

DEFAULT SURROGATE CONSENT STATUTES

as of June 2014

Explanation: The descriptors in the chart are generalizations of statutory language and not quotations, so the statutes must be consulted for precise meaning. The default surrogacy statute language varies from state to state and the listed descriptors generally hold the following meanings:

- Adult includes any person who is 18 years of age or older, is the parent of the child, or has married;
- Close friend (Adult friend) is one who has maintained regular contact with the patient as to be familiar with the patient’s activities, health, and religious or moral beliefs.
- **Provisions in red** are those addressing patients with no qualified default surrogate (sometimes called the “unbefriended” patient).

CAUTION: The descriptions and limitations listed in this chart are broad characterizations for comparison purposes and not as precise quotations from legislative language.

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
1. ALABAMA Ala. Code 1975 §§22-8A-1 to -14 (2014). Specifically, see §22-8A-11	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> ▪ Spouse (unless legally separated/divorcing) ▪ Adult child ▪ Parent ▪ Adult sibling ▪ Nearest adult relative ▪ Att. physician & ethics committee 	Patient must be in terminal condition or permanently unconscious. Certification requirements.	Yes §22-8A-11(c)	Judicial recourse, §22-8A-11
2. ALASKA Alaska Stat. §§13.52.010 to .395 (West 2014), amended 2008. Specifically, see §13.52.030	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> ▪ Individual orally designated by patient ▪ Spouse ▪ Adult child ▪ Parent ▪ Adult Sibling ▪ Close friend 	Patient has to be an adult N/A to withholding or withdrawing life-sustaining procedures UNLESS patient is in “terminal condition” or “permanent unconsciousness.” Certification requirements. Mental health treatment limitations and anatomical gift limitations, see A.S. §13.52.173 and §13.52.193 Exceptional procedures (abortion, sterilization, psychosurgery, and/or removal of organs) limitations under A.S. §13.52.050.	Yes §13.52.030(g)	Majority rule for adult children, parents, or siblings; and if deadlock, then primary physician decides
3. ARIZONA Ariz. Rev. Stat. Ann. §§36-3201 to -3231 (West 2014), amended 2008. Specifically, see §36-3231	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> ▪ Spouse (unless legally separated) ▪ Adult child (if multiple, health care provider will seek a majority opinion from those available) ▪ Parent ▪ Domestic partner, if unmarried ▪ Sibling ▪ Close friend ▪ Att. physician in consult with ethics committee or, if none, 2nd physician 	N/A to decisions to withdraw nutrition or hydration Mental health treatment limitations	Yes §36-3203(C)	Majority rule for adult children Judicial recourse for all others, §36-3206

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<p>4. ARKANSAS</p> <p>Ark. Code Ann. §§20-6-101 to -118 (2014) Specifically, see §20-6-105</p>	Comprehensive Health Care Decisions Act	<p>A surrogate is designated by the health care provider in the following order of preference conditional on the surrogate being an adult who:</p> <ul style="list-style-type: none"> (i) has exhibited special care and concern for the principal; (ii) is familiar with the principal's personal values; (iii) is reasonably available; and (iv) is willing to serve. <ul style="list-style-type: none"> ▪ An adult designated orally or in writing ▪ Spouse (unless legally separated) ▪ Adult child ▪ Parent ▪ Adult sibling ▪ Adult relative ▪ Att. Physician in consult with ethics committee or 2nd physician 	Certification requirements for withdrawing or withholding of artificial nutrition or hydration A.C.A. §20-6-106	Yes, §20-6-106	Judicial recourse, §20-6-115
<p>5. CALIFORNIA</p> <p>Cal. Probate Code §§4711 – 4727 (West 2014) Specifically, see §4711</p>	Comprehensive Health Care Decisions Act	<p>An individual designated as surrogate. (orally or written)</p> <p>Note: The surrogate has priority over a concurrently appointed health care agent during the period the surrogate designation is in effect.</p>	<p>Effective “only during the course of treatment or illness or during the stay in the health care institution when the designation is made, or for 60 days, whichever period is shorter.”</p> <p>N/A to civil commitment, electro-convulsive therapy, psychosurgery, sterilization, and abortion.</p>	Yes §4714	N/A since designated surrogate is presumably one person
<p>Cal. Health & Safety Code §24178 (West 2014)</p>	Specialized provision applicable only to medical research	<ul style="list-style-type: none"> ▪ Spouse ▪ Domestic partner ▪ Adult child ▪ Custodial parent ▪ Adult sibling ▪ Adult grandchild ▪ Adult relative with the closest degree of kinship <p>Note: Different rules apply to emergency room experimental consent</p>	<p>Consent restricted to medical experiments that relate to the cognitive impairment, lack of capacity, or serious, or life threatening diseases and conditions of research participants.</p> <p>This provision N/A to persons involuntarily committed or voluntarily committed by a conservator under the Welfare & Institutions Code</p>	Yes §24178(g)	Consensus required
<p>Cal. Health & Safety Code §1418.8 (West 2014)</p>	Specialized provision applicable only to nursing homes	<ul style="list-style-type: none"> ▪ Next of kin:” ▪ The attending physician and surgeon in accordance with an interdisciplinary team review 	Applies when “the attending physician and surgeon of a resident in a skilled nursing facility or intermediate care facility prescribes or orders a medical intervention that requires informed consent”	Not addressed	
<p>6. COLORADO</p> <p>Colo. Rev. Stat. Ann. §§15-18-101 to 15-18.7-110(West 2014) Specifically, see §§15-18.5-101 to -103</p>	Comprehensive Health Care Decisions Act	<p>The following "interested persons" must decide who among them shall be surrogate decision-maker:</p> <ul style="list-style-type: none"> • Spouse • Parent • Adult child • Sibling • Adult Grandchild • Close friend 	Certification requirements for withholding or withdrawing artificial nutrition and hydration, §15-18.5-103	Yes, §15-18.5-103(4)(a) Consensus or judicial action in the form of a guardianship	Consensus required on selection of the surrogate. If lack of consensus, judicial recourse (guardianship) §15-18.5-103

