

VOLUNTARY ASSISTED DYING BILL

Introduction and First Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:57): Obtained leave and introduced a bill for an act to provide and regulate access to voluntary assisted dying, to establish the Voluntary Assisted Dying Review Board, to make amendments to other acts and for other purposes. Read a first time.

Second Reading

The Hon. K.J. MAHER (Leader of the Opposition) (16:58): I move:

That this bill be now read a second time.

Voluntary euthanasia, dying with dignity, voluntary assisted dying—it is an issue that affects so many of us. How our lives are lived and, ultimately, how those lives end is something we will all experience. It is a common and necessary part of our shared humanity. Our views on all topics, including and in particular this one, are heavily influenced by our life experience. It is an issue that has challenged the conscience of members of this parliament before.

It is, I believe, the 17th time over the last quarter of a century that the issue of voluntary assisted dying has come before this parliament. Members of this chamber, particularly the Hon. Mark Parnell, have been instrumental in a number of those bills, and I pay tribute to his commitment and determination. The most recent attempt at legislating was thanks to the work of then members for Morphett and Ashford, Dr Duncan McFetridge and Steph Key, which ended in a tied vote on the floor of the House of Assembly and only failed on the casting vote of the then Speaker.

I particularly wish to pay tribute to another former member of this parliament, the late Dr Bob Such, who was responsible for, I believe, five of the previous attempts at legislating dying with dignity. I also want to thank Dr Such's widow, Lyn, who has provided much advice and support on this topic. Dr Such's memory and legacy have been invoked a number of times in this chamber in the last few weeks, and it is surely a lesser place for his passing.

A common theme from the Hon. Mark Parnell, the late Dr Such and others has been compassion for those who are in unbearable pain and suffering. It does not have to, and it should not, be this way. In April 2019, this parliament established a joint committee to examine end-of-life choices. Choices, what options we have and how we can make them was central to the committee's work.

The committee focused particularly on the Victorian model of voluntary assisted dying, as well as palliative care and advance care directives. The committee received some 126 written submissions and took evidence from many witnesses. Some of the most informative but difficult evidence to hear was from the Coroner and the written submission from South Australia Police. We heard that more than 10 per cent of suicides in South Australia are attributed to those with a terminal illness. I will quote from the SAPOL submission, where they talk about such suicides. They say:

Many deaths in those circumstances are undignified, violent and often committed in isolation, which on occasion results in the death not becoming known to others for some time. There may also be a degree of pain and suffering depending on the method and the level of expertise of the person when they take their own life.

The SAPOL submission concludes:

SAPOL is supportive of a legislated scheme that would allow for a person, under certain and prescribed circumstances, to die with dignity and under proper medical supervision.

It is highly unusual, in my experience, that SAPOL would be so unequivocally supportive of a matter such as this. I think it is reflective of where the South Australian public and society sit in general on voluntary assisted dying.

The police submission also reflects the absence of a legal, humane and dignified system for end-of-life choices that itself creates an impossible decision. People are placed in an untenable situation, and the result is often traumatic for family members and first responders. It does not have to, and it should not, be this way.

Another factor that became apparent from the examination of the voluntary assisted dying schemes in other jurisdictions is that many people who are approved and receive medication then choose not to use it. Just having it there as an option, just having the choice, can be a massive relief and can provide tremendous peace of mind.

It is not surprising that many in the end do not avail themselves of the voluntary assisted dying option. There is often still a strong desire to cling to whatever life exists, no matter how precarious, a desire to be part of what happens next on this planet, to see what happens in your life, to take part in the life of the next generation, to see that kid get married, to walk that next grandchild to school for the first time.

Evidence from around the world and personal experience tells us that the desire to live is often so strong, and often the fear of death is overwhelmingly compelling. Ending for good the combined total of your memories, your consciousness, your unfulfilled potential is a terribly difficult decision and it is not one that is often taken lightly. To be in such pain with a terminal illness to make the rational decision not to go on is a difficult and dramatic one. The lack of a legal, protected and supported system does not mean that the choices do not get made, just that they are even more difficult, more traumatic and even riskier. It does not have to be this way, and it should not be this way.

People, including members of parliament, have legitimate concerns about how a voluntary assisted dying scheme might work. One of the most common concerns is that people, particularly older people, might be exploited or unduly influenced, perhaps by relatives who stand to gain something, to use a voluntary assisted dying scheme. Former Victorian Supreme Court judge Betty King is the chair of the 13-member Voluntary Assisted Dying Review Board in Victoria. She specifically addressed this issue after the report of the first six months of the operation of the scheme and found there was no evidence of such coercion. Justice King said:

I have not seen—and I have been looking, believe me—I have seen no indication of any type of coercion.

