition may be filed, by the patient, the

1 patient s spouse parent child grandchild, sibling presumptive  
2 heir, known devisee physician, or patient advocate with the  
3 probate court in the county in which the patient resides or is  
4 found, asking the court s determination

5 (2) In an action under this section, a patient or the  
6 patient s spouse parent child sibling or patient advocate may  
7 obtain injunctive relief to ensure compliance with the terms of a  
8 valid directive in accordance with the provisions of this act

9 (3) If a petition is filed under this section the court may  
10 appoint an attorney to represent the patient

11 (4) The court shall conduct a hearing on a petition under  
12 this section within 7 days after the court s receipt of the  
13 petition Within 7 days after the hearing the court shall issue  
14 its decision

15 (5) The court may impose appropriate sanctions for the  
16 filing of a frivolous petition under this section including rea-  
17 sonable attorney s fees to opposing parties

18 Sec 7 A health facility may adopt a policy specifying  
19 conditions under which, if at all, it will comply with the terms  
20 of a directive or permit aid-in-dying in its facilities  
21 Otherwise and except for damages arising from negligence, a  
22 person or health facility shall not be subject to civil or crimi-  
23 nal liability or administrative sanction including license or  
24 permit suspension revocation, or nonrenewal, for causing or par-  
25 ticipating in aid-in-dying, in accordance with a valid directive  
26 and with this act

1       Sec 8    This act does not authorize mercy killing or any  
2 other deliberate act or omission to end human life other than  
3 aid-in-dying by a physician when voluntarily requested by a con-  
4 scious patient mentally competent to consent to aid-in-dying at  
5 the time aid-in-dying is provided in accordance with the provi-  
6 sions of this act

7       Sec 9    (1) A person shall not require another person to  
8 execute or request the carrying out of a directive as a condition  
9 for any benefit services or contract including insurance cov-  
10 erage or health care benefits or services   Any contract requir-  
11 ing a directive or a request to carry out a directive is void

12       (2) An insurer shall not do any of the following because of  
13 the execution or carrying out of a directive, or because of the  
14 insured's refusal to execute or request the carrying out of a  
15 directive

16       (a) Refuse to provide or continue coverage to the patient

17       (b) Charge a patient a higher premium

18       (c) Offer a patient different policy terms

19       (d) Consider the terms of an existing policy to have been  
20 breached or modified

21       (e) Invoke any suicide or intentional death exemption

22       (3) A person who violates this section is guilty of a felony  
23 punishable by imprisonment for not more than 5 years or a fine of  
24 not more than \$10 000 00, or both

25       Sec 10   (1) A person shall not do or attempt to do any of  
26 the following

1 (a) Provide aid-in-dying knowingly against the wishes of the  
2 patient

3 (b) Forge or falsify a directive with the intent to cause  
4 aid-in-dying to be administered to a patient contrary to the  
5 wishes of the patient

6 (c) Coerce or fraudulently induce a patient to execute a  
7 directive

8 (d) Willfully conceal or withhold personal knowledge from  
9 the attending physician of a revocation of a directive or a  
10 rescission of a request with the intent to cause aid-in-dying to  
11 be administered to a patient contrary to the wishes of the  
12 patient, if the person is any of the following

13 (i) The patient's spouse, parent, child, grandchild, sib-  
14 ling, presumptive heir, or known devisee at the time aid-in-dying  
15 is administered

16 (ii) The patient's physician or patient advocate

17 (iii) An employee of a life or health insurance provider for  
18 the patient

19 (iv) An employee of a health facility treating the patient,  
20 or an employee of a home for the aged where the patient resides

21 (2) A person who violates subsection (1) is guilty of a  
22 felony punishable by the following

23 (i) If the patient dies as a result of the violation,  
24 imprisonment for life

25 (ii) If the patient does not die as a result of the viola-  
26 tion, imprisonment for life or any term of years or a fine of not  
27 more than \$100,000.00 or both



1       Sec 11    A person who fails to communicate to the attending  
2 physician knowledge of the patient's intent not to receive  
3 aid-in-dying with intent to cause the patient s death shall be  
4 considered to have predeceased the patient for inheritance law  
5 and life insurance coverage if the patient does receive  
6 aid-in-dying

7       Sec 12    Aid-in-dying shall not necessarily be a superseded-  
8 ing cause to affect the chain of proximate cause between the con-  
9 duct of any person or any other circumstances that placed the  
10 patient in the position of requesting aid-in-dying and the death  
11 of the patient

12       Sec 13    The provisions of this act are cumulative and do  
13 not impair or supersede a legal right that a person may have to  
14 consent to or refuse medical intervention

15       Sec 14    Section 7 of Act No 270 of the Public Acts of  
16 1992, being section 752 1027 of the Michigan Compiled Laws, is  
17 repealed