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<p>7. CONNECTICUT</p> <p>Conn. Gen. Stat. Ann. §§19a-570 to -580g (West 2014) Specifically, see §19a-570 and -571</p>	<p>Part of Public health chapter on “Removal of Life Support Systems”</p>	<p>Physician, in consultation with next of kin in the following priority: (A) The spouse of the patient; (B) an adult son or daughter of the patient; (C) either parent of the patient; (D) an adult brother or sister of the patient; and (E) a grandparent of the patient (§19a-570) Oral communications re: withholding life support by patient made part of medical record per §19a-570</p>	<p>Limited to the removal or withholding of life support systems, and patient is in terminal condition or permanently unconscious</p> <p>Pregnancy limitation under §19a-574</p>	<p>Yes §19a-571(a)</p>	<p>judicial recourse, §19a-580c</p>
<p>8. DELAWARE</p> <p>Del. Code Ann. 16 Del. Code §§2501 to 2518 (2014). Specifically, see 16 Del. Code §2507</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • An individual orally designated as surrogate • Spouse, unless petition for divorce • Adult child • Parent • Adult sibling • Adult grandchild • Adult niece or nephew • Adult aunt or uncle • Close friend <p>NOTE: Surrogate is disqualified if protective order against the individual is filed or in existence.</p>	<p>Adult patient must be in terminal condition or permanently unconscious, documented in writing with its nature and cause</p> <p>Pregnancy limitation, 16 Del. Code. §2503(j)</p>	<p>Yes 16 Del.Code. §2507(b)(8))</p>	<p>If in a health care institution, refer to “appropriate committee” for a recommendation. Judicial recourse, §16 Del. Code §2511</p>
<p>9. DISTRICT OF COLUMBIA</p> <p>DC Code §§21-2201 to -2213 (2014). Specifically, see §21-2210</p>	<p>Durable Power of Attorney for Health Care Act</p>	<ul style="list-style-type: none"> • Spouse or domestic partner • Adult child • Parent • Adult Sibling • Religious superior if in religious order or a diocesan priest • Close friend* • Nearest living relative <p>* Close friend may not be an individual or facility provider</p>	<p>Incapacity certified in accordance with DC Code §21-2204</p> <p>N/A to abortion, sterilization, or psycho-surgery, convulsive therapy or behavior modification programs involving aversive stimuli are excluded</p> <p>At least 1 witness must be present whenever surrogate grants, refuses or withdraws consent on behalf of the patient.</p>	<p>Yes 21-2210(b)</p>	<p>Yes DC Code §21-2210 (e)-(f), legal standing to challenge higher priority standard and rebuttable presumption established</p>
<p>10. FLORIDA</p> <p>Fla. Stat Ann. §§765.101 to .113 (West 2014) Specifically, see §765.401 and .113</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • Spouse • Adult child or majority of adult children if more than one • Parent • Adult Sibling or majority of adult siblings if more than one • Close adult relative • Close friend • Licensed clinical social worker selected by bioethics committee, and if decision is to forgo life-prolonging procedures, must be reviewed by bioethics committee. 	<p>N/A to abortion, sterilization, electroshock therapy, psychosurgery, experimental treatment not approved by IRB, or voluntary admission to a mental health facility.</p> <p>Pregnancy limitation, §765.113</p>	<p>Yes §765.401(2) and (3)</p>	<p>Majority rule for adult children or siblings.</p> <p>Judicial recourse not addressed.</p>