The feedback has been predominantly about how peaceful it was, how it was fabulous for my parent or my loved one to be able to choose, to be surrounded by family, to play music and to just quietly go to sleep, and we all sat there and rejoiced at the end at the fact that they've had a wonderful life.

The Board can confirm that all reviewed cases within the first six months of the Act were compliant with the law.

After the most recent report, now on 18 months of operation of the Victorian scheme, Justice King further explained this issue. She said:

All those concerns about children trying to kill their parents to gain an inheritance, it just hasn't been an issue...

First of all, it simply can't be done under this legislation, the safeguards are too rigorous and there are criminal penalties for any coercion.

And secondly, we consistently see that the children are initially pushing more the other way, keen to talk their parent out of going down the path allowed by these laws.

But the parent is saying to them, 'I love you, and I hear what you are saying, but it's my life and I want to control it.' And by the end of the process so many of the children have been turned around in their thinking.

Another concern that is occasionally raised is that the introduction of a voluntary assisted dying scheme might be at the expense of palliative care, that it will create an incentive not to properly fund palliative care. That is not what the evidence in this country shows. The introduction of voluntary assisted dying in Victoria coincided with an immediate increase in palliative care funding of \$19 million and an increase of \$62 million over five years.

In Western Australia, at the passing of their voluntary assisted dying scheme, we saw an increase of almost \$20 million for palliative care, and in Queensland, which is soon to debate voluntary assisted dying, we have seen a commitment of an extra \$171 million over six years for palliative care. So in fact we are seeing the opposite occur: further and quite dramatic increases in investment in palliative care services in those jurisdictions that have or that are likely to pass voluntary assisted dying legislation.

Informed by the work of the committee, we now have the bill being introduced today. Voluntary assisted dying is an issue on which reasonable people disagree. As members of parliament we have different views; our views, like everyone else's, are a product of our life experience and outlook on the world. Witnesses to the committee noted that, as a society, we do not speak openly or deal with end-of-life matters particularly well. It is hard and difficult to do so, and considering legalising a scheme for voluntary assisted dying forces us to do that.

There are a number of things in Australia that have changed significantly since this parliament last debated voluntary assisted dying legislation. Victoria has now passed legislation and their scheme has been in operation for 18 months; WA has also passed that legislation; recently the upper house of the Tasmanian parliament unanimously passed legislation that next year it will be debated in the lower house: and the recently re-elected Queensland government has promised to put legislation before the parliament early next year. Where once we would have been the first jurisdiction in Australia to have a scheme, we will now be following in the footsteps of most other states around Australia.

I know there are a number of my colleagues who support the concept of a person's right or ability to choose to die with dignity under certain circumstances but who are concerned that a voluntary assisted dying scheme should have appropriate and rigorous safeguards in place. It will give members significant comfort that this bill is a direct translation of the Victorian model, which has been described as the safest and most conservative scheme in the world by the Victorian Premier, with some 68 safeguards in place.

The essential elements, as described by the Victorian health department, for someone seeking access to the Victorian scheme include:

they must have an advanced disease that will cause their death, and is likely to cause that within six months, or 12 months if a neurodegenerative disease, that is causing that person suffering that is unacceptable to them;

they must have the ability to make and communicate a decision about voluntary assisted dying through the formal request process; and

they must be an adult over 18 years, have been living in the state for at least 12 months, and be an Australian citizen or permanent resident.

There are numerous steps that must then be taken to access the scheme. First, you must ask your doctor for information about voluntary assisted dying. This is followed by the first request; the person must tell their doctor that they want help to go through the steps that allow access to voluntary assisted dying. A first assessment is then performed, during which a doctor assesses the person to see if they meet the requirements. A second assessment is then required by a different doctor, who also determines that the person meets the requirements. A written declaration is then required. A final request is then required at least 10 days after the first one.

After the initial six steps a contact person must be appointed. This is a person who will return any unused medication to a pharmacy if the person dies before taking the medication or chooses not to take it. The person's doctor must then apply for a permit to prescribe the medication. The final step is the person receives the medication after the doctor has provided the written prescription.

Both the doctors involved in the first and second assessment stages must have completed approved training courses in assessing people for voluntary assisted dying. In making the assessments, each doctor must make sure the person is fully informed about their disease and their treatment and palliative care options, make sure that voluntary assisted dying is the person's own choice, and make sure the person knows they can change their mind at any time.

A doctor is not permitted to raise the issue of voluntary assisted dying with a patient, it has to be suggested by the patient. It is also important to note that doctors and other health practitioners, such as nurses and pharmacists, who have a conscientious objection do not have to participate in a voluntary assisted dying system. To make sure the decision is not rushed, the process cannot be completed in less than 10 days, unless the person is expected to die within that time frame.

