

1-1 By: Wray (Senate Sponsor - Rodríguez) H.B. No. 1787
 1-2 (In the Senate - Received from the House May 3, 2017;
 1-3 May 9, 2017, read first time and referred to Committee on Health &
 1-4 Human Services; May 17, 2017, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 17, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the execution of a declaration for mental health
 1-20 treatment.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Section 137.003, Civil Practice
 1-23 and Remedies Code, is amended to read as follows:

1-24 Sec. 137.003. EXECUTION AND WITNESSES; EXECUTION AND
 1-25 ACKNOWLEDGMENT BEFORE NOTARY PUBLIC.

1-26 SECTION 2. Section 137.003(a), Civil Practice and Remedies
 1-27 Code, is amended to read as follows:

1-28 (a) A declaration for mental health treatment must be:

1-29 (1) signed by the principal in the presence of two or
 1-30 more subscribing witnesses; or

1-31 (2) signed by the principal and acknowledged before a
 1-32 notary public.

1-33 SECTION 3. Section 137.011, Civil Practice and Remedies
 1-34 Code, is amended to read as follows:

1-35 Sec. 137.011. FORM OF DECLARATION FOR MENTAL HEALTH
 1-36 TREATMENT. The declaration for mental health treatment must be in
 1-37 substantially the following form:

1-38 DECLARATION FOR MENTAL HEALTH TREATMENT

1-39 I, _____, being an adult of sound mind, wilfully
 1-40 and voluntarily make this declaration for mental health treatment
 1-41 to be followed if it is determined by a court that my ability to
 1-42 understand the nature and consequences of a proposed treatment,
 1-43 including the benefits, risks, and alternatives to the proposed
 1-44 treatment, is impaired to such an extent that I lack the capacity to
 1-45 make mental health treatment decisions. "Mental health treatment"
 1-46 means electroconvulsive or other convulsive treatment, treatment
 1-47 of mental illness with psychoactive medication, and preferences
 1-48 regarding emergency mental health treatment.

1-49 (OPTIONAL PARAGRAPH) I understand that I may become
 1-50 incapable of giving or withholding informed consent for mental
 1-51 health treatment due to the symptoms of a diagnosed mental
 1-52 disorder. These symptoms may include:

1-53 _____
 1-54 PSYCHOACTIVE MEDICATIONS

1-55 If I become incapable of giving or withholding informed
 1-56 consent for mental health treatment, my wishes regarding
 1-57 psychoactive medications are as follows:

1-58 _____ I consent to the administration of the following
 1-59 medications:

1-60 _____
 1-61 _____ I do not consent to the administration of the following

2-1 medications:

2-2 _____
2-3 _____ I consent to the administration of a federal Food and
2-4 Drug Administration approved medication that was only approved and
2-5 in existence after my declaration and that is considered in the same
2-6 class of psychoactive medications as stated below:
2-7 _____

2-8 Conditions or limitations: _____

2-9 CONVULSIVE TREATMENT

2-10 If I become incapable of giving or withholding informed
2-11 consent for mental health treatment, my wishes regarding convulsive
2-12 treatment are as follows:

2-13 _____ I consent to the administration of convulsive
2-14 treatment.

2-15 _____ I do not consent to the administration of convulsive
2-16 treatment.

2-17 Conditions or limitations: _____

2-18 PREFERENCES FOR EMERGENCY TREATMENT

2-19 In an emergency, I prefer the following treatment FIRST
2-20 (circle one) Restraint/Seclusion/Medication.

2-21 In an emergency, I prefer the following treatment SECOND
2-22 (circle one) Restraint/Seclusion/Medication.

2-23 In an emergency, I prefer the following treatment THIRD
2-24 (circle one) Restraint/Seclusion/Medication.

2-25 _____ I prefer a male/female to administer restraint,
2-26 seclusion, and/or medications.

