

Western Australia

Voluntary Euthanasia Bill 2002

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Western Australia

LEGISLATIVE COUNCIL

(Introduced by Hon Robin Chapple)

Voluntary Euthanasia Bill 2002

A Bill for

An Act to provide for the administration of voluntary euthanasia.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Voluntary Euthanasia Act 2002*.

2. Interpretation

In this Act, unless inconsistent with the context —

“applicant” is a person who makes a request for the administration of euthanasia;

5 **“euthanasia”** is —

(a) deliberate administration of a drug or combination of drugs by any means in concentrations that will cause death; or

10 (b) withholding or withdrawing medical treatment knowing that death will result or occur more quickly; or

(c) a combination of the provisions of paragraphs (a) and (b),

15 where the subject person knows and intends that what is done or omitted to be done will cause his or her death;

“medical practitioner” is a person registered as a medical practitioner under the *Medical Act 1894*.

3. Purpose of Act

It is the purpose of this Act —

20 (a) to make lawful an adult person’s intentional termination of his or her life; and

(b) to provide immunity from criminal or civil liability to a person who assists such a person in carrying out that termination,

25 if, but only if, the termination occurs in the circumstances and in accordance with the requirements of this Act.

4. Euthanasia request

(1) A person who is of sound mind and judgment and of or over the age of 18 may request euthanasia.

- 5
- (2) A request under subsection (1) cannot be made unless, at the time at which it is made, the applicant —
- (a) has a medically-diagnosed illness or condition that, as it progresses, will most likely cause the death of that person; and
 - (b) by reason of the pain and suffering or debilitation associated with the actual progress of that illness or condition, has no desire to continue living.
- 10
- (3) A request made under subsection (2) lapses 6 months from the date on which it was made and may be renewed subsequently for 1 or more further periods of 6 months.
- (4) Any subsequent request is to be treated for all purposes as if it were an original request.
- 15
- (5) A request and any subsequent request must be made in the form prescribed in the Schedule.

5. Witnesses

- (1) A request must be witnessed by 2 adult persons in each other's presence and in the presence of the applicant, of whom one cannot be a friend or close relation of the applicant.
- 20
- (2) Where an applicant is physically unable to sign a request, a witness may sign on the applicant's behalf.
- (3) A witness who signs a request under subsection (2) forfeits any financial or other valuable benefit or interest that might otherwise have vested in or been acquired by the witness by reason only of the applicant's death.
- 25

6. Request to be made to medical practitioner

A request must be made to a medical practitioner who may accept or reject the request.

7. Procedure following acceptance of request

- (1) A request must not be carried into effect unless —
- (a) the medical practitioner and another medical practitioner have each examined the applicant separately and each is satisfied on reasonable grounds that —
 - (i) section 4(2)(a) applies to the applicant;
 - (ii) any medical treatment available to the applicant is palliative only;
 - (iii) the applicant's request is not wholly or substantially referable to, or a symptom of, a state of clinical depression that is treatable;
 - (iv) the applicant has made the request freely and with full knowledge of the consequences;
 - (b) either medical practitioner has informed the applicant of the likely progress of the illness or condition, the forms of treatment that are available, including palliative care, and their respective risks, side-effects and possible outcomes, and the availability of counselling and psychiatric support services;
 - (c) the request, both in form and content, complies with the requirements of this Act;
 - (d) the medical practitioners have endorsed the request in the form prescribed in the Schedule;
 - (e) the completed form of request has been placed on the applicant's medical file.
- (2) Where the applicant's first language is different from that of either or both medical practitioners, an interpreter is to be engaged to ensure that the provisions of subsection (1) are given proper and informed effect.

8. Administration of euthanasia

- 5 (1) It is unlawful for any person who is not the applicant or a medical practitioner to administer or assist in the self-administration of euthanasia described in paragraph (a) of the definition in section 2.
- (2) A medical practitioner who administers or assists in the self-administration of euthanasia under subsection (1) must remain in continuous attendance on the applicant until satisfied that death has ensued.
- 10 (3) Not less than 48 hours shall elapse between the time of completing all the requirements of this Act in relation to a request and the administration of euthanasia.

9. Revocation of request

- 15 (1) A request may be revoked by an applicant at any time and in any manner sufficient to indicate revocation.
- (2) A person to whom revocation of a request is made, if that person is not the applicant's medical practitioner, must forthwith inform the applicant's medical practitioner.
- 20 (3) The medical practitioner must take reasonable steps to satisfy himself or herself that revocation has been made if it is not in writing signed by the applicant and was not made to that medical practitioner.
- (4) In whichever way revocation is made, and subject to the provisions of this section, the medical practitioner shall destroy the request and note the applicant's medical file accordingly.
- 25 (5) Revocation of a request does not prevent the making of a subsequent request.

