

VOLUNTARY ASSISTED DYING BILL

Second Reading

Dr CLOSE (Port Adelaide—Deputy Leader of the Opposition) (10:32): I move:

That this bill be now read a second time.

I am pleased to introduce the Voluntary Assisted Dying Bill into this house. For the avoidance of any confusion, a bill of the same name that I introduced in December last year has been withdrawn. The bill before us has been passed in the other place and it is now for this chamber to decide if it continues on its path to becoming law in South Australia.

Both the bills introduced in December last year were effectively copies of the Victorian legislation that was passed in 2017. The bill before us today, which has come from the other place, includes only very minor changes. The main change is an additional safeguard that doctors cannot be the coordinating or consulting medical practitioner if they are a family member of the patient or if they may benefit in any way from the death of the patient.

Another change made by the other place was an amendment to clause 4, moved by the Minister for Health and Wellbeing and supported by the council, which states that the administration of a voluntary assisted dying substance is not palliative care under law.

The amendment then makes two important provisos: it makes it clear that the first statement in the amendments in no way prevents a person or institution that provides palliative care from involvement in activities under voluntary assisted dying legislation, and it also makes it clear that voluntary assisted dying legislation does not place any limits on part 3, division 2 of the Consent to Medical Treatment and Palliative Care Act that deals specifically with the care of people who are dying. Overall, this amendment reinforces the idea that our end-of-life choices include three important areas: advance care directives, which cannot include voluntary assisted dying; palliative care; and voluntary assisted dying.

This place is no stranger to bills on this topic. Over a quarter of a century, 16 bills have been introduced a total of 22 times. Many members will recall the most recent vote in this place for a voluntary assisted dying system back in 2016. It resulted in a tied vote on the floor of this chamber for a bill that was progressed by the then members for Morphett and Ashford, Dr Duncan McFetridge and Steph Key.

Prior to their efforts the late Dr Bob Such did a huge amount of work. Voluntary assisted dying bills were introduced in his name in 2006, 2007, 2008, 2010 and 2012. He alone was responsible for between one-quarter and a third of the past attempts to legislate on this matter. In moving this bill today I wish to pay tribute to my old neighbour Dr Bob Such and his contribution to this community.

I also wish to thank the Hon. Kyam Maher for his moral leadership on this issue and for his personal courage to tell the tale of his own experience watching his mother suffer unbearably, and for entrusting me with introducing this bill in this chamber. Compared with all the previous attempts, a key point of difference is that all bills would have made South Australia the first state to approve voluntary assisted dying in Australia. Since that time,

Victoria passed its law in 2017, Western Australia passed its law in 2019 and Tasmania passed its law this year. Queensland is currently preparing legislation, and a New South Wales member of parliament has indicated their intention to introduce a bill this year.

As the Minister for Health and Wellbeing said in another place, the introduction of schemes in other jurisdictions means there is an additional question beyond whether voluntary assisted dying should or should not exist. The emergence of schemes across Australia means that we need to consider the issue of equity of access to end-of-life choices. Further, the minister referred to the emergence of a national model, or an Australian model, for voluntary assisted dying. This bill builds on the work of other jurisdictions and seeks to align the South Australian approach with other parts of Australia.

Since the last time a bill was introduced in South Australia, the end-of-life choices committee considered this issue for 18 months. The committee heard evidence or received submissions from dozens of interested parties, ranging from doctors to religious organisations and government agencies. SAPOL rarely make a public comment on proposed laws beyond criminal matters, but they wrote to the committee about suicides and about how voluntary assisted dying legislation may improve current arrangements, and I quote:

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. 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.

I wish to take this moment to read into *Hansard*, into this speech, a letter I received from a constituent, Vicki Bennett, a doctor who lives in Semaphore:

Dear Dr Close,

I write to thank you for your advocacy for Voluntary Assisted Dying and to share, ahead of the pending vote in state parliament, an all-too-recent story.

At approximately 11pm on 25th April 2021 my father, Norman Bennett, killed himself by stepping into the path of an oncoming train at the Harris Street rail crossing between Peterhead and Largs Bay stations.

His suicide note included the words 'I am sorry that I can't cope with another day living like this. I don't think any one of us would wish me a slow and lingering death.'