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<p>11. GEORGIA</p> <p>Ga. Code Ann. §§31-9-1 to -7 (West 2014), amended 2010. Specifically, see § 31-9-2.</p>	<p>Informed Consent Statute</p>	<ul style="list-style-type: none"> • Spouse; or any parent, adult or minor of minor child • Person standing in loco parentis for minor child or ward • Adult child • Parent • Adult sibling • Grandparent • Adult first degree relation (niece, nephew, aunt, or uncle) • Close friend 	<p>Can consent to any surgical or medical treatment procedures not prohibited by law upon physician advice</p> <p>Not explicitly applicable to <i>refusals</i> of treatment, but nevertheless should be applicable.</p>	<p>Yes §31-9-2(b)</p>	<p>None provided</p>
<p>Ga. Code Ann. §§31-39-1 to -9 (West 2014) Specifically, see §31-39-4</p>	<p>DNR Statute</p>	<ul style="list-style-type: none"> • Spouse • Guardian (comes after spouse) • Adult Child • Parent • Sibling • Physician w/ concurrence of 2nd physician and ethics committee (31-39-4(e)) 	<p>Applies only to consent to DNR orders</p> <p>Limitation when disagreement between parents of minor child – hospital cannot enter DNR order if parents disagree</p>	<p>Yes §31-39-4(c)</p>	<p>None provided</p>
<p>Ga. Code Ann. §§31-36A-1 to -7 (West 2014) Specifically, see §31-36A-6</p>	<p>Specialized provision applicable to Temporary Health Care Placement</p>	<ul style="list-style-type: none"> • Spouse • Adult Child • Parent • Sibling • Grandparent • Adult grandchild • Aunt or Uncle • Nephew or Niece 	<p>Applies only to decisions regarding admission to or discharge from one health care facility or placement, or transfer to another health care facility or placement.</p> <p>Excludes involuntary placement for mental illness (governed by Title 37)</p>	<p>Yes 31-36A-6(b)</p>	<p>None provided</p>
<p>12. HAWAII</p> <p>Hawaii Rev. Stat. §§327E-1 to -16 (West 2014) Specifically, see §§327E-2 and E-5</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • An individual orally designated as surrogate If none, the following "interested persons" must decide who among them shall be surrogate decision-maker: <ul style="list-style-type: none"> • Spouse (unless separated or estranged) • Reciprocal beneficiary • Adult child • Parent • Adult Sibling • Adult Grandchild • Close friend 	<p>None for orally designated surrogate, but an “interested person” may make a decision to withhold or withdraw nutrition and hydration only if two physicians certify that providing it will merely prolong the act of dying and the patient is highly unlikely to have any neurological response in the future.</p>	<p>Yes §327E-5(g)</p>	<p>Consensus required on the selection of the surrogate. If lack of consensus, judicial recourse (guardianship), §327E-5(d)</p>

