

Chapter 1

Introduction

The referral

1.1 On 24 June 2014 the Senate referred the Medical Services (Dying with Dignity) Exposure Draft Bill 2014 (the Bill), to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 27 October 2014.¹ In referring the exposure draft of the Bill, the Senate requested that the committee have regard to the rights of terminally ill people to seek assistance in ending their lives, and an appropriate framework and safeguards with which to do so.²

Background

1.2 The Bill before the committee is a Private Senator's exposure draft Bill. It has been prepared by Senator Richard Di Natale of the Australian Greens.

1.3 The Bill is comprised of five Parts:

- Proposed Part 1 sets out clauses 1 to 9 which include the objectives of the Bill, key definitions and the constitutional basis for the Bill. The objectives of the Bill, as set out in clause 3, are:
 - (a) to recognise the right of a mentally competent adult who is suffering intolerably from a terminal illness to request a medical practitioner to provide medical services that allows the person to end his or her life peacefully, humanely and with dignity; and
 - (b) to grant a medical practitioner who provides such services immunity from liability in civil, criminal and disciplinary proceedings.³
- Proposed Part 2 (Dying with dignity medical services) sets out clauses 10 to 15 of the Bill. Clauses 10 to 15 of the Bill contain the key provisions, including the ability to request dying with dignity medical services, pre-conditions that must be met to access dying with dignity medical services, as well as additional requirements and provisions concerning rescinding a request. The pre-conditions set out in clause 12, as well as the proposed provisions of clauses 13, 14 and 15 are intended to provide safeguards. These provisions attracted considerable comment in both submissions and public hearings.
- Proposed Part 3 (administrative arrangements) of the Bill contains clauses 16 to 20. The clauses include provisions for payment of the medical practitioner. They also set out the record-keeping obligations for medical practitioners who provide dying with dignity medical services.

1 *Journals of the Senate*, No. 35—24 June 2014, p. 976.

2 *Journals of the Senate*, No. 35—24 June 2014, p. 976.

3 Clause 3, Medical Services (Dying with Dignity) Exposure Draft Bill 2014.

- Proposed Part 4 (Offences) sets out clauses 21 to 23. Clauses 21 to 23 of the Bill contain offence provisions, including a provision which will make it an offence for a person to influence a medical practitioner in relation to dying with dignity services, and another which will create an offence if a medical practitioner fails to keep records.
- Proposed Part 5 (Other matters) contains clauses 24 to 27. Clauses 24 and 25 exempt persons acting under the proposed Act from civil, criminal and disciplinary actions and provide such persons with immunity from offences.

Conduct of the inquiry

1.4 The committee advertised the inquiry in *The Australian* newspaper on 2 July 2014. Details of the inquiry were published on the committee's website at www.aph.gov.au/senate_legcon. The committee also made a pro forma submission available on its website. The questions set out in the pro forma submission are attached at Appendix 1. The pro forma submission was completed by over 4,700 submitters. Approximately 54 per cent of people who completed the pro forma submission expressed support for the proposal set out in the Bill, 44.7 per cent opposed the proposal and the remaining were undecided. In addition, the committee wrote to over 150 organisations and individuals inviting submissions by 21 August 2014.

1.5 The committee received over 700 submissions. Owing to the large number of submissions received, the committee decided not to publish all submissions on its website. Instead, an equal number of randomly selected individual submissions (both supporting and opposing the Bill) were published in addition to all submissions received from organisations and academics. A list of the submissions published is at Appendix 2.

1.6 Public hearings were held on Friday 3 October 2014 in Canberra and Wednesday 15 October 2014 in Melbourne. A list of witnesses who appeared at the public hearings is at Appendix 3. The *Hansard* transcripts of the committee's hearings can be accessed on the committee's website.

1.7 The committee wishes to acknowledge that whilst the Bill exists within a broader policy debate on voluntary euthanasia, it resolved early in the inquiry that it would focus on the provisions of the exposure draft Bill rather than this broader debate. The committee therefore did not seek to inquire into voluntary euthanasia more generally and this report should be considered in that context.

Acknowledgment

1.8 The committee acknowledges the large volume of evidence it received throughout its inquiry and thanks submitters for their contributions to the inquiry through submissions and the giving of evidence at public hearings. The committee is especially grateful to those who courageously shared their very personal experiences.

1.9 As set out above, in paragraphs 1.4 to 1.6, the committee received a broad cross section of views in relation to the Bill. Although it was not possible to hear from

all submitters at public hearings, the committee did hear from stakeholders representative of the range of views held.

Note on references

1.10 References in the report to the committee *Hansard* are to the proof committee *Hansard*. Page numbers between the proof committee *Hansard* and the official *Hansard* may differ.

Structure of the report

1.11 The report is comprised of five chapters:

- This chapter introduces the inquiry and explains the process undertaken by the committee.
- Chapter 2 provides an outline of the views raised by submitters both supporting and opposing voluntary euthanasia.
- Chapter 3 examines the questions raised in respect of the constitutional validity of the Bill in terms of the authority of the Commonwealth to legislate in respect of voluntary euthanasia.
- Chapter 4 examines issues raised in respect of the key provisions of the exposure draft bill.
- Chapter 5 sets out the committee's comments and recommendations.