It is horrific that he died in a way that is likely to have deeply traumatised other people; including the train driver, any witnesses and the personnel involved in the clean-up and other work at the scene of death.

It is desperately sad that he died with loved ones neither present, nor aware that he was going to take his own life.

If there had been an humane and legal way for his death to have been voluntarily assisted, this would not have happened and so much unnecessary agony would have been avoided.

I commend you, and your colleagues from across the political spectrum, for advancing this bill.

After the committee completed its work, bills were introduced to both the House of Assembly and Legislative Council six months ago, in December last year. The combination of

all this work means that the community and parliamentarians have had many opportunities over a number of years to consider the issue and contribute to the conversation.

As I noted earlier, the South Australian bill is based on the Victorian legislation. This means that we have also benefited from the expert work that went into developing the Victorian system. We have benefited from the ongoing reviews and reports from the Voluntary Assisted Dying Review Board. This work has addressed many practical issues that are often raised as concerns when these schemes are proposed. For example, the Chair of the Voluntary Assisted Dying Review Board, Justice Betty King, addressed the issue of coercion in one of her regular reports, and I quote:

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... 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.

A number of my colleagues support the concept of a person's ability to die with dignity under certain circumstances. They are all concerned that we should have appropriate safeguards in place. The Victorian model on which this bill is based has been described as the safest and most conservative scheme in the world by the Victorian Premier, with some 68 safeguards in place. With the addition of the amendments made in the other place, we are now at essentially 70 safeguards. The three essential elements, as described by the Victorian department, for someone to access the Victorian scheme include:

1. They must have an advanced disease that will cause their death and that is likely to cause their death within six months (or within 12 months for a neurodegenerative disease like motor neurone disease) and is causing the person suffering that is unacceptable to them.
2. They must have the ability to make and communicate a decision about voluntary assisted dying throughout the formal request process.
3. They must also be an adult—18 years or over—and have been living in Victoria for at least 12 months and be an Australian citizen or permanent resident.

Both of the doctors involved in the assessment process must have completed approved training in assessing people for voluntary assisted dying. Each doctor must make sure that the person is fully informed about their disease and their treatment and palliative care options. They must make sure that voluntary assisted dying is the person's own choice. They must let the person know that they can change their mind about accessing voluntary dying at any time and they must not raise the issue of voluntary assisted dying with a patient. It is against the law in Victoria for a doctor or other health practitioner to suggest a person seeks voluntary assisted dying. I reiterate: a doctor cannot talk about voluntary assisted dying unless the person asks them about it first.

One or both of the two doctors who are the coordinating and consulting medical practitioners must have both expertise and experience in the illness or condition that is expected to cause the patient's death. At least one of the two doctors must also be a specialist. Further, doctors and other registered health practitioners, such as nurses and

pharmacists, whose beliefs and values conflict with voluntary assisted dying may conscientiously object to being involved. To make sure the decision is not rushed, the process to allow voluntary assisted dying cannot be completed in fewer than 10 days, unless a person is expected to die within 10 days.

These safeguards are becoming the Australian model of voluntary assisted dying as state by state this legislation is adopted. There are passionate and strong views about voluntary assisted dying. Reasonable people can and do disagree about these matters and, as with all conscience issues, showing respect to people with different views must be paramount in our minds. I am confident the debate in this chamber, particularly should we move to the committee stage, will be characterised by respect, by genuine effort to understand the issues and the detail of the bill and by some tears, not all of them mine. Such an important issue deserves nothing less.

I recently listened to the Andrew Denton podcast about Victoria's legislation. It is a moving experience and I had to stop several times to compose myself, so wrenched in sadness at what some people—many people—have to experience in this world and so inspired by their courage in facing their final days. One sentence uttered by a brave soul called Ron I think summed up what people facing the choice of voluntary assisted dying confront. He said, 'When you have a terminal illness, there is no rainbow at the end. But I'd rather go my way than the hard way.' That is what confronts too many people in the end stages of life when death is coming and the only question is the amount of suffering that must be endured before the final moment.

I commend this bill, hoping that we find our way to allowing people in Ron's circumstances to take their way and not force them to go the hard way.

Debate adjourned on motion of Dr Harvey.