

## Schiavo-inspired laws mostly fail

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As Terri Schiavo lay dying in a Pinellas Park hospice, many who wanted to keep her alive challenged lawmakers nationwide to change state laws to prevent a similar ordeal.

But a year after Schiavo's death, few new laws have been adopted that deal specifically on when to take a loved one off life support.

Though end-of-life bills have been proposed in about two dozen states, only one - Louisiana - has passed a law that reshapes the guidelines for deciding whether a patient lives or dies. And even that law was a much watered down version of the original.

Still, proposed legislation continues to simmer in several states. On March 14, a legislative committee in Minnesota passed an end-of-life bill championed by conservative groups, but scorned by medical and hospice associations.

Lawmakers in Alabama and New Jersey also have resurrected similar end-of-life bills and alike proposals are still active in states like Kentucky and Kansas.

Conservative and religious groups say they are encouraged that so many bills are hanging around, even if most haven't gotten much traction. They suspect it could take years for the bills to become law.

"I think this is just the beginning," said Denise Burke, vice president and legal director of Americans United for Life, a Chicago bioethics law firm that pushes for conservative legislation on abortion and end-of-life issues. "This can be her legacy, that these issues will be debated. I don't think the Terri Schiavo case is going to ride off into the sunset anytime soon."

Liberal groups say they too are encouraged by the legislative landscape of the last year, but for different reasons. They are pleased that almost all the end-of-life bills have stalled, but are bothered they still exist.

"I don't think any of them are likely to pass, but I think there's been a real push by the right-to-life interest groups to roll back the clock," said Kathryn Tucker, director of legal affairs for Compassion and Choices, which supports physician-assisted suicide. "I don't think people are going to fall for it, but it is a threat and it is troubling."

The Schiavo case drew the ire of religious conservatives, who threatened a revolt at the ballot box. "If she dies there will be hell to pay," anti-abortion activist Randall Terry told television cameras outside Schiavo's hospice after her feeding tube was removed. He is now running against Jim King, one of the Florida Republican senators who did not act on the Schiavo case.

But polls during the saga showed the public didn't approve of politicians meddling in the Schiavo case. Many lawmakers backed off the issue, fearing it could alienate centrist voters.

Still, over the past year at least 49 end-of-life bills were proposed in 23 states.

Many of them were based on a proposal by the National Right to Life Committee, which sought to shake up end-of-life laws that had been embraced by states after the Karen Ann Quinlan and Nancy Cruzan cases. In both, courts ruled that patients have a right to refuse treatment verbally or, if they are incapacitated, through a living will or a surrogate.

State laws generally took a neutral stance on whether an incapacitated person would want treatment if they left no living will. The decision was left to family members and the patients' physician. If there were disputes, which are rare, a court would decide.

The NCLR proposals instead focused on the assumption that the patient would want treatment, mirroring the "err on the side of life" mantra that became so popular during the Schiavo saga.

But not everyone thinks that is such a good idea. "It moves you away from the goal of accuracy and toward an ideological premise that some people agree with and some people don't," said Charles Sabatino, director of the American Bar Association's Commission on Law and Aging.

Many of the bills, however, have failed to gain the broad-based support needed to become law. The only proposal inspired by the Schiavo case to take hold was in Louisiana, and that bill was gutted before passage.

At first, it would have assumed an incapacitated person without a living will would want life support. The scaled-down bill disqualifies a spouse from making end-of-life-decisions if they are living with another person as if in a marriage. Michael Schiavo was living with his girlfriend, now his wife, while he was making such decisions for Terri Schiavo.

But other proposals have faltered. Mississippi's proposal died in committee. Georgia's was withdrawn. Others - Hawaii, Iowa, Michigan, North Carolina, South Carolina - got stuck in committees or were carried over to the next legislative session.

Meanwhile, other states have passed laws with only a passing relationship to the Schiavo case, though some were inspired by it. Delaware and Montana created a space on residents' driver's licenses to indicate whether the person has a living will. Connecticut, Washington and other states pursued creating on-line directories that doctors could access to determine if a patient had a will or directive. Other states, like Vermont, tinkered a bit with how patients can specify their end-of-life issues, but made no wholesale changes.

As this year's legislative sessions began, some lawmakers pledged to renew efforts to push the bills into law. The most vigorous fight seems to be in Minnesota, where a Republican representative inspired by the Schiavo case sponsored a bill that would presume an incapacitated patient would want life support unless a living will or other clear and convincing evidence indicated otherwise.

The bill is supported by the group Minnesota Citizens Concerned for Life and the state's Catholic Conference. The bill passed the state's House Health Policy and Finance Committee by an 11-4 vote.

"The Minnesota legislation is moving and I think that thing is going to go," said Janet Folger, president

of Faith2Action, a conservative group that monitors state legislation nationwide. "I believe it will be a model for other states to follow suit."

The Minnesota Medical Association and hospice groups oppose parts of the bill, saying it takes the decisions away from families and puts them in the hands of government.

Steven Miles, a professor for the Center for Bioethics at the University of Minnesota's department of medicine, doesn't believe the Minnesota legislation will pass. But he is watching it closely.

He believes the Schiavo case was an anomaly, the one rare case in a million where stubborn family members disagree and get caught up in a very public squabble. He said the current laws work in virtually every other end-of-life decision.

"I honestly never thought the Schiavo case was a big case," Miles said. "I think this was a piece of political theater, but I don't think it fundamentally changed the course of bioethics or end-of-life decision-making in the United States."

Conservative groups disagree. They say the current laws are inadequate and believe there are other Schiavo-like cases out there that "don't involve a media blitz or don't have the money to continue to fight," said Denise Burke, the anti-abortion attorney from Chicago.

Conservatives say the recent U.S. Supreme Court decision upholding Oregon's doctor-assisted suicide law, coupled with the Schiavo case, has galvanized the anti-abortion crowd on end-of-life issues. "A key part of her legacy has been that many of the grass-roots of the pro-life movement have become very scared," said Burke Balch, director of the Robert Powell Center for Medical Ethics at the National Right to Life Committee.

Burke, of Americans United for Life, said she's willing to be patient. She believes the Schiavo case will result in new laws - in time. "I've taken a more long-term outlook," she said. "I'm encouraged that the debate has begun."

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