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<p>13. IDAHO</p> <p>Idaho Code §§ 39-4501 to -4515 (West 2014), amended 2012. Specifically, see § 39-4504</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • Spouse • Adult child • Parent • Person named in a delegation of parental authority executed pursuant to § 15-5-104 • A relative representing self as appropriate, responsible person • Other individual representing self to be responsible for the person's health care • In a medical emergency, attending physician or dentist may authorize and/or provide such care, treatment or procedure as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such physician or dentist, may proceed as if informed, valid consent therefor had been otherwise duly given. 	<p>None listed</p>	<p>Indirect in statement of policy: "Any authentic expression of a person's wishes with respect to health care should be honored." ICS 39-4509(3)</p>	<p>None provided</p>
<p>14. ILLINOIS</p> <p>755 ILCS §§ 40/1 to 40/65, Specifically, see 40/25 (West 2014)</p>	<p>Health Care Surrogate Act</p>	<ul style="list-style-type: none"> • Spouse • Adult child • Parent • Adult Sibling • Adult grandchild • Close friend 	<p>N/A to admission to mental health facility, psychotropic medication or electro-convulsive therapy (see 5/2-102; 5/3-601.2, amended 1997)</p> <p>If decision concerns forgoing life-sustaining treatment, patient must be in terminal condition, permanently unconscious, or incurable or irreversible condition.</p>	<p>Yes §40/20(b)</p>	<p>Majority rule for children, siblings and grandchildren.</p> <p>Judicial recourse (guardianship), § 40/25(d)</p>
<p>15. INDIANA</p> <p>Ind. Code Ann. §§ 16-36-1-1 to -14 (West 2014) Specifically, see § 16-36-1-5</p>	<p>Health Care Agency (durable power) and Surrogate Consent Act</p>	<p>Any of the following:</p> <ul style="list-style-type: none"> • Spouse • Parent • Adult child • Adult Sibling • Religious superior if the individual is a member of a religious order 	<p>None listed</p>	<p>Yes § 16-36-1-5(d)</p>	<p>Judicial recourse not addressed</p>
<p>16. IOWA</p> <p>Iowa Code Ann. §§ 144A.1 to .12 (West 2014) Specifically, see § 144A.7</p>	<p>Living Will Statute</p>	<ul style="list-style-type: none"> • Spouse • Adult child • Parent or parents • Adult sibling 	<p>Limited to the withholding or withdrawal of life-sustaining procedures, and patient is in terminal condition or comatose</p> <p>A witness must "be present at the time of the consultation when that decision is made."</p> <p>Pregnancy limitation, § 144A.7(3)</p>	<p>Yes § 144A.7(1)</p>	<p>Majority rule for adult children</p> <p>Judicial recourse not addressed</p>
<p>17. KANSAS</p> <p>K.S.A. § 65-4974 2014</p>	<p>Specialized provision, applicable only to consent to medical research</p>	<ul style="list-style-type: none"> • Spouse, unless legally separated • Adult child • Parent • A relative <p>Note: Authority of guardian or agent with authority to make health care decisions is specifically acknowledged.</p>	<p>Consent is restricted to research protocols that have been approved by an institutional review board.</p> <p>Cannot consent if contrary to the incapacitated person's permission, expressed orally or in writing</p>	<p>No</p>	<p>None provided</p>

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18. KENTUCKY Ky. Rev. Stat. §§311.621 to .644(Baldwin 2014) Specifically, see §311.631	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> Spouse Adult child Parents Nearest adult relative 	N/A to withholding or withdrawal artificial nutrition and hydration unless specified conditions are met	Yes §311.631(3)	<p>Majority rule for adult children and nearest relative</p> <p>Judicial recourse not addressed</p>
19. LOUISIANA La. Rev. Stat. Ann. §40:1299.58.1 to .10 (West 2013) Specifically, see §40:1299.58.5	Living Will Statute	<ul style="list-style-type: none"> Spouse, if not judicially separated Adult child Parents Sibling Other ascendants or descendants (direct blood line relatives) 	Limited to executing a LW (“Declaration”) for patient in terminal and irreversible condition or comatose	No	<p>Consensus required</p> <p>Judicial recourse not addressed</p>
20. MAINE Me. Rev. Stat. Ann tit. 18-A, §5-801 to -817 (West 2014) Specifically, see §5-805.	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> Spouse, unless legally separated Adult in spouse-like relationship Adult child Parent Adult sibling Adult grandchild Adult niece or nephew Adult aunt or uncle Adult relative familiar with patient's values Close friend 	<p>If decision pertains to withdrawal or withholding of life-sustaining treatment , patient must be in terminal condition or persistent vegetative state under §5-805(a)</p> <p>N/A to denial of surgery, procedures, or other interventions that are deemed medically necessary</p> <p>Admission to mental health institution</p>	Yes §5-805(f)	<p>Majority rule if more than one member of any class assumes authority</p> <p>Provider may refer them “to a neutral 3rd party for assistance in resolving the dispute”</p>
21. MARYLAND Md. Health-Gen. Code Ann., §§5-601 to -626 (2014) Specifically, see §5-605	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> Spouse or Domestic Partner Adult child Parent Adult sibling Close friend or relative who has maintained regular contact with the patient 	N/A to sterilization or treatment for mental disorder Applicable to life-sustaining procedure only if the patient as been certified to be in a terminal condition, persistent vegetative state, or end-stage condition	Yes §5-605(c)	<p>If in hospital or nursing home, refer to ethics committee</p> <p>If elsewhere, consensus required</p>
22. MASSACHUSETTS	None				
23. MICHIGAN Mich. Comp. Laws Ann. §§333.5651 to .5661 (West 2014) Specifically, see §333.5653(g) and .5655(b)	Health Care disclosure and consent act.	<ul style="list-style-type: none"> “a member of the immediate family, the next of kin, or the guardian” (priority not specified) 	Applies when patient has a “reduced life expectancy due to advanced illness”	No	Judicial recourse not addressed
24. MINNESOTA	None				

