1	H.208
2	Introduced by Representative Donahue of Northfield
3	Referred to Committee on
4	Date:
5	Subject: Health; health care decisions; DNR/COLST; surrogacy; substitute
6	decision making
7	Statement of purpose of bill as introduced: This bill proposes to establish
8	statutory guidelines for allowing a surrogate decision maker to provide
9	informed consent for a do-not-resuscitate order or a clinician order for
10	life-sustaining treatment on behalf of a patient with no available agent or
11	guardian. The bill would also expressly prohibit any person from taking action
12	on behalf of a patient pursuant to the patient choice at end of life laws.
13	An act relating to surrogate decision making for DNR/COLST
14	It is hereby enacted by the General Assembly of the State of Vermont:
15	Sec. 1. 18 V.S.A. § 9708 is amended to read:
16	§ 9708. DO-NOT-RESUSCITATE ORDERS AND CLINICIAN ORDERS
17	FOR LIFE-SUSTAINING TREATMENT
18	(a) As used in this section;

1	(1) "DNR/COLST" shall mean a do-not-resuscitate order ("DNR"
2	<u>DNR</u>) and a clinician order for life-sustaining treatment (" <u>COLST</u> " <u>COLST</u>) as
3	defined in section 9701 of this title.
4	(2) "Surrogate" means a family member of the patient or a person with a
5	known close relationship to the patient who may give informed consent for a
6	DNR/COLST if the patient does not have an agent or guardian or the patient's
7	agent or guardian, or both if applicable, is unavailable.
8	(b) A DNR order and a COLST shall be issued on the Department of
9	Health's "Vermont DNR/COLST form" as designated by rule by the
10	Department of Health.
11	(c) Notwithstanding subsection (b) of this section, health care facilities and
12	residential care facilities may document DNR/COLST orders in the patient's
13	medical record in a facility-specific manner when the patient is in their care.
14	(d) A DNR order must:
15	(1) be signed by the patient's clinician;
16	(2) certify that the clinician has consulted, or made an effort to consult,
17	with the patient, and the patient's agent or guardian, if there is an appointed
18	agent or guardian;
19	(3) include either:
20	(A) the name of the patient; agent; guardian, in accordance with
21	14 V.S.A. § 3075(g); or other individual parent, if the patient is a minor; or

1	surrogate giving informed consent for the DNR and the individual's
2	relationship to the patient; or
3	(B) certification that the patient's clinician and one other named
4	clinician have determined that resuscitation would not prevent the imminent
5	death of the patient, should the patient experience cardiopulmonary arrest; and
6	(4) if the patient is in a health care facility or a residential care facility,
7	certify that the requirements of the facility's DNR protocol required by section
8	9709 of this title have been met.
9	(e) A COLST must:
10	(1) be signed by the patient's clinician; and
11	(2) include the name of the patient; agent; guardian, in accordance with
12	14 V.S.A. § 3075(g); or other individual parent, if the patient is a minor; or
13	surrogate giving informed consent for the COLST and the individual's
14	relationship to the patient.
15	(f) The Department of Health shall adopt by rule on or before July 1, 2016,
16	criteria for individuals who are not the patient, agent, or guardian, but who are
17	giving informed consent for a DNR/COLST order. The rules shall include the
18	following:
19	(1) other individuals permitted to give informed consent for a
20	DNR/COLST order who shall be a family member of the patient or a person
21	with a known close relationship to the patient; and

1	(2) parameters for how decisions should be made, which shall include at
2	a minimum the protection of a patient's own wishes in the same manner as in
3	section 9711 of this title
4	Decisions made by a surrogate shall protect a patient's own wishes in the
5	same manner as decisions made by an agent as described in subsection 9711(d)
6	of this title.
7	* * *
8	Sec. 2. 18 V.S.A. § 5293 is added to read:
9	§ 5293. NO SUBSTITUTE DECISION MAKING
10	All actions taken by a patient pursuant to this chapter shall be taken by the
11	patient himself or herself. In no event shall a patient's agent under an advance
12	directive executed pursuant to chapter 231 of this title, guardian, family
13	member, or person with a known close relationship to the patient take any
14	action on behalf of a patient under this chapter.
15	Sec. 3. EFFECTIVE DATE
16	(a) Sec. 1 shall take effect on July 1, 2015.
17	(b) Sec. 2 and this section shall take effect on passage.