

CONFERENCE COMMITTEE REPORT
House Bill No. 1274 By Representative Badon

June 2, 2014

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 1274 by Representative Badon, recommend the following concerning the Engrossed bill:

1. That the set of Senate Floor Amendments proposed by Senator Morrell and adopted by the Senate on May 27, 2014, be rejected.
2. That the Engrossed bill be amended as follows:

AMENDMENT NO. 1

On page 1, line 17, after "that" and before "the" insert the following:

"the probable postfertilization age of the unborn child is twenty or more weeks and"

AMENDMENT NO. 2

On page 2, at the end of line 2, after "child" and before the period "." insert a comma "," and the following:

"and such determination is communicated to the relevant classes of family members and persons designated in R.S. 40:1299.58.5"

AMENDMENT NO. 3

On page 2, line 10, after "that" and before "the" insert the following:

"the probable postfertilization age of the unborn child is twenty or more weeks and"

AMENDMENT NO. 4

On page 2, at the end of line 12, after "child" and before the period "." insert a comma "," and the following:

"and such determination is communicated to the relevant classes of family members and persons designated in R.S. 40:1299.58.5"

Respectfully submitted,

Representative Austin Badon

Senator Jean-Paul J. Morrell

Representative Scott M. Simon

Senator Ben Nevers

Representative Frank A. Hoffmann

Senator Gerald Long

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 1274 by Representative Badon

Keyword and oneliner of the instrument as it left the House

HEALTH SERVICES: Provides relative to life-sustaining procedures for pregnant women

Report rejects Senate amendments which would have:

1. Provided that proposed law shall not be interpreted to interfere with the right of a spouse, child, parent, or sibling of a woman to make end of life decisions.

Report amends the bill to:

1. Require the obstetrician to determine that the probable postfertilization age of the unborn child is twenty or more weeks.
2. Require the determination that the probable postfertilization age of the unborn child is twenty or more weeks and the pregnant woman's life can reasonably be maintained in such a way as to permit the continuing development and live birth of the unborn child be communicated to the relevant classes of family members and persons designated by present law to make a declaration for a qualified patient who has not previously made a declaration.

Digest of the bill as proposed by the Conference Committee

Present law authorizes, when a comatose or incompetent person or a person who is physically or mentally incapable of communication has been certified as a qualified patient and has not previously made a declaration, any of the following individuals in the following order of priority, if there is no individual in a prior class who is reasonably available, willing, and competent to act, to make a declaration on the qualified patient's behalf:

- (1) The judicially appointed tutor or curator of the patient if one has been appointed.
- (2) Any person or persons previously designated by an adult patient by written instrument signed by the patient in the presence of at least two witnesses, to have the authority to make a declaration for the patient in the event of the patient's inability to do so. If the instrument so authorizes more than one person, it may include the order in which the persons designated shall have authority to make the declaration.
- (3) The patient's spouse not judicially separated.
- (4) An adult child of the patient.
- (5) The parents of the patient.
- (6) The patient's sibling.
- (7) The patient's other ascendants or descendants.

Proposed law retains present law.

Present law requires that, if there is more than one person within an enumerated class, then the declaration shall be made by a majority of that class available for consultation upon good faith efforts to secure participation of all of that class.

Proposed law retains present law.

Present law requires at least two witnesses present at the time the declaration is made by a person other than the judicially appointed tutor or curator of the patient.

Proposed law retains present law.

Present law provides that the absence of a declaration by an adult patient shall not give rise to any presumption as to the intent to consent to or to refuse life-sustaining procedures.

Proposed law retains present law.

Present law shall not be construed in any manner to prevent the withholding or the withdrawal of life-sustaining procedures from a qualified patient with a terminal and irreversible condition who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a prior declaration.

Proposed law retains present law.

Present law requires ambiguities in the provisions of law regarding declarations concerning life-sustaining procedures be interpreted to preserve human life.

Proposed law retains present law and further requires interpretations be made to preserve the life of an unborn child if the qualified patient is pregnant and an obstetrician who examines the woman determines that the probable postfertilization age of the unborn child is twenty or more weeks and the pregnant woman's life can reasonably be maintained in such a way as to permit the continuing development and live birth of the unborn child, and the determination is communicated to the relevant classes of family members and persons designated by present law to make a declaration for a qualified patient who has not previously made a declaration.

Present law requires ambiguities in the provisions of law regarding physician orders for scope of treatment be interpreted to preserve human life.

Proposed law retains present law and further requires interpretations be made to preserve the life of an unborn child if the qualified patient is pregnant and an obstetrician who examines the woman determines that the probable postfertilization age of the unborn child is twenty or more weeks and the pregnant woman's life can reasonably be maintained in such a way as to permit the continuing development and live birth of the unborn child, and the determination is communicated to the relevant classes of family members and persons designated by present law to make a declaration for a qualified patient who has not previously made a declaration.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1299.58.10(E) and 1299.64.6(D))