

**SUSPEND THE RULES AND PASS THE BILL, HR. 1332**  
**(THE AMENDMENT STRIKES ALL AFTER THE ENACTING**  
**CLAUSE AND INSERTS A NEW TEXT)**

109TH CONGRESS  
1ST SESSION

# H. R. 1332

To amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2005

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Protection of Incapaci-  
5 tated Persons Act of 2005”.



1 **SEC. 2. REMOVAL OF CERTAIN CASES TO FEDERAL COURT**  
2 **TO PROTECT THE RIGHTS OF INCAPACI-**  
3 **TATED PERSONS.**

4 (a) **RIGHT OF REMOVAL.**—Chapter 89 of title 28,  
5 United States Code, is amended by adding at the end the  
6 following:

7 **“§ 1453. Protection of rights of incapacitated persons**

8 “(a) Notwithstanding any other provision of this  
9 chapter, not later than 30 days after available State rem-  
10 edies have been exhausted, an incapacitated person, or the  
11 next friend of an incapacitated person, may remove any  
12 claim or cause of action described in subsection (b) to the  
13 United States district court for the district in which the  
14 claim or cause of action arose, or was heard.

15 “(b) The claim or cause of action referred to in sub-  
16 section (a) is one in which the State court authorizes or  
17 directs the withholding or withdrawal of food or fluids or  
18 medical treatment necessary to sustain the incapacitated  
19 person’s life, but does not include a claim or cause of ac-  
20 tion in which no party disputes, and the court finds, that  
21 the incapacitated person, while having capacity, had exe-  
22 cuted a written advance directive valid under applicable  
23 law that clearly authorized the withholding or withdrawal  
24 of food or fluids or medical treatment in the applicable  
25 circumstances.