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25. MISSISSIPPI Miss. Code Ann. §§41-41-201 to -303 (West 2014) Specifically, see §§41-41-203(s), -211, and -215(9)	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> Individual orally designated by patient Spouse, unless legally separated Adult child Parent Adult sibling Close friend Owner, operator, or employee of residential long-term care institution (but see limitations in next column) 	<p>Admission to mental health institution.</p> <p>If surrogate is owner, operator, or employee of residential long-term care institution, then the authority does not extend to decisions to withhold or discontinue life support, nutrition, hydration, or other treatment, care, or support. §41-41-215(9)</p>	Yes §41-41-211(6)	<p>Majority rule if more than one member of any class assumes authority</p> <p>Judicial recourse not addressed</p>
26. MISSOURI	None				
27. MONTANA Mont. Code Ann. §§50-9-101 to -111 (2013) Specifically, see §50-9-106	Living Will Statute	<ul style="list-style-type: none"> Spouse Adult child Parents Adult sibling Nearest adult relative 	<p>Limited to withholding or withdrawal of life-sustaining treatment, and patient is in terminal condition</p> <p>Pregnancy limitation, §50-9-106(7)</p>	Yes §50-9-106(4)	<p>Majority rule for adult children and siblings</p> <p>Judicial recourse not addressed</p>
28. NEBRASKA	None				
29. NEVADA Nev. Rev. Stat. §§449.535 to -.690(2013) Specifically, see §449.626	Living Will Statute	<ul style="list-style-type: none"> Spouse Adult child Parents Adult sibling Nearest adult relative 	<p>Limited to withholding or withdrawal of life-sustaining treatment, and patient is in terminal condition</p> <p>Pregnancy limitation, §449.626(6)</p>	Yes §§449.626(4)	<p>Majority rule for adult children and sibling</p> <p>Judicial recourse not addressed</p>
30. NEW HAMPSHIRE	None				
31. NEW JERSEY NJ St. § 26:14-1 – 5 (West 2014) Specifically, see §25:14-5	Specialized provision applicable only to medical research	<ul style="list-style-type: none"> Spouse or civil union partner Adult child Custodial parent Adult sibling Nearest adult relative 	Limited to medical research approved and monitored by an institutional review board, plus certain benefit/risk criteria must be met.	Yes NJ St. § 26:14-5(d) plus procedural requirements for informed consent	<p>Consensus required</p> <p>Judicial recourse not addressed</p>
32. NEW MEXICO N.M. Stat. Ann. 1978 §§24-7A-1 to -18 (West 2007) Specifically, see §24-7A-5	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> An individual designated as surrogate Spouse Individual in long-term spouse-like relationship Adult child Parent Adult sibling Grandparent Close friend 	Admission to mental health facility §24-7A-13(E)	Yes §24-7A-5(F)	<p>Majority rule if more than one member of any class assumes authority</p> <p>Judicial recourse. §24-7A-14</p>

