End-of-Life Dignity Declaration Act

Model Legislation & Policy Guide

Americans United for Life

Advancing the Human Right to Life in Culture, Law, and Policy

1150 Connecticut Avenue NW, Suite 500, Washington, DC 20036
aul.org | (202) 289-1478 | info@aul.org

INTRODUCTION

Suicide assistance and euthanasia threaten human dignity and end-of-life care. These practices discriminate against vulnerable individuals based upon age, illness, and disability. They undermine the integrity of the medical profession, condone eugenics, and abandon marginalized individuals without authentic healthcare.

The United States has a public policy of suicide prevention, recognizing that "[s]uicide is a serious public health problem that can have lasting harmful effects on individuals, families, and communities."[1] Legalization of suicide assistance undermines this public policy, hiding behind euphemisms such as "death with dignity" or "medical aid in dying." Yet, suicide assistance creates a two-tiered system; the young and abled receive suicide prevention, but the elderly and persons with illnesses or disabilities earn suicide assistance.

Although nine states and the District of Columbia unfortunately have legalized suicide assistance, that is not enough for suicide activists. In recent years, suicide activists have turned to judicial activism, seeking to expand their radical agenda of medicalized suicide. Amid these challenges, the Supreme Court ruled that there is no federal constitutional right to suicide assistance in *Washington v. Glucksberg*[2] and *Vacco v. Quill*.[3] Similarly, no state judiciary has found a state constitutional right to suicide assistance.[4]

Although suicide activists have failed to devise a constitutional right to suicide assistance, they have argued there is a legal loophole in homicide laws that permits a consent defense. In other words, if a state charges a medical professional with homicide, that medical professional can say a patient "consented" to the suicide assistance, so the medical professional is not guilty of the crime. The Montana Supreme Court bought this argument in *Baxter v. State*, finding a statutory consent defense to homicide charges of suicide assistance.[5] Suicide proponents also have raised this argument in other legal challenges.[6]

The End-of-Life Dignity Declaration Act recognizes that suicide assistance and euthanasia are against state public policy, and accordingly, state law does not create a right to suicide assistance or euthanasia. The Act instructs the judiciary that there is no legal loophole for permitting a "consent" defense to homicide charges for suicide assistance or euthanasia. Likewise, nothing in state law otherwise legalizes, condones, or decriminalizes the practices. In this regard, the End-of-Life Dignity Declaration Act

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[1] *Suicide Prevention*, Ctrs. for Disease Control and Prevention (Oct. 19, 2022), https://www.cdc.gov/suicide/index.html.
[2] 521 U.S. 702 (1997) (finding that Washington's prohibition of assisted suicide does not violate the Due Process Clause of the Fourteenth Amendment).
[3] 521 U.S. 793 (1997) (holding that the New York ban on assisted suicide does not violate the Equal Protection clause of the Fourteenth Amendment).
[4] *Myers v. Schneiderman*, 85 N.E. 3d 57, 65 (N.Y. 2017) (citing cases).
[5] *Baxter v. State*, 224 P.3d 1211 (Mont. 2009).
[6] *See, e.g., Kligler v. Healey*, No. SJC-13194 (Mass. appealed Oct. 21, 2021).

prevents judicial activism that would impose a suicide assistance agenda upon vulnerable individuals.

To assist in combating the drive toward legalizing medicalized suicide or any form of euthanasia, Americans United for Life (AUL) has developed the *End-of-Life Dignity Declaration Act.* For more information or drafting assistance, please contact AUL at Legislation@aul.org.

END-OF-LIFE DIGNITY DECLARATION ACT

HOUSE/SENATE BILL No. _____
By Representatives/Senators _____

Section 1. Title.

This Act may be known and cited as the "End-of-Life Dignity Declaration Act."

Section 2. Legislative Findings and Purposes.

(a) The [*Legislature*] of the State of [*Insert name of State*] finds that:

(1) All human beings have inherent dignity and deserve protection of the laws regardless of age, illness, or disability.

(2) The rising acceptance of suicide assistance and euthanasia threatens human dignity.

(3) The United States assisted suicide and euthanasia movement has its historical foundation in the late 1800s in social Darwinism theory and eugenics. Neil M. Gorsuch, THE FUTURE OF ASSISTED SUICIDE AND EUTHANASIA 33–34 (2006).

(4) Suicide activists have sought to legalize suicide assistance and euthanasia through euphemisms, such as "medical aid in dying" and "death with dignity," but suicide assistance and euthanasia prey upon vulnerable persons often due to the person's age, illness, or disability.

(5) In United States jurisdictions that have permitted suicide assistance, medical professionals use experimental drugs directly on patients without previous clinical drug trials, nor oversight by an institutional review board for the protection of human subjects.

(6) No suicide assistance or euthanasia safeguards may sufficiently prevent coercion and discrimination when the primary and intentional objective of the practice is death.