This bill ensures that those essential elements that make Victoria's such a safe and protected scheme are replicated in South Australia. If you support the concept and if you look around Australia and see it is highly likely a scheme will eventually be passed here, but you want the best possible protections, then this bill is the one that you want. This is the bill that ensures those protections will be enshrined in the laws of South Australia.

There are passionate and strong views about voluntary assisted dying. As I have said, reasonable people can and do disagree on these matters. Other states in Australia are already moving towards schemes or have them running. Surveys have consistently found that community support runs close to 90 per cent. I am quite sure it is not a question of if we see voluntary assisted dying legislated in this state but a question of when and how it occurs.

I wish to acknowledge the many people who have been pushing for a change in this law for many, many years. These include the committed folk from SAVES and other organisations, who again today, like so many other days, have been on the steps of Parliament House agitating for change. I wish to thank the many South Australians who I have had the good fortune to have contact with in recent times, people who have shared their personal stories and encouraged change.

It has been a rare privilege to share in some of the most difficult and intimate life experiences of people who have cared for a dying loved one. To people like Deb, Joanne, Susan, Jacqui, Knit, Bill, Angie, Dawn, Matthew and Chloe, who have shared their experiences of a dying parent, I know what you mean. Barrie was recently diagnosed with stage 4 cancer. Fern recently experienced and had to deal with someone in incredible pain taking their own life. Gary has lived through the slow and horrific deaths of not one but two partners.

I spoke with Liz from Wudinna this week. Liz's son Rhys was diagnosed five years ago with the rare bone cancer Ewing Sarcoma. As the cancer took over more and more of Rhys's body, he became more and more certain that he wanted control over his own death, and he got hold of drugs to help him do this. Each time Rhys' family left him at home they were not sure if they would come back to find him still alive.

Rhys took his own life, but the drugs he had sourced did not work quickly or easily and that gave rise to an 18-month police investigation into his death. The whole process of suffering, dying, death and investigation has understandably left his family traumatised. It does not have to and it should not be this way. Liz, like for so many, your loss and pain has given you strength to become an advocate, and I thank you.

Like Liz and like so many others I have spoken to, my resolve to see change has been firmed by my own experience. When my mum was diagnosed with pancreatic cancer, I immediately remembered the gut-wrenching way the disease played out in the end with the guy who used to be the boss of me, the late Hon. Terry Roberts. Terry was a dear friend to many in this chamber, and many would remember his family's battle in 2005 and 2006. Pancreatic cancer is so often an excruciating, painful and certain way to die.

I have spoken before about my mum, Viv. She was a proud, fierce, strong woman. She was an advocate and fighter for other women, for the marginalised and for her Aboriginal community. She was a social worker and spent her life helping others. She ran the women's shelter in Mount Gambier, worked as a social worker at Centrelink and dedicated her final working years to Pangula Mannamurna, the Aboriginal health service in Mount Gambier.

For her work and dedication, Viv was awarded life membership of the Labor Party, life membership of the Australian Association of Social Workers and the South-East's NAIDOC lifetime achievement award for service to her Aboriginal community. I know that for Viv the mental anguish of knowing she would no longer be helping others was heartbreaking; it went against everything she stood for and how she had lived her entire life.

If one thing summed up how she lived her life, it was making sure others were able to live their lives with dignity. Viv lived her own life with great dignity and she ought to have had the right to choose to die with the same dignity. After many chemotherapy treatments, Viv was increasingly suffering from infections and the other side effects from her cancer and her treatment. Much of her last couple of months were spent in significant pain under the compassionate care of nurses and medical staff at Flinders and Ashford hospitals.

At about 4pm on the afternoon of Wednesday 9 August 2017, Viv called in her husband of 46 years, myself and her two other sons and told us the pain had become too much. She told us that going on each day was harder and she wanted to stop all her treatments—a difficult decision that we all supported. She made this decision with absolute clarity in the presence of her treating specialist. Although she had been thinking about this for a while, the doctor wisely told her to think it over for the night. The next day she said goodbye to her eight grandsons for the last time and stopped all her treatment.

It was, however, far from the peaceful, dignified end of life she or any other person deserves. She literally starved and wasted away with no medication, food or water over six painful, tortuous days. Viv was often in half-aware states of panic as her body finally did what her mind had decided so long to do. It does not have to and it should not be this way.

To all the people who have attended public meetings, called talkback radio, sent emails or commented on social media, thank you. I have heard you, I have shared and shed a bunch of tears about your experiences, and will, as you have implored, do all I can to make voluntary assisted dying a reality in South Australia. It is time to change this law. It is time to let terminally ill South Australians safely and legally choose how to end their life. People deserve to die with the same dignity that they lived their life. This is so very important to so many South Australians. I commend the bill to this chamber. Let's finally get this done.

