

A COMPARISON OF DWD BILLS IN AUSTRALIA

INTRODUCTION

As at end of 2014, the 31 VE and DWD bills introduced in Australia follow a broadly common theme of safeguards involving patient initiated requests, qualifications for medical personnel, second opinions, independent witnesses, and a universal right to decline involvement. Some cases require interpreters.

Each case is reported to the coroner and or a committee that reports to a Minister and Parliament.

There are however some very significant differences in other provisions. This seeks to identify most of them in an understandable form.

Of necessity much of the legalese has been left out but hopefully it remains a factual representation.

Marshall Perron

Note – Of the 31 Bills introduced in Australian state parliaments, some have been introduced several times after they have lapsed, others varied only slightly from earlier Bills. This document summarises the differences in only the major bills.

TITLE

SA	(1) Kanck	Dying in Dignity Bill 2001
	(2) Such	Voluntary Euthanasia Bill 2008
	(2a) Such	Voluntary Euthanasia Bill 2012
	(3) Parnell	Consent to Medical treatment and Palliative Care (Voluntary Euthanasia) Amendment Bill 2008
	(4) Such	Ending Life With Dignity Bill 2013
VIC	Hartland	Medical Treatment (Physician Assisted Dying) Bill 2008
TAS	(1) McKim	Dying with Dignity Bill 2009
	(2) Giddings / McKim	Voluntary Assisted Dying Bill 2013
WA	(1) Kelly	Voluntary Euthanasia Bill 2000
	(2) Chapple	Voluntary Euthanasia Bill 2002
	(2a) Chapple	Voluntary Euthanasia Bill 2010
NSW	Faerhmann	Rights of the Terminally Ill Bill 2013
NT	Perron	NT Rights of the Terminally Ill Act 1995

SEPARATE BILL - see back page.

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ELIGIBILITY FOR ASSISTANCE

SA

(Bill 1) Has an injury or illness...resulted or will result in a serious mental impairment or permanent deprivation of consciousness....that seriously and irreversibly impairs the persons quality of life so that life has become intolerable.

(Bill 2) Competent adults in terminal phase of terminal illness and suffering unbearable pain. (Which the person finds cannot be alleviated to a degree the person finds acceptable)

(Bill 2a) same as (2)

(Bill 3) In terminal phase of terminal illness and others who have an illness, injury or medical condition that results in permanent deprivation of consciousness.....or irreversibly impairs the persons quality of life so that life has become intolerable to that person.

VIC

Terminal or advanced incurable illness....causing intolerable suffering and/or distress.....includes physical, psychological, existential suffering.

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TAS

(Bill 1) Terminal illness.....causing pain, suffering and/or distress to an extent unacceptable to the sufferer.

(Bill 2) An incurable and irreversible medical condition....caused by illness, disease or injury.....that would result in... death (and) is causing persistent and not relievable suffering that is intolerable for the person. **Or** a progressive medical condition ...causing persistent and not relievable suffering that is intolerable for the person.

A person is **not** eligible solely because of age, disability or psychological illness.

WA

(Bill 1) A person who is mentally competent...has an illness or medical condition...will most likely... cause death and the pain and suffering or debilitation associated with the illness or medical condition...(means) the person has no desire to continue living.

(Bill 2) A person who is of sound mind and judgement.... (balance as above)

(Bill 3) A person who — is of sound mind; and is aged 21 years or over; and is ordinarily resident in Western Australia and has been so ordinarily resident for the previous 3 consecutive years; and can communicate his or her intentions; and has a terminal illness; and is experiencing pain, suffering or debilitation that — is considerable; and is related to the relevant terminal illness; and has no desire to continue living.

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The medical practitioner must be convinced that the applicant's request is not wholly or substantially referable to a desire by the applicant to cease to be a burden to family, friends or others.

NT

Terminal illness - an illness which, in reasonable medical judgement will, in the normal course, without the application of extraordinary measures or of treatment unacceptable to the patient, result in the death of the patient.

Any medical treatment reasonably available to the patient is confined to the relief of pain, suffering and/or distress with the object of allowing the patient to die a comfortable death.

(NSW Bill eligibility wording identical to the NT)

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FORM OF ASSISTANCE

SA

- (1) Medical practitioner may administer assistance or prescribe for self administration.
- (2) Medical practitioner may administer drugs or provide a prescription for self administration or by withholding or withdrawing medical treatment in circumstances that will result in an end to life.
- (2a) A medical practitioner may administer voluntary euthanasia by the following methods: administering drugs, by prescribing drugs for self-administration and or by withholding or withdrawing medical treatment.

A medical practitioner must give effect, as far as practicable, to the expressed wishes of the patient.

The method of administering voluntary euthanasia must, far as practicable, result in an end to life that is humane and painless.

- (3) Same as (2).

VIC

Doctor may provide or prescribe a drug and provide assistance to ingest a drug. A nurse or agent may help a sufferer to ingest a drug.

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Specifically excludes assistance by injection thru a needle.

TAS

- (1) Medical practitioner may administer a substance or prescribe and prepare a substance for self administration. The doctor must remain present while assistance is given and until the death of the sufferer.
- (2) Medical practitioner may issue a prescription for self-administration or may administer the prescribed medication. The doctor must deliver the prescription to a pharmacist and retain possession of the drugs until used. Doctor to remain on the premises (not necessarily within sight) during self administration.