2-27 Options for treatment prior to use of restraint, seclusion,
2-28 and/or medications:

2-29 _____
2-30 Conditions or limitations: _____

2-31 ADDITIONAL PREFERENCES OR INSTRUCTIONS

2-32 _____
2-33 Conditions or limitations: _____

2-34 Signature of Principal/Date: _____

2-35 SIGNATURE ACKNOWLEDGED BEFORE NOTARY PUBLIC

2-36 State of Texas

2-37 County of _____

2-38 This instrument was acknowledged before me on _____ (date) by
2-39 _____ (name of notary public).

2-40 _____
2-41 NOTARY PUBLIC, State of Texas
2-42 Printed name of Notary Public:

2-43 _____
2-44 My commission expires:
2-45 _____

2-46 SIGNATURE IN PRESENCE OF TWO WITNESSES

2-47 STATEMENT OF WITNESSES

2-48 I declare under penalty of perjury that the principal's name
2-49 has been represented to me by the principal, that the principal
2-50 signed or acknowledged this declaration in my presence, that I
2-51 believe the principal to be of sound mind, that the principal has
2-52 affirmed that the principal is aware of the nature of the document
2-53 and is signing it voluntarily and free from duress, that the
2-54 principal requested that I serve as witness to the principal's
2-55 execution of this document, and that I am not a provider of health
2-56 or residential care to the principal, an employee of a provider of
2-57 health or residential care to the principal, an operator of a
2-58 community health care facility providing care to the principal, or
2-59 an employee of an operator of a community health care facility
2-60 providing care to the principal.

2-61 I declare that I am not related to the principal by blood,
2-62 marriage, or adoption and that to the best of my knowledge I am not
2-63 entitled to and do not have a claim against any part of the estate of
2-64 the principal on the death of the principal under a will or by
2-65 operation of law.

2-66 Witness

2-67 Signature: _____

2-68 Print

2-69 Name: _____

3-1 Date: _____
 3-2 Address: _____
 3-3 Witness _____
 3-4 Signature: _____
 3-5 Print _____
 3-6 Name: _____
 3-7 Date: _____
 3-8 Address: _____

3-9 NOTICE TO PERSON MAKING A DECLARATION FOR MENTAL HEALTH TREATMENT

3-10 This is an important legal document. It creates a
 3-11 declaration for mental health treatment. Before signing this
 3-12 document, you should know these important facts:

3-13 This document allows you to make decisions in advance about
 3-14 mental health treatment and specifically three types of mental
 3-15 health treatment: psychoactive medication, convulsive therapy,
 3-16 and emergency mental health treatment. The instructions that you
 3-17 include in this declaration will be followed only if a court
 3-18 believes that you are incapacitated to make treatment decisions.
 3-19 Otherwise, you will be considered able to give or withhold consent
 3-20 for the treatments.

3-21 This document will continue in effect for a period of three
 3-22 years unless you become incapacitated to participate in mental
 3-23 health treatment decisions. If this occurs, the directive will
 3-24 continue in effect until you are no longer incapacitated.

3-25 You have the right to revoke this document in whole or in part
 3-26 at any time you have not been determined to be incapacitated. YOU
 3-27 MAY NOT REVOKE THIS DECLARATION WHEN YOU ARE CONSIDERED BY A COURT
 3-28 TO BE INCAPACITATED. A revocation is effective when it is
 3-29 communicated to your attending physician or other health care
 3-30 provider.

3-31 If there is anything in this document that you do not
 3-32 understand, you should ask a lawyer to explain it to you. This
 3-33 declaration is not valid unless it is either acknowledged before a
 3-34 notary public or signed by two qualified witnesses who are
 3-35 personally known to you and who are present when you sign or
 3-36 acknowledge your signature.

3-37 SECTION 4. The changes in law made by this Act to Sections
 3-38 137.003 and 137.011, Civil Practice and Remedies Code, apply to a
 3-39 declaration for mental health treatment executed on or after the
 3-40 effective date of this Act. A declaration for mental health
 3-41 treatment executed before the effective date of this Act is
 3-42 governed by the law as it existed on the date the declaration for
 3-43 mental health treatment was executed, and the former law is
 3-44 continued in effect for that purpose.

3-45 SECTION 5. This Act takes effect September 1, 2017.

3-46 * * * * *