

SENATE BILL 550

J1

6lr2608

By: **Senator Charles**

Introduced and read first time: February 4, 2026

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Decisions Act – Surrogate Decision Making – Mental Disorders**

3 FOR the purpose of repealing the prohibition against a surrogate authorizing treatment for
4 a mental disorder for a person who has been certified to be incapable of making an
5 informed decision; and generally relating to surrogate health decision making.

6 BY repealing and reenacting, with amendments,
7 Article – Health – General
8 Section 5–605(a)(2) and (4) through (6) and (d)
9 Annotated Code of Maryland
10 (2023 Replacement Volume and 2025 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Health – General
13 Section 5–605(a)(3) and (c)(1) and (2)
14 Annotated Code of Maryland
15 (2023 Replacement Volume and 2025 Supplement)

16 BY adding to
17 Article – Health – General
18 Section 5–605(a)(4)
19 Annotated Code of Maryland
20 (2023 Replacement Volume and 2025 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Health – General**

24 5–605.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (2) Subject to [paragraph] PARAGRAPHS (4) AND (5) of this subsection, the following individuals or groups, in the specified order of priority, may make decisions about health care for a person who has been certified to be incapable of making an informed decision and who has not appointed a health care agent in accordance with this subtitle or whose health care agent is unavailable[. Individuals in a particular class may be consulted to make a decision only if all individuals in the next higher class are unavailable]:

(i) A guardian for the patient, if one has been appointed;

(ii) The patient's spouse or domestic partner;

(iii) An adult child of the patient;

(iv) A parent of the patient;

(v) An adult brother or sister of the patient; or

(vi) A friend or other relative of the patient who meets the requirements of paragraph (3) of this subsection.

(3) A friend or other relative may make decisions about health care for a patient under paragraph (2) of this subsection if the person:

(i) Is a competent individual; and

(ii) Presents an affidavit to the attending physician stating:

1. That the person is a relative or close friend of the patient;

and

2. Specific facts and circumstances demonstrating that the person has maintained regular contact with the patient sufficient to be familiar with the patient's activities, health, and personal beliefs.

(4) INDIVIDUALS IN A PARTICULAR CLASS MAY BE CONSULTED TO MAKE A DECISION ONLY IF ALL INDIVIDUALS IN THE NEXT HIGHER CLASS ARE UNAVAILABLE.

[(4)] (5) An individual may not make decisions about health care for a patient under paragraph (2) of this subsection if:

(i) The individual is the subject of an interim, temporary, or final protective order and the patient is a person eligible for relief under the order; or

(ii) The individual is the spouse of the patient and:

1 1. The individual and patient have executed a separation
2 agreement; or

3 2. The individual or patient has filed an application for
4 divorce.

5 [(5)] (6) The attending physician shall include the affidavit present under
6 paragraph (3) of this subsection in the patient's medical record.

7 [(6)] (7) A person who obtains new information that would prohibit an
8 individual from making health care decisions for a patient under paragraph [(4)] (5) of this
9 subsection shall provide the information to any health care provider or health care facility
10 providing services to the patient.

11 (c) (1) Any person authorized to make health care decisions for another under
12 this section shall base those decisions on the wishes of the patient and, if the wishes of the
13 patient are unknown or unclear, on the patient's best interest.

14 (2) In determining the wishes of the patient, a surrogate shall consider the
15 patient's:

16 (i) Current diagnosis and prognosis with and without the treatment
17 at issue;

18 (ii) Expressed preferences regarding the provision of, or the
19 withholding or withdrawal of, the specific treatment at issue or of similar treatments;

20 (iii) Relevant religious and moral beliefs and personal values;

21 (iv) Behavior, attitudes, and past conduct with respect to the
22 treatment at issue and medical treatment generally;

23 (v) Reactions to the provision of, or the withholding or withdrawal
24 of, a similar treatment for another individual; and

25 (vi) Expressed concerns about the effect on the family or intimate
26 friends of the patient if a treatment were provided, withheld, or withdrawn.

27 (d) A surrogate may not authorize[:

28 (1) Sterilization; or

29 (2) Treatment for a mental disorder] **STERILIZATION.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2026.