The Hon. M.C. PARNELL (17:17): I thank the council for allowing me to take the unusual step of speaking to the bill immediately following the mover. Our parliamentary standing orders do not normally recognise the concept of joint sponsorship of bills or motions, because it does require each item of business to be attached or under the control of a specified member of parliament. Speaking immediately following the mover is how we can indicate that this bill is indeed sponsored or supported by more than one member.

In fact, I know that a number of members in this place strongly support the bill; however, the Hon. Kyam Maher and I both served together on the Joint Committee on End Of Life Choices and we are both committed to the bill passing. I thank him for the collegial approach he has taken in allowing joint sponsorship.

I am not going to speak at great length today. I associate myself with the remarks of the Hon. Kyam Maher. As he has pointed out, I have twice moved voluntary euthanasia bills, both of which only very narrowly failed. Like the honourable member, I have been working closely over many years with the members of the South Australian Voluntary Euthanasia Society and other key stakeholders. Like the honourable member, on each occasion that I have introduced bills, I have accepted that we stand on the shoulders of those who have gone before. The honourable member named many of them—those many members of both houses of parliament over many years who have moved bills to provide for voluntary euthanasia or dying with dignity.

As the honourable member said, there have been 17 bills at last count. Without at all wanting to appear frivolous or flippant, my view has often been that this issue is a little bit like a game of pass the parcel at a child's birthday party; that is, I have every confidence that the bill will pass one day, and it is a question of which member of parliament in which chamber happens to be holding the bill when the music stops.

The reason I say it is inevitable is that we know from public opinion surveys that a massive majority and an increasing majority of citizens in South Australia and elsewhere in Australia support law reform that allows people suffering intolerably from incurable conditions to die with dignity. Those surveys have been asked continually for I think now 30 years and the number increases every year. It is now over 80 per cent and that includes the adherence to various faiths; the various Christian denominations and other faiths are in the majority as well.

Most of our citizens, most of the people who put us here, want us to support legislation that compassionately allows for people to die with dignity. That is why I say it is only a matter of time. I hope that it is this bill. I hoped it was the last. Before that, I hoped it was that bill as well. I had hoped that South Australia would regain the mantle of the most progressive state when it comes to social reforms. That is not going to happen now.

We have had other states—and good on them—who have managed to pass this legislation: Victoria and Queensland. We are probably around the middle of the pack at the moment. Those other jurisdictions have recognised what their citizens want and I think it is time that this parliament recognises what our citizens want as well.

I said I was not going to make a long speech because, like the Hon. Kyam Maher, I have now nearly 15 years of stories of people who have written to me about what has happened to their loved ones, their family, their friends and what they fear might happen to them. It is impossible to go through the stories without your heart breaking for these people and their fairly simple request, which is that they want to exercise some control over their dying days, and they cannot understand why the parliament would stand in the way of them exercising that choice.

I am not here today with a litany of stories. I have done that in the past. People can go back and look at what I have said before. We all know that these people are out there, they write to us and we have to pay close attention to what they are telling us and what they need.

The Hon. Kyam Maher mentioned that this bill is based on the Victorian bill and I, too, was part of the meeting with Justice Betty King, a most impressive person who has had the responsibility of oversight for the Victorian legislation. As the Hon. Kyam Maher said, she has looked very hard to try to find where things have gone wrong and they have not gone wrong because, as members would know, a common feature of this debate in the last 17 times that we have had in this chamber has been the fear that things will go wrong.

A state now has finally legislated, their law is in operation, they have one of their most experienced and recognised former judges overseeing it and things are not going wrong; it is going exactly as planned. My feeling is that we could probably have better legislation, but I accept that, another state having passed a bill, the most likely chance of us succeeding is to simply take what they have done and to put it into a South Australian context.

There is always argument about detail, 'We could make this a bit stronger, make this a bit more relaxed or easier,' but let's stick with something that we know is working, the Victorian model. If future parliaments want to look at whether the administration can be changed slightly, well let's leave that to future generations to deal with, but for now let's take a working model and implement it in South Australia.

I am very pleased to be co-sponsoring this bill. I understand the other house will also be considering legislation. I guess we will see which of the chambers votes first. My guess is that if the other place votes first then this bill will probably be abandoned and we will get a message from the other house or vice versa, but my understanding is (and I think it is good reasoning) that the honourable member has been keen to table this bill now so that when we get to next year no-one can say, 'Oh, we have been taken by surprise. This is not a bill we have seen before.' Well, yes, it is. It is being tabled today, just as members of the lower house will also have this bill to consider as well.

So it does not mean that both will be voted on, but all members of parliament, all 69 of us, now know what it is that is before us to vote on. I just hope that this time, time No. 18, this parliament will do what the people of this state have been consistently asking us to do for many years, and that is to legislate for dying with dignity.

Debate adjourned on motion of Hon. I.K. Hunter.