WA

- (1) Medical practitioner may administer or supply drugs for self administration by and in the presence of that medical practitioner. If practical administration is to be in accord with the persons request as to time, place and circumstances.
- (2) Medical practitioner may administer or assist in the self administration of euthanasia.....must remain in continuous attendance on the applicant until satisfied that death has ensued.
- (3) Medical practitioner may administer euthanasia to the applicant by administration of a recognised drug in concentrations that will and is intended to cause the death of the applicant. (This bill did not permit the provision of drugs for self administration)

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NSW

Medical practitioner may prescribe or prepare a substance for, or giving a substance to a person for self-administration. The doctor must remain present for self-administration and ...until death.

The doctor can only administer the substance if the patient is physically incapable of self-administration.

NT

Medical practitioner may administer a substance or prescribe and prepare a substance for self-administration. The doctor must remain present while assistance is given and until the death of the sufferer.

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OTHER MAJOR PROVISIONS

SA

(1) Persons not ill can complete an 'advance request' intended to come into effect when they become hopelessly ill. Trustees can also be appointed to ensure VE is administered in accordance with patient's wishes.

An advance request register is established, (registration is optional) doctors can establish if a patient has a request registered.

A 'Dying in Dignity' monitoring committee is created to oversee administration of the Act and make recommendations.

(2) An advanced request may be made to come into effect when one becomes terminally ill. Establishes a register where all requests are recorded. Requests must be renewed 5 yearly.

A 'VE monitoring committee' is created to monitor the operation of the act and report to a Minister.

(2a) A register is established, only terminally ill persons can request VE and have their application registered. Doctor can only administer VE if a request has been registered with the Registrar. No provision for advance requests or renewal of requests.

(3) Provides for advance requests. All requests are lodged with a register and must be renewed 5 yearly.

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A 'VE Board of SA' is established with extra-ordinary powers over all requests. The board may veto a request, change conditions, order patient examination and refer questions of law to the Supreme Court. Board decisions cannot be appealed to a court except by the patient.

VE can only be administered with the approval of the board.

WA

(1) A VE request lapses after 3 months but can be renewed every 3 months. A request can include the date, place and names of persons the patient wishes to be present.

Where an applicant becomes mentally incompetent after the eligibility requirements are complete, the request can be fulfilled.

(2) A VE request lapses after 6 months....can be renewed.

Where an applicant becomes of unsound mind or the conduct of the persons affairs is vested in another person after eligibility requirements are met, the request has effect. (This part subject to possible court action)

(3) An applicant's medical practitioner and an observing medical practitioner must remain with the applicant whilst euthanasia is administered and until death has ensued.

If, at any time after a request is made, an applicant's medical practitioner concludes on reasonable grounds that an applicant has ceased to be of sound mind, or has been rendered incapable of communicating his or her intentions — the applicant's request lapses immediately upon the applicant's medical practitioner reaching that conclusion.

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OTHER DIFFERENCES

SA

(1) Institutions may refuse VE on their premises but must take reasonable steps to inform incoming patients.

Media must not identify a person involved in VE administration without their consent.

(2a) Cause of death the death of a person resulting from the administration of voluntary euthanasia will be taken to have been caused by voluntary euthanasia.

For the purposes of any other Act or law, or for any other purpose, the death of a person resulting from voluntary euthanasia is not suicide or homicide.

(3) Oral requests must be videotaped and reduced to writing.

(4) Persons guilty of offences relating to misleading information or undue influence forfeits any interest in the estate.

VIC

A psychiatrist may be involved in terminally ill cases but must be consulted in incurable illness cases.

Terminally ill cases require a 48 hour cooling off. Incurable ill requires a 14 day cooling off.

Immunity is provided for all medical personnel as well as persons present and all persons giving the patient advice and information concerning the Act.

Makes it an offence to resuscitate a patient knowing they have ingested a drug to end life.

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TAS

Contains provisions to nullify any effect of VE on wills, contracts and insurance policies.

Immediately before issuing a prescription, and before supplying the medication to an eligible person the doctor must offer the person a chance to rescind the request.

WA

(1) A medical practitioner who rejects a request has a duty, after making reasonable inquiries, refer it to another medical practitioner willing to accept it.

A medical practitioner who accepts a request is bound to act in accordance with its provisions during its currency.

Death that ensues as a result of euthanasia administered in accordance with the Act is to be recorded as a death caused by the terminal illness of the applicant.

NSW

A death as a result of assistance under the Act is not, for that reason alone, for purposes of the Coroners Act to be considered violent or unnatural or to have occurred under suspicious or unusual circumstances.

South Australia (S. Key)**Criminal Law Consolidation (Medical Defences - End of Life Arrangements) Amendment Bill 2011**

This Bill proposed to deal with the need to accommodate suffering hopelessly ill persons who asked to die by providing a defence to a criminal charge in certain circumstances.

The Bill provided a defence to a charge of a death or intended death of a person if the death resulted, or was intended to result, from the administration of drugs to the person by the defendant and the defendant proves, on the balance of probabilities, that—

(a) The defendant was, at the time of the conduct to which the charge relates, a treating practitioner of the person; and

(b) The defendant believed on reasonable grounds that the person was an adult person of sound mind who was suffering from an illness, injury or other medical condition that irreversibly impaired the person's quality of life so that life had become intolerable to that person.; and

The conduct to which the charge relates occurred at the express request of the person; and

The conduct to which the charge relates was, in all the circumstances, a reasonable response to the suffering of the person.

This was the first Bill in Australia to take this approach. It was of concern to VE advocates that it did not bestow any rights to the individual seeking assistance.

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