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33. NEW YORK N.Y. Family Health Care Decisions Act §§2994-A to -U (McKinney 2014) Specifically, see § 2994- D	Specialized Surrogate Consent Statute (applicable to health care provided in a hospital and nursing homes)	<ul style="list-style-type: none"> • Spouse or Domestic Partner • Adult child • Parent • Adult sibling • Close friend • Attending Physician for routine medical treatment or, for major medical treatment, the attending physician must make a recommendation to the hospital for the treatment and have at least one other physician designated by the hospital to independently concur 	<p>Even if the patient lacks capacity, a patient’s objection to the surrogate’s decision will prevail unless a court of competent jurisdiction determines the patient is incompetent for all purposes, not just for health care decisions.</p> <p>Decisions to withhold or withdraw life-sustaining treatment for a patient shall be authorized only if certain conditions are met and the attending physician or hospital concurs with the decision.</p>	Yes 2994-d(4) and §2994-d(5)	Judicial recourse (guardianship), § 2994-R
N.Y. Pub. Health Law §§2960 to 2979 (McKinney 2014) Specifically, see §§2965 & 2966	Specialized Surrogate Consent Statute (applicable only to DNR orders)	<ul style="list-style-type: none"> • Spouse or domestic partner • Adult child • Parent • Adult sibling • Close friend • Physician, with concurrence by a qualified second physician who personally examines patient that resuscitation is medically futile. 	Limited to consent to a DNR order, and patient is in terminal condition, or permanently unconscious, or where resuscitation is futile or extraordinarily burdensome	Yes §2965(3)(a)	Refer to dispute mediation system Judicial recourse, Specifically, see §2973
34. NORTH CAROLINA N.C. Gen. Stat. §90-320 to -328 (2014) Specifically, see §90-322	Living Will Statute	<ul style="list-style-type: none"> • Spouse • Parents • Adult Child • Siblings • Close friend • Att. physician 	Limited to the withholding or withdrawal of life-prolonging measures where the patient is terminal or permanently unconscious.	No	Majority rule for parents, adult children & siblings Judicial recourse not addressed
35. NORTH DAKOTA N.D. Cent. Code §23-12-01 to -19 (2014) Specifically, see §23-12-13	Informed Consent Statute	<ul style="list-style-type: none"> • Spouse who has maintained significant contacts with incapacitated person • Adult children who have maintained significant contacts with incapacitated person • Parents, including stepparent who has maintained significant contacts with incapacitated person • Adult siblings who have maintained significant contacts with incapacitated person • Grandparents who have maintained significant contacts with incapacitated person • Adult grandchildren who have maintained significant contacts with incapacitated person • Close adult relative or friend who have maintained significant contacts with incapacitated person 	<p>Not explicitly applicable to refusals of treatment, but nevertheless should be applicable. A determination of incapacity, over the patient’s objections, can be determined in a court hearing pursuant to chapter 30.1-28.</p> <p>N/A to sterilization, abortion, psychosurgery, and admission to a state mental facility for > 45 days</p>	Yes §23-12-13(3)	None provided

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<p>36. OHIO</p> <p>Ohio Rev. Code Ann. §2133.01 to .16 (West 2014) Specifically, see §2133.8</p>	<p>Living Will Statute</p>	<ul style="list-style-type: none"> • Spouse • Adult child • Parents • Adult sibling • Nearest adult relative 	<p>Limited to consent for withdrawal or withholding of life-sustaining treatment, and patient has been in terminal condition or permanently unconscious for at least 12 months.</p> <p>Nutrition and hydration may be withheld <i>only</i> upon the issuance of an order of the probate court</p> <p>Pregnancy limitation, §2133.08(G)</p>	<p>Yes §2133.08(D)(3)</p>	<p>Majority rule for adult children and siblings</p> <p>Judicial recourse not addressed</p>
<p>37. OKLAHOMA</p> <p>Okla. Stat. Ann. tit. 63 §3101 to 3102.3A (West 2014) Specifically, see §3102A</p>	<p>Specialized provision applicable only to medical research</p>	<ul style="list-style-type: none"> • Spouse • Adult child • Parent • Adult sibling • Relative by blood or marriage 	<p>Limited to experimental treatment, test or drug approved by a local institutional review board.</p>	<p>Yes §3101.16</p>	<p>Judicial recourse not addressed</p>
<p>38. OREGON</p> <p>Or. Rev. Stat. §127.505 to .660 (2014) Specifically, see §127.635, §127.505(13) and 127.535(4)</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • Spouse • Adult designated by others on this list, without objection by anyone on list • Adult child • Parent • Sibling • Adult relative or adult friend • Att. physician 	<p>Limited to withdrawal or withholding of life-sustaining procedures for a patient in a terminal condition or permanently unconscious, or who meets other conditions related to pain or advanced progressive illness.</p> <p>Principal's parent or former guardian's priority status to withhold or withdraw life-sustaining procedures may be withheld if a court has taken the principal out of their custody permanently or terminated the parental rights.</p>	<p>Yes §127.535(4) & 127.535(6)</p>	<p>Majority rule for adult children and siblings</p> <p>Judicial recourse not addressed</p>
<p>39. PENNSYLVANIA</p> <p>Pa. Stat. Ann. tit. 20, §§5451 to 5461 (West 2007) (<i>eff. January 29, 2007</i>) Specifically, see §5456 and §5461</p>	<p>Comprehensive Health Care Decisions Act</p>	<ul style="list-style-type: none"> • Spouse • Adult designated by others on this list, without objection by anyone on list • Adult child • Parent • Adult sibling • Adult grandchild • Close friend <p>Note: Individual may provide for a different order of priority. by signed writing.</p>	<p>Pregnancy limitation, Pa. Stat. Ann. tit. 20, §5429</p> <p>Surrogate health care decision maker may not execute an advance health care directive or name a health care agent on behalf of an incompetent individual.</p>	<p>Yes Tit. 20, §§5456 & 5461</p>	<p>Majority rule if more than one member of any class assumes authority</p> <p>Judicial recourse not addressed</p>
<p>40. RHODE ISLAND</p>	<p>None</p>				

