

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0072.01 Richard Sweetman x4333

HOUSE BILL 18-1182

HOUSE SPONSORSHIP

Ginal and Landgraf,

SENATE SPONSORSHIP

Court and Coram,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A STATEWIDE SYSTEM OF ADVANCE DIRECTIVES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Not more than 30 days after receiving at least \$750,000 in gifts, grants, and donations for the purpose of creating and administering a statewide electronic system (system) that allows medical professionals and individuals to upload and access advance directives, the department of public health and environment shall create such a system. "Advance directive" means:

- ! A declaration as to medical treatment;
- ! A medical durable power of attorney;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! A directive relating to cardiopulmonary resuscitation;
- ! A medical orders for scope of treatment form;
- ! A designated beneficiary agreement; or
- ! Any legal form of these types that has been properly executed in another state in accordance with the laws of that state.

The department shall contract with one or more health information organization networks for the administration and maintenance of the system during the next year. On or before November 1, 2018, the department shall promulgate rules to administer the system.

The system is repealed, effective September 1, 2028. Prior to such repeal, the department of regulatory agencies shall perform a sunset review of the system.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 51 to title
3 25 as follows:

4 **ARTICLE 51**

5 **Statewide System for Advance Directives**

6 **25-51-101. Definitions.** AS USED IN THIS ARTICLE 51, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "ADVANCE DIRECTIVE" MEANS:

9 (a) A MEDICAL DURABLE POWER OF ATTORNEY EXECUTED
10 PURSUANT TO SECTION 15-14-506;

11 (b) A DECLARATION AS TO MEDICAL TREATMENT EXECUTED
12 PURSUANT TO SECTION 15-18-104;

13 (c) A DIRECTIVE RELATING TO CARDIOPULMONARY RESUSCITATION
14 EXECUTED PURSUANT TO ARTICLE 18.6 OF TITLE 15;

15 (d) A MEDICAL ORDERS FOR SCOPE OF TREATMENT FORM
16 EXECUTED PURSUANT TO ARTICLE 18.7 OF TITLE 15;

17 (e) A DESIGNATED BENEFICIARY AGREEMENT EXECUTED
18 PURSUANT TO ARTICLE 22 OF TITLE 15; OR

1 (f) A LEGAL FORM OF THE TYPE DESCRIBED IN SUBSECTIONS (1)(a)
2 TO (1)(e) OF THIS SECTION THAT HAS BEEN PROPERLY EXECUTED IN
3 ANOTHER STATE IN ACCORDANCE WITH THE LAWS OF THAT STATE.

4 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
5 AND ENVIRONMENT CREATED AND EXISTING PURSUANT TO SECTION
6 24-1-119.

7 (3) "HEALTH INFORMATION ORGANIZATION NETWORK" MEANS A
8 STATEWIDE ORGANIZATION THAT OVERSEES AND GOVERNS THE EXCHANGE
9 OF HEALTH-RELATED INFORMATION AMONG ORGANIZATIONS ACCORDING
10 TO NATIONALLY RECOGNIZED STANDARDS.

11 **25-51-102. Statewide system for advance directives established**

12 - **rules.** (1) NOT MORE THAN THIRTY DAYS AFTER RECEIVING AT LEAST
13 SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN GIFTS, GRANTS, AND
14 DONATIONS FOR THE PURPOSE OF CREATING AND ADMINISTERING A
15 STATEWIDE ELECTRONIC SYSTEM, REFERRED TO WITHIN THIS SECTION AS
16 THE "SYSTEM", THAT ALLOWS MEDICAL PROFESSIONALS AND INDIVIDUALS
17 TO UPLOAD AND ACCESS ADVANCE DIRECTIVES, THE DEPARTMENT SHALL
18 CREATE SUCH A SYSTEM. THE DEPARTMENT SHALL ENSURE THAT MEDICAL
19 PROFESSIONALS MAY ACCESS THE SYSTEM FOR PURPOSES THAT ARE
20 ALLOWED UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
21 ACCOUNTABILITY ACT OF 1996", PUB.L. 104-91, AS AMENDED.

