

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 219

HOUSE BILL 2172

AN ACT

AMENDING TITLE 36, CHAPTER 32, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO THE HEALTH CARE DIRECTIVES REGISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 32, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. HEALTH CARE DIRECTIVES REGISTRY

5 36-3291. Health care directives registry; web site

6 A. SUBJECT TO THE AVAILABILITY OF MONIES, THE SECRETARY OF STATE SHALL
7 ESTABLISH AND MAINTAIN A HEALTH CARE DIRECTIVES REGISTRY.

8 B. THE REGISTRY SHALL BE ACCESSIBLE THROUGH A WEB SITE MAINTAINED BY
9 THE SECRETARY OF STATE.

10 C. THE SECRETARY OF STATE MAY ACCEPT GIFTS, GRANTS, DONATIONS,
11 BEQUESTS AND OTHER FORMS OF VOLUNTARY CONTRIBUTIONS TO SUPPORT, PROMOTE AND
12 MAINTAIN THE REGISTRY. THE LEGISLATURE OR THE SECRETARY OF STATE SHALL NOT
13 APPROPRIATE OR TRANSFER STATE GENERAL FUND OR OTHER STATE MONIES TO SUPPORT,
14 PROMOTE AND MAINTAIN THE REGISTRY.

15 36-3292. Filing requirements

16 A. A PERSON MAY SUBMIT TO THE SECRETARY OF STATE, IN A FORM PRESCRIBED
17 BY THE SECRETARY OF STATE, THE FOLLOWING DOCUMENTS AND ANY REVOCATIONS OF
18 THESE DOCUMENTS FOR REGISTRATION:

- 19 1. A HEALTH CARE POWER OF ATTORNEY.
- 20 2. A LIVING WILL.
- 21 3. A MENTAL HEALTH CARE POWER OF ATTORNEY.

22 B. THE PERSON WHO SUBMITS A DOCUMENT FOR REGISTRATION PURSUANT TO THIS
23 SECTION MUST PROVIDE A RETURN ADDRESS.

24 C. DOCUMENTS SUBMITTED PURSUANT TO THIS SECTION MUST BE NOTARIZED OR
25 WITNESSED AS PRESCRIBED BY THIS CHAPTER.

26 36-3293. Effect of nonregistration or revocation

27 A. FAILURE TO REGISTER A DOCUMENT WITH THE SECRETARY OF STATE PURSUANT
28 TO THIS ARTICLE DOES NOT AFFECT THE VALIDITY OF A HEALTH CARE DIRECTIVE.

29 B. FAILURE TO NOTIFY THE SECRETARY OF STATE OF THE REVOCATION OF A
30 DOCUMENT FILED PURSUANT TO THIS ARTICLE DOES NOT AFFECT THE VALIDITY OF A
31 REVOCATION THAT OTHERWISE MEETS THE REQUIREMENTS FOR A REVOCATION PURSUANT
32 TO THIS CHAPTER.

33 36-3294. Registration; purge of registered documents

34 A. ON RECEIPT OF A COMPLETED REGISTRATION FORM, THE SECRETARY OF STATE
35 SHALL CREATE A DIGITAL REPRODUCTION OF THE FORM, ENTER THE REPRODUCED FORM
36 INTO THE HEALTH CARE DIRECTIVES REGISTRY DATABASE AND ASSIGN EACH
37 REGISTRATION A UNIQUE FILE NUMBER AND PASSWORD.

38 B. THE SECRETARY OF STATE IS NOT REQUIRED TO REVIEW A DOCUMENT TO
39 ENSURE THAT IT COMPLIES WITH THE PARTICULAR STATUTORY REQUIREMENTS APPLICABLE
40 TO THE DOCUMENT.