10. Subsequent mental incompetence

- (1) Where an applicant becomes of unsound mind or the conduct of the applicant's affairs is vested in another person at a time after making a request —
- 5 (a) but before the requirements of section 7 have been completed, the request lapses;
- (b) and the requirements of section 7 have been completed, the request has effect.
- (2) Subsection (1)(b) is subject to any order of the Supreme Court that stays its implementation for a fixed period, or permanently, or renews, with or without modification, any prior order made under this subsection.
- 10
- (3) An order made under subsection (2) may be made on the application of a person who, in the Court's opinion, has a sufficient interest in the matter.
- 15
- (4) An applicant who ceases to be subject to subsection (1) may make a subsequent request.

11. Coroner to be informed

- (1) A medical practitioner who administers, or who assists in the self-administration of, euthanasia must inform the Coroner in writing within 48 hours of an applicant's death and supply a copy of the request and the death certificate.
- 20
- (2) A death that ensues as a result of euthanasia is not, by reason only of that fact, a reportable death within the meaning of section 3 of the *Coroners Act 1996*.
- 25

12. Evidence

- (1) In any proceedings before a court, the production of a request made under section 7 is to be presumed in the absence of evidence to the contrary as conclusive evidence of the fact that

the request was made and of any statement, certificate or instruction or other matter contained in the request.

- 5 (2) In this section “**court**” includes any person or body conducting proceedings that require the application of the rules of procedural fairness, and it does not matter that the person or body is authorized to make a decision or recommend that some other person or body make such a decision.

13. Immunity from criminal or civil liability

10 An applicant and any person who deals with, or gives effect to, a request —

- (a) does not incur any criminal or civil liability;
- (b) is not liable to any disciplinary proceeding,

15 if what the applicant or the person did, or omitted to do, was reasonable or necessary in order to give effect to, or comply with, the provisions of this Act.

Schedule

Schedule

Section A — Applicant's request

I [name/address of applicant] being of sound mind and judgment make this request for the administration of euthanasia in accordance with the directions set out
5 below.

I make this request freely and in the knowledge and with the intent that carrying it into effect will result in my death.

You are not required to complete the following directions

I desire that euthanasia be self-administered or administered to me [strike out the
10 option that does NOT apply] on [date] at [state place/location] in the presence of [names of persons (if any) applicant desires to be present at time of administration] in the following circumstances [here give any special directions]

signature of applicant or s 5(2) witness and date

Section B — Witness declaration (to be completed by each witness)

I, [name/address of witness] declare that I witnessed

[name of applicant] sign this request;

or

[name of s 5(2) witness] sign this request applicant's consent

and

[name of other witness] sign this request as a witness.

signature of witness and date

I, [name/address of witness] declare that I witnessed:

[name of applicant] sign this request;

or

[name of s 5(2) witness] sign this with the request with the applicant's consent;

and

[name of other witness] sign this request as a witness.

signature of witness and date

Section C — Statement of medical practitioner

I [name/address of applicant's medical practitioner] having received and accepted this request certify that I have —

(a) examined the applicant and that I am satisfied that:

- the applicant's illness or condition [describe precisely the illness/condition diagnosed] meets the requirements of s 4 (2) (a) of the *Voluntary Euthanasia Act 2000* ("the Act");

- medical treatment available cannot affect the progress of the illness/condition but is confined to reducing the severity of its symptoms and the amelioration of pain, suffering and distress;
 - 5 • the applicant is mentally competent and is not suffering from treatable clinical depression;
 - the applicant has made this request freely and knowingly and understands that giving effect to this request will result in his/her death.
- (b) provided, or have caused to be provided, the information required by s7 (b) of the Act [attach copy of any relevant written information provided to applicant];
- 10 (c) placed, or caused to be placed, this request on the applicant’s medical file.

signature of medical practitioner and date

Section D — Statement of second medical practitioner

I [name/address of medical practitioner] certify that I have examined the applicant and that I am satisfied that:

- 15 • the applicant’s illness or condition [describe precisely the illness/condition diagnosed] meets the requirements of s 4 (2) (a) of the *Voluntary Euthanasia Act 2000* (“the Act”);
- 20 • medical treatment available cannot affect the progress of the illness/condition but is confined to reducing the severity of its symptoms and the amelioration of pain, suffering and distress;
- the applicant is mentally competent and is not suffering from treatable clinical depression;
- the applicant has made this request freely and knowingly and understands that giving effect to this request will result in his/her death.

25 *signature of medical practitioner and date*

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