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
41. SOUTH CAROLINA S.C. Code Ann. §44-66-10 to -80 (2014) Specifically, see § 44-66-30	Separate Surrogate Consent Act	<ul style="list-style-type: none"> Person given priority to make health-care decisions for the patient by another statute Spouse, unless separated or divorced Parent or adult child Adult sibling, grandparent, or adult grandchild Other close relative Person given authority to make health-care decisions for the patient by another statutory provision 	N/A if patient's inability to consent is temporary and delay of treatment will not result in significant detriment to the patient's health	Yes §44-66-30(F)	Consensus required Judicial recourse. Specifically, see §44-66-30(D)
42. SOUTH DAKOTA S.D. Codified Laws §34-12C-1 to -8 (2014) Specifically, see §34-12C-3	Separate Surrogate Consent Act	<ul style="list-style-type: none"> Spouse Adult child Parent Adult sibling Grandparent or adult grandchild Aunt or uncle or adult niece or nephew Adult cousin Close friend (An authorized surrogate may delegate authority to another person in same or succeeding class)	None listed	Yes §34-12C-3	Consensus required Judicial recourse not addressed
43. TENNESSEE Tenn. Code Ann §68-11-1801 to -1815 (2014) Specifically, see §68-11-1806	Comprehensive Health Care Decisions Act	Supervising health care provider selects from the following order of preference under criteria provided: <ul style="list-style-type: none"> Individual designated by patient Spouse Adult child Parent Adult sibling Other adult relative Close friend Primary Physician, in consultation with ethics committee or independent 2nd physician Disqualified surrogates: <ul style="list-style-type: none"> Indiv. Provider Facility Provider Person who is the subject of a protective order that directs the person to avoid contact with the patient	Any matter governed by the mental health code. Except for individual designated by the patient, other surrogates cannot make decision to w/h or w/d artificial nutrition & hydration without certification by 2 physicians of medical prerequisites.	Yes §68-11-1806(d)	Provider selects surrogate using criteria provided under §68-11-1806(c)(4)
44. TEXAS Tex. [Health & Safety] Code Ann. §166.031 to .053 (Vernon 2013) Specifically, see §166.039	Comprehensive Health Care Decisions Act	Physician and: <ul style="list-style-type: none"> Spouse Adult children Parents Nearest relative Att. Physician, with concurrence of independent 2nd physician or physician member of ethics committee 	Pregnancy limitation, §166.049	Yes §166.039(c)	Judicial recourse (guardianship), §166.039(g)