41 C. AFTER ENTERING THE REPRODUCED DOCUMENT INTO THE REGISTRY DATABASE,
42 THE SECRETARY OF STATE SHALL RETURN THE ORIGINAL DOCUMENT TO THE PERSON WHO
43 SUBMITTED THE DOCUMENT AND PROVIDE THAT PERSON WITH A PRINTED RECORD OF THE
44 INFORMATION ENTERED INTO THE DATABASE UNDER THE FILE NUMBER AND A WALLET SIZE
45 CARD THAT CONTAINS THE DOCUMENT'S FILE NUMBER AND A PASSWORD.

1 D. THE PERSON WHO SUBMITTED THE DOCUMENT SHALL REVIEW THE PRINTED
2 RECORD. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL CHECK THE BOX
3 MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE PRINTED RECORD TO
4 THE SECRETARY OF STATE'S OFFICE.

5 E. IF THE PERSON WHO SUBMITTED THE DOCUMENT DETERMINES THAT THE
6 PRINTED RECORD IS INACCURATE, THE PERSON SHALL CORRECT THE INFORMATION AND
7 SIGN AND RETURN THE CORRECTED PRINTED RECORD TO THE SECRETARY OF STATE. ON
8 RECEIPT OF A CORRECTED PRINTED RECORD, THE SECRETARY OF STATE SHALL MAKE THE
9 PROPER CORRECTIONS AND SEND A CORRECTED PRINTED RECORD TO THE PERSON WHO
10 SUBMITTED THE DOCUMENT. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL
11 CHECK THE BOX MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE
12 PRINTED RECORD TO THE SECRETARY OF STATE'S OFFICE.

13 F. THE SECRETARY OF STATE SHALL ACTIVATE THE ENTRY INTO THE HEALTH
14 CARE DIRECTIVES REGISTRY DATABASE ONLY AFTER RECEIVING A PRINTED RECORD
15 MARKED "NO CORRECTIONS REQUIRED".

16 G. THE SECRETARY OF STATE SHALL DELETE A DOCUMENT FILED WITH THE
17 REGISTRY PURSUANT TO THIS SECTION WHEN THE SECRETARY OF STATE RECEIVES A
18 REVOCATION OF A DOCUMENT ALONG WITH THAT DOCUMENT'S FILE NUMBER AND PASSWORD.

19 H. THE ENTRY OF A DOCUMENT PURSUANT TO THIS ARTICLE DOES NOT:

- 20 1. AFFECT THE VALIDITY OF THE DOCUMENT.
21 2. RELATE TO THE ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.
22 3. CREATE A PRESUMPTION REGARDING THE VALIDITY OF THE DOCUMENT OR THE
23 ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.

24 I. THE SECRETARY OF STATE SHALL PURGE A DOCUMENT FILED WITH THE
25 REGISTRY ON VERIFICATION BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES
26 OF THE DEATH OF THE PERSON WHO SUBMITTED THE DOCUMENT. THE SECRETARY OF
27 STATE SHALL PURGE THE REGISTRY OF DOCUMENTS PURSUANT TO THIS SUBSECTION AT
28 LEAST ONCE EVERY FIVE YEARS. THE DIRECTOR OF THE DEPARTMENT OF HEALTH
29 SERVICES SHALL SHARE ITS REGISTRY OF DEATH CERTIFICATES WITH THE SECRETARY
30 OF STATE IN ORDER TO CONDUCT THE DOCUMENT PURGE REQUIRED BY THIS SUBSECTION.

31 36-3295. Registry information; confidentiality; transfer of
32 information

33 A. THE REGISTRY ESTABLISHED PURSUANT TO THIS ARTICLE IS ACCESSIBLE
34 ONLY BY ENTERING THE FILE NUMBER AND PASSWORD ON THE INTERNET WEB SITE.

35 B. REGISTRATIONS, FILE NUMBERS, PASSWORDS AND ANY OTHER INFORMATION
36 MAINTAINED BY THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE ARE
37 CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO ANY PERSON OTHER THAN THE PERSON
38 WHO SUBMITTED THE DOCUMENT OR THE PERSON'S PERSONAL REPRESENTATIVE.