22 (2) NOT MORE THAN THIRTY DAYS AFTER RECEIVING AT LEAST
23 SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN GIFTS, GRANTS, AND
24 DONATIONS FOR THE SYSTEM, AS DESCRIBED IN SUBSECTION (1) OF THIS
25 SECTION, AND ANNUALLY THEREAFTER, THE DEPARTMENT SHALL
26 CONTRACT WITH ONE OR MORE HEALTH INFORMATION ORGANIZATION
27 NETWORKS FOR THE ADMINISTRATION AND MAINTENANCE OF THE SYSTEM

1 DURING THE NEXT YEAR.

2 (3) NOT MORE THAN THIRTY DAYS AFTER RECEIVING AT LEAST
3 SEVEN HUNDRED FIFTY THOUSAND DOLLARS IN GIFTS, GRANTS, AND
4 DONATIONS FOR THE SYSTEM, AS DESCRIBED IN SUBSECTION (1) OF THIS
5 SECTION, THE DEPARTMENT SHALL PROMULGATE RULES IN ACCORDANCE
6 WITH ARTICLE 4 OF TITLE 24 TO ADMINISTER THE PROVISIONS OF THIS
7 ARTICLE 51, INCLUDING BUT NOT LIMITED TO RULES ESTABLISHING:

8 (a) CRITERIA FOR QUALIFYING INDIVIDUALS TO HAVE ACCESS TO
9 THE SYSTEM;

10 (b) PROCEDURES BY WHICH A MEDICAL PROFESSIONAL OR OTHER
11 QUALIFIED PERSON MAY ADD AN ADVANCE DIRECTIVE TO THE SYSTEM;

12 (c) PROCEDURES BY WHICH A MEDICAL PROFESSIONAL OR OTHER
13 QUALIFIED PERSON MAY ACCESS AND DOWNLOAD AN ADVANCE DIRECTIVE
14 FROM THE SYSTEM;

15 (d) PROCEDURES AND SAFEGUARDS FOR ENSURING THE
16 CONFIDENTIALITY AND SECURE STORAGE OF THE INFORMATION
17 CONTAINED IN ADVANCE DIRECTIVES THAT IS ADDED TO AND MAINTAINED
18 IN THE SYSTEM; AND

19 (e) A PROCEDURE WHEREBY EACH PERSON WHO EXECUTES AN
20 ADVANCE DIRECTIVE FOR ENTRY INTO THE SYSTEM IS GIVEN THE
21 OPPORTUNITY TO ALSO EXECUTE A WRITTEN STATEMENT IN WHICH THE
22 PERSON DESIGNATES INDIVIDUALS WITH WHOM THE PERSON'S ATTENDING
23 PHYSICIAN, ANY OTHER TREATING PHYSICIAN, OR ANOTHER MEDICAL
24 PROFESSIONAL MAY SPEAK CONCERNING THE PERSON'S MEDICAL
25 CONDITION PRIOR TO A FINAL DETERMINATION AS TO THE WITHHOLDING
26 OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES, INCLUDING
27 ARTIFICIAL NUTRITION AND HYDRATION. THE DESIGNATION OF SUCH

1 INDIVIDUALS IN THE DOCUMENT IS A WAIVER OF CONFIDENTIALITY
2 CONSISTENT WITH THE PRIVACY REQUIREMENTS OF THE FEDERAL "HEALTH
3 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C.
4 SEC. 1320d ET SEQ., AS AMENDED.

5 **25-51-103. Repeal of article - sunset review.** THIS ARTICLE 51
6 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2028. BEFORE ITS REPEAL, THE
7 DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE SYSTEM
8 DESCRIBED IN SECTION 25-51-102 IN ACCORDANCE WITH SECTION
9 2-3-1203.

10 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add** (19)
11 as follows:

12 **2-3-1203. Sunset review of advisory committees - legislative**
13 **declaration - definition - repeal.** (19) (a) THE FOLLOWING STATUTORY
14 AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL
15 REPEAL ON SEPTEMBER 1, 2028:

16 (I) THE STATEWIDE SYSTEM FOR ADVANCE DIRECTIVES
17 ESTABLISHED PURSUANT TO SECTION 25-51-102.

18 (b) THIS SUBSECTION (19) IS REPEALED, EFFECTIVE SEPTEMBER 1,
19 2030.

20 **SECTION 3. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

1 November 2018 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.