

1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Moore)

Crimes (Assisted Suicide) Bill 1997

A BILL

FOR

**An Act relating to offences of assisting suicide and
for related purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Crimes (Assisted Suicide) Act 1997*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Interpretation

- 10 3. In this Act, unless the contrary intention appears—
“health professional” means a medical practitioner or nurse;

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“medical practitioner” means a medical practitioner—

- (a) registered under the *Medical Practitioners Act 1930*; or
- (b) deemed to be registered under that Act by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth;

“nurse” means a nurse—

- (a) registered under the *Nurses Act 1988*; or
- (b) deemed to be registered under that Act by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth;

“prescribed person” means a person who—

- (a) is of sound mind;
- (b) has attained the age of 18 years;
- (c) is in the terminal phase of a terminal illness; and
- (d) is suffering severe pain or distress caused by the illness which he or she regards as intolerable;

“request” means a request, in writing, made by a prescribed person to a health professional to assist the person to commit suicide.

PART II—ASSISTING SUICIDE

20 **Assisting suicide—health professionals or other persons**

4. (1) A person shall not assist a prescribed person who has not made a request to commit suicide.

Penalty: Imprisonment for 6 years.

25 (2) A person shall not assist a prescribed person who has made a request to commit suicide.

Penalty:

- (a) if the defendant is a health professional—imprisonment for 2 years;
- (b) if the defendant is not a health professional—imprisonment for 4 years.

Assisting suicide—medical practitioner

5. A medical practitioner who assists a prescribed person who has made a request to commit suicide where—

- 5 (a) the medical practitioner has certified in writing that he or she is satisfied that—
- (i) the person is in the terminal phase of a terminal illness; and
 - (ii) the illness is causing the person severe pain or distress;
- 10 (b) a second medical practitioner, with experience in the treatment of an illness of the kind from which the person is suffering, has examined the person and confirmed, in writing, the opinion of the first medical practitioner;
- (c) a period of not less than 72 hours has elapsed since the request was made; and
- (d) the medical practitioner is present and—
- 15 (i) supervises the administration of a substance by a person to himself or herself; or
- (ii) in the case of a person who is not capable of administering, or does not wish to administer, it to himself or herself—administers the substance to the person;
- 20 and remains with the person until his or her death;
- is guilty of an offence punishable on conviction—
- (e) if the prescribed person administered a substance to himself or herself without assistance from the medical practitioner—by imprisonment for 3 months; or
- 25 (f) in any other case—by imprisonment for 6 months.

Offence notices

6. (1) A police officer who has reasonable grounds for believing that a medical practitioner has committed an offence against section 5 may serve an offence notice on the medical practitioner.

30 **(2)** The Director of Public Prosecutions may serve an offence notice on a medical practitioner who has been charged with an offence against section 5.

(3) An offence notice shall—

- (a) specify the nature of the alleged offence;

- (b) specify the date on which and the time and place at which the offence is alleged to have been committed;
- (c) contain a statement to the effect that, if the alleged offender pays the prescribed penalty for the alleged offence within 28 days after the date of service of the notice, no further action will be taken in respect of that offence;
- (d) specify the amount of the prescribed penalty; and
- (e) specify the place at which, and the manner in which, the prescribed penalty may be paid.
- (4) If the prescribed penalty is paid in accordance with the offence notice—
- (a) any liability of the person in respect of the alleged offence shall be deemed to be discharged;
- (b) no further proceedings shall be taken in respect of the offence; and
- (c) the person shall not be regarded as having been convicted of the alleged offence.
- (5) Subject to subsection (4), nothing in this section shall be construed as affecting the institution or prosecution of proceedings for an offence against section 5.
- (6) For the purposes of paragraph (3) (d) the prescribed penalty is—
- (a) if the prescribed person administered a substance to himself or herself without assistance from a medical practitioner—0.5 penalty units; or
- (b) in any other case—3 penalty units.

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PART III—MISCELLANEOUS

Protection of medical practitioners etc.

7. A medical practitioner who assists a prescribed person who has made a request to commit suicide in the circumstances referred to in paragraphs 5 (a) to (d) (inclusive), or a person who assists a medical practitioner to do so—
- (a) is not, by reason only of that conduct—
- (i) guilty of unsatisfactory professional conduct or otherwise improper or unethical conduct under any law of the Territory; or
- (ii) guilty of an offence against Part III or VIII of the *Crimes Act 1900*; and

(b) does not, by reason only of that conduct, incur any civil liability.

Advantage, inducement or compulsion

8. Where —

- 5 (a) a person is convicted of an offence against section 4 or 5; and
- (b) the Court is satisfied that the defendant had reason to believe that—
- 10 (i) he or she would gain any financial advantage for himself or herself or a close relative or associate, other than a reasonable payment for medical services, directly or indirectly as a result of the death of the prescribed person; or
- (ii) the prescribed person was offered an inducement or was subject to a compulsion to procure his or her death;

15 the reference in that section to the penalty shall be read as a reference to a penalty of imprisonment for 10 years and section 7 does not apply in relation to the defendant.

Crimes Act—application

9. Subsection 17 (1) of the *Crimes Act 1900* does not apply in relation to aiding or abetting the suicide or attempted suicide of a person in circumstances that constitute an offence against this Act.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.