

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 686

For the relief of the parents of Theresa Marie Schiavo.

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IN THE SENATE OF THE UNITED STATES

MARCH 20, 2005

Mr. FRIST (for himself, Mr. MARTINEZ, and Mr. SANTORUM) introduced the following bill; which was read twice, considered, read the third time, and passed

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## AN ACT

For the relief of the parents of Theresa Marie Schiavo.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE**  
4       **SCHIAVO.**

5       The United States District Court for the Middle Dis-  
6       trict of Florida shall have jurisdiction to hear, determine,  
7       and render judgment on a suit or claim by or on behalf  
8       of Theresa Marie Schiavo for the alleged violation of any  
9       right of Theresa Marie Schiavo under the Constitution or  
10      laws of the United States relating to the withholding or

1 withdrawal of food, fluids, or medical treatment necessary  
2 to sustain her life.

3 **SEC. 2. PROCEDURE.**

4 Any parent of Theresa Marie Schiavo shall have  
5 standing to bring a suit under this Act. The suit may be  
6 brought against any other person who was a party to State  
7 court proceedings relating to the withholding or with-  
8 drawal of food, fluids, or medical treatment necessary to  
9 sustain the life of Theresa Marie Schiavo, or who may act  
10 pursuant to a State court order authorizing or directing  
11 the withholding or withdrawal of food, fluids, or medical  
12 treatment necessary to sustain her life. In such a suit, the  
13 District Court shall determine de novo any claim of a vio-  
14 lation of any right of Theresa Marie Schiavo within the  
15 scope of this Act, notwithstanding any prior State court  
16 determination and regardless of whether such a claim has  
17 previously been raised, considered, or decided in State  
18 court proceedings. The District Court shall entertain and  
19 determine the suit without any delay or abstention in favor  
20 of State court proceedings, and regardless of whether rem-  
21 edies available in the State courts have been exhausted.

22 **SEC. 3. RELIEF.**

23 After a determination of the merits of a suit brought  
24 under this Act, the District Court shall issue such declara-  
25 tory and injunctive relief as may be necessary to protect

1 the rights of Theresa Marie Schiavo under the Constitu-  
2 tion and laws of the United States relating to the with-  
3 holding or withdrawal of food, fluids, or medical treatment  
4 necessary to sustain her life.

5 **SEC. 4. TIME FOR FILING.**

6 Notwithstanding any other time limitation, any suit  
7 or claim under this Act shall be timely if filed within 30  
8 days after the date of enactment of this Act.

9 **SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.**

10 Nothing in this Act shall be construed to create sub-  
11 stantive rights not otherwise secured by the Constitution  
12 and laws of the United States or of the several States.

13 **SEC. 6. NO EFFECT ON ASSISTING SUICIDE.**

14 Nothing in this act shall be construed to confer addi-  
15 tional jurisdiction on any court to consider any claim re-  
16 lated—

17 (1) to assisting suicide,

18 (2) a State law regarding assisting suicide.

19 **SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.**

20 Nothing in this Act shall constitute a precedent with  
21 respect to future legislation, including the provision of pri-  
22 vate relief bills.

1 **SEC. 8. NO EFFECT ON THE PATIENT SELF-DETERMINA-**  
2 **TION ACT OF 1990.**

3       Nothing in this act shall affect the rights of any per-  
4 son under the Patient Self-Determination Act of 1990.

5 **SEC. 9. SENSE OF THE CONGRESS.**

6       It is the Sense of the Congress that the 109th Con-  
7 gress should consider policies regarding the status and  
8 legal rights of incapacitated individuals who are incapable  
9 of making decisions concerning the provision, withholding,  
10 or withdrawal of foods, fluid, or medical care.

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