(7) The Supreme Court recognized that suicide assistance is not a fundamental right under the United States Constitution. *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Vacco v. Quill*, 521 U.S. 793 (1997).

(8) No state has recognized suicide assistance or euthanasia as a fundamental right under a state constitution.

(9) Although some states have carved out exceptions to their criminal, civil, and regulatory laws for a medical professional to assist a suicide, no such exception exists in the State of [*Insert name of State*].

(10) Suicide assistance and euthanasia are homicide, and subject to criminal prosecution, civil lawsuits, and regulatory discipline under the laws of the State of [*Insert name of State*].

(11) The Montana judiciary has permitted a statutory consent defense to homicide charges for suicide assistance, finding "nothing in Montana Supreme Court precedent or Montana statutes indicat[e] that physician 'aid in dying' is against public policy." *Baxter v. State*, 224 P.3d 1211, 1222 (Mont. 2009).

(12) There is no consent defense to suicide assistance or euthanasia under the laws of the State of [*Insert name of State*].

(13) Suicide assistance and euthanasia subvert the public policy of the State of [*Insert name of State*], because the practices:

a. Encourage suicide and the taking of human life.

b. Are coercive and ableist.

c. Societally abandon the elderly and persons with serious illnesses or disabilities.

d. Undermine the integrity of the medical profession.

(b) Based on the findings in subsection (a), it is the purpose of this Act to:

(1) Promote the public policy of preventing suicide and euthanasia, and of upholding human dignity at the end-of-life.

(2) Denounce suicide assistance and euthanasia as eugenics-based practices that are coercive and discriminatory against the elderly, and persons with illnesses or disabilities.

(3) Preserve the integrity of the medical profession as healers that safeguard human life.

Section 3. Canon of Construction.

Human beings have inherent dignity regardless of age, illness, or disability, but suicide assistance and euthanasia threaten that dignity and subvert the public policy of the State of [*Insert name of State*]. Accordingly, the laws of the State of [*Insert name of State*] shall be interpreted and construed to not devise a right to suicide assistance or euthanasia; nor permit a consent defense to criminal prosecution, civil lawsuits, or regulatory discipline for instances of suicide assistance or euthanasia; nor otherwise legalize, condone, or decriminalize the practices of suicide assistance or euthanasia.

Section 4. Definitions.

(a) **"Consent defense"** means a defense that a person consented to his or her euthanasia or suicide assistance.

(b) **"Euthanasia"** means the intentional killing of a person for reasons of, but not limited to, the person's following conditions, regardless of whether such condition is physical, mental, or emotional: age; anguish; depression; disability; disease; illness; injury; or quality of life.

(c) **"Healthcare entity"** means any public or private hospital, clinic, center, medical school, medical training institution, healthcare facility, physician's office, infirmary, dispensary, pharmacy, ambulatory surgical center, or other licensed institution or location wherein medical care is provided to any person.

(d) **"Healthcare professional"** means a person licensed to practice medicine in the State of [*Insert name of State*], and includes, but is not limited to, the following: a physician; physician's assistant; nurse; nurses' aide; medical assistant; hospital employee; clinic employee; nursing home employee; pharmacist; pharmacy employee; researcher; medical or nursing school faculty member, student, or employee; counselor; social worker; or any professional, paraprofessional, or any other person who furnishes or assists in the furnishing of healthcare services.

(e) "**Person**" means any natural person and, when appropriate, an "**organization**" to include:

(1) A public or private corporation, company, association, firm, partnership, or joint-stock company;

(2) Government or a governmental instrumentality; or

(3) A foundation, institution, society, union, club, or church.

(f) **"Suicide"** means the act or instance of taking one's own life voluntarily and intentionally.

(g) **"Suicide assistance"** means the act or instance of a person providing the means or manner for another person to be able to commit suicide.

Section 6. Exclusions.

Nothing in this Act shall be construed to prohibit a healthcare professional or healthcare entity from:

a) Participating in the execution of a person sentenced by a court to death by lethal injection.

b) Following a patient's clear, expressed, and documented wishes to withhold or withdraw life-sustaining treatment [*not necessarily inclusive of withdrawing artificial nutrition and hydration*].

c) Prescribing and administering palliative care or pain medication treatment options intended to relieve pain while the patient's illness or condition follows its natural course.

Section 5. Right of Intervention.

The [*Legislature*], by joint resolution, may appoint one or more of its members, who sponsored or cosponsored this Act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of this Act, or any portion thereof, is challenged.

Section 6. Severability.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

Section 7. Effective Date.

This Act takes effect on [*Insert date*].

For further information regarding this or other AUL policy guides, please contact:

AMERICANS UNITED FOR LIFE
1150 Connecticut Avenue NW, Suite 500
Washington, D.C. 20036
202.741.4917 | Legislation@aul.org

www.AUL.org