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
Tex. [Health & Safety] Code Ann. §166.081 to .101 (Vernon 2013) Specifically, see §166.088(b)	Specialized provision (applicable to DNR orders)	(Same as above. Incorporates the terms of §166.039)	Pregnancy limitation, §166.098	Yes §166.088(c)	Judicial recourse (guardianship), §166.039(g)
Tex. [Health & Safety] Code Ann. §313.001 to .008 (Vernon 2013) Specifically, see 313.004	Specialized provision applicable to patients in home & community support services or in a hospital or nursing home	<ul style="list-style-type: none"> • Spouse • Adult child (who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker) • Majority of the patient's reasonably available adult children • Parents the individual clearly identified to act for the patient by the patient before the patient became incapacitated • Nearest living relative • Member of the clergy 	<ul style="list-style-type: none"> • Voluntary inpatient mental health services; • Electro-convulsive treatment; or • Appointment of another surrogate decision-maker. 	Yes §313.004(c)	<p>Consensus, in the case of adult children surrogates</p> <p>Judicial recourse, §313.004(b)</p>
45. UTAH Utah Code Ann. §75-2a-101 to -125 (2013) Specifically, see §75-2a-108	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> • Spouse • Adult Child • Parent • Adult sibling • Adult grandchild • Grandparent • Close friend 	<p>Surrogate may not admit the adult to a licensed health care facility for long-term custodial placement other than for assessment, rehabilitative, or respite care over the objection of the adult</p> <p>Pregnancy limitation, §75-2a-123</p>	Yes §75-2a-110(1)	<p>Majority rule inside the highest available priority level.</p> <p>Judicial recourse, §75-2a-120</p>
46. VERMONT	None				
47. VIRGINIA Va. Code §54.1-2981 to -2993 (West 2013) Specifically, see §54.1-2986	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> • Spouse • Adult child • Parents • Adult sibling • Other relative in the descending order of blood relationship • Close friend (knowledgeable of the patient's religious beliefs) 	N/A to non-therapeutic sterilization, abortion, psychosurgery, or admission to a mental retardation facility or psychiatric hospital	Yes §54.1-2986(A)(7)	Majority rule
48. WASHINGTON Wash. Rev. Code Ann. §7.70.010 to .160 (West 2014) Specifically, see §7.70.065	Informed Consent Statute	<ul style="list-style-type: none"> • Spouse or registered domestic partner • Adult children • Parents • Adult siblings 	Not explicitly applicable to refusals of treatment, but nevertheless should be applicable.	Yes §7.70.065(1)(b) and (c)	Consensus required

State & Citation	General Type of Statute	Priority of Surrogates (in absence of an appointed agent or guardian with health powers)	Limitations on Types of Decisions	Provides Standard for Decision-Making	Disagreement Process Among Equal Priority Surrogates
49. WEST VIRGINIA W. VA. Code Ann. §16-30-1 to -25 (West 2007) Specifically, see §16-30-8	Comprehensive Health Care Decisions Act	Att. Physician or Advanced Nurse Practitioner selects from the following order of preference under criteria provided: <ul style="list-style-type: none"> • Spouse • Adult child • Parents • Adult sibling • Adult grandchild • Close friend • Any other person or entity according to DHHR rules Ineligible surrogates: <ul style="list-style-type: none"> ▪ Indiv. Provider* ▪ Facility Provider* * Exception for relatives who are employees of	None listed	Yes §16-30-8(b)(1)(A), -9 and -5(d)	Not applicable since provider selects surrogate.
50. WISCONSIN Wisc. Stat. Ann. §50.06 (West 2007)	Specialized Surrogate Consent Statute applicable to certain facility admissions	<ul style="list-style-type: none"> • Spouse • Adult child • Parent • Adult sibling • Grandparent • Adult grandchild • Close friend 	Limited to consent to admission to nursing home and certain community-based residential facilities for up to 60 days, with 30 day extension possible, and only if: <ol style="list-style-type: none"> 1. The incapacitated person is not diagnosed as developmentally disabled or having a mental illness at time of admission 2. Petitions for guardianship and protective placement are filed <i>prior</i> to admission 	No	Consensus required
51. WYOMING Wyo. Stat. §35-22-401 to -416(2013) Specifically, see §35-22-406	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> • Individual designated by personally informing the supervising health care provider • Spouse, unless legally separated • Adult child • Parent • Grandparent • Adult sibling • Adult grandchild • Close friend 	None listed	Yes §35-22-406(f)	Majority rule if more than one member of any class assumes authority Judicial recourse, §35-22-415
<i>UNIFORM HEALTH-CARE DECISIONS ACT</i>	Comprehensive Health Care Decisions Act	<ul style="list-style-type: none"> • Individual orally designated by patient • Spouse • Adult child • Parent • Sibling • Close friend 	None listed	Yes §5(f)	Majority rule if more than one member of any class assumes authority

CAUTION: The descriptions and limitations listed in this chart are broad characterizations for comparison purposes and not as precise quotations from legislative language.

Provisions in red are those addressing patients with no qualified default surrogate (the “unbefriended” patient)

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