39 C. NOTWITHSTANDING SUBSECTION B, A HEALTH CARE PROVIDER MAY ACCESS THE
40 REGISTRY AND RECEIVE A PATIENT'S HEALTH CARE DIRECTIVE DOCUMENTS FOR THE
41 PROVISION OF HEALTH CARE SERVICES BY SUBMITTING THE PATIENT'S FILE NUMBER AND
42 PASSWORD.

43 D. THE SECRETARY OF STATE SHALL USE INFORMATION CONTAINED IN THE
44 REGISTRY ONLY FOR PURPOSES PRESCRIBED IN THIS ARTICLE.

1 E. AT THE REQUEST OF A PERSON WHO SUBMITTED THE DOCUMENT, THE
2 SECRETARY OF STATE MAY TRANSMIT THE INFORMATION RECEIVED REGARDING THE HEALTH
3 CARE DIRECTIVE TO THE REGISTRY SYSTEM OF ANOTHER JURISDICTION AS IDENTIFIED
4 BY THE PERSON.

5 36-3296. Liability; limitation

6 A. EXCEPT FOR ACTS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR
7 INTENTIONAL WRONGDOING, THIS STATE IS NOT SUBJECT TO CIVIL LIABILITY FOR ANY
8 CLAIMS OR DEMANDS ARISING OUT OF THE ADMINISTRATION OR OPERATION OF THE
9 REGISTRY ESTABLISHED PURSUANT TO THIS ARTICLE.

10 B. THIS ARTICLE DOES NOT REQUIRE A HEALTH CARE PROVIDER TO REQUEST
11 FROM THE REGISTRY INFORMATION ABOUT WHETHER A PATIENT HAS EXECUTED A HEALTH
12 CARE DIRECTIVE. A HEALTH CARE PROVIDER WHO MAKES GOOD FAITH HEALTH CARE
13 DECISIONS IN RELIANCE ON THE PROVISIONS OF AN APPARENTLY GENUINE HEALTH CARE
14 DIRECTIVE RECEIVED FROM THE REGISTRY IS IMMUNE FROM CRIMINAL AND CIVIL
15 LIABILITY TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS PRESCRIBED IN
16 SECTION 36-3205.

17 C. THIS ARTICLE DOES NOT AFFECT THE DUTY OF A HEALTH CARE PROVIDER TO
18 PROVIDE INFORMATION TO A PATIENT REGARDING HEALTH CARE DIRECTIVES PURSUANT
19 TO FEDERAL LAW.

20 36-3297. Health care directives registry fund

21 A. THE HEALTH CARE DIRECTIVES REGISTRY FUND IS ESTABLISHED CONSISTING
22 OF MONIES RECEIVED PURSUANT TO THIS ARTICLE. THE SECRETARY OF STATE SHALL
23 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

24 B. ON NOTICE FROM THE SECRETARY OF STATE, THE STATE TREASURER SHALL
25 INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND
26 MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

27 C. THE SECRETARY OF STATE SHALL USE FUND MONIES TO SUPPORT, PROMOTE
28 AND MAINTAIN THE REGISTRY.

29 D. FUND MONIES SHALL NOT INCLUDE MONIES APPROPRIATED FROM THE STATE
30 GENERAL FUND.

APPROVED BY THE GOVERNOR MAY 11, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2004.



Passed the House March 10, 2004,

Passed the Senate April 22, 2004,

by the following vote: 56 Ayes,

by the following vote: 29 Ayes,

1 Nays, 3 Not Voting

0 Nays, 1 Not Voting

Jake Flak
Speaker of the House

Klu Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmaine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2172

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 5, 2004

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting

Jake Flake
Speaker of the House
Speman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
5th day of May, 2004.

at 11:45 o'clock a. M.

Wendy Ibarra
Secretary of the Governor

Approved this 11 day of

May, 2004,

at 10⁰⁰ o'clock A. M.

J. N. ...
Governor of Arizona

H.B. 2172

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 11 day of May, 2004,

at 11:25 o'clock A. M.

Janice K. Brewer
Secretary of State