

BILL C-407
An Act to amend the Criminal Code (right to die with dignity)
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Minister's Position: The MINISTER OF JUSTICE *WILL NOT* BE SUPPORTING THE BILL.

Factual Summary of the Bill:

Bill C-407 proposes to amend the *Criminal Code* to permit assistance in dying under certain conditions.

Key features of the bill:

- The bill seeks to permit assisted suicide and euthanasia, in both cases provided the conditions described below are met.
- The bill would not only apply to terminally-ill patients, but also to persons who suffer from severe physical or mental pain with no prospect of relief (neither physical nor mental pain is defined).
- The aider could be either a medical practitioner or someone who is assisted by a medical practitioner.

The Bill's prescribed conditions require that the person wishing assistance in dying: be 18 years of age or older; be either terminally ill or suffering from severe physical or mental pain with no prospect of relief; make two requests, at least 10 days apart, while "appearing to be lucid," to a doctor or aider; and designate someone who will act on his or her behalf vis-à-vis the doctor or aider should he or she become mentally incapacitated. Under the Bill, the "aider": must be either a medical practitioner or someone who is assisted by a medical practitioner; must receive confirmation of the diagnosis from another doctor or from two doctors if the aider is not a doctor; must be a member of, or assisted by, a provincial health services team; must act in the manner requested by the person wishing to die; and must provide the coroner with the confirmation of diagnosis.

Assessment:

It is expected that this bill will raise considerable public attention and controversy as it touches upon such profound issues as life and death, which for many involves religious beliefs.

The Bill has far-reaching implications in the manner in which it alters the current state of the law and in the way it will impact on medical ethics and practice. The Bill also appears to exceed the parameters of current public views. While many Canadians may not disapprove of permitting those who suffer from severe physical pain with no prospect of relief to access assistance in dying, few would tolerate the idea of allowing those who suffer from severe mental pain with no prospect of relief to have the same access to assisted death. As "mental pain" is not defined in the Bill, such common conditions as chronic depression could potentially qualify as "mental pain". This particular aspect of the proposal, combined with such vague terms as "while appearing to be lucid" as the requisite criterion for providing consent, raise concerns with respect to s. 7 and s. 15 of the *Charter*. The recognized medical and legal standard for providing a free and informed consent is not reflected in Bill C-407.

In order to guard against the potential to move towards what is often described as the "slippery slope" in facilitating the unwanted death of elderly, physically or mentally vulnerable persons, a very stringent regime would have to be introduced, and Bill C-407 falls short of accomplishing this. For example, Bill C-407 lacks an appropriate oversight mechanism to guard against abuses. The Bill does not require detailed reporting or establish a committee to review reports as is found in comparable legislation implemented in Oregon, the Netherlands and Belgium, nor does the Bill address how to deal with cases of abuse, e.g. by creating a specific offence.

The Bill also addresses matters that fall within provincial/territorial responsibilities for the delivery of health care services and the medical profession, and provincial legislation that deals with substitute decision makers. Extensive consultations with interested groups, including the medical profession, and Canadians in general should be undertaken by Parliament before it considers a specific legislative proposal, although Parliament did examine these issues in detail in 1994 and 1995 in the context of the study conducted by the Special Senate Committee on Euthanasia and Assisted Suicide. It should be

noted that the majority recommended that the *Criminal Code* offence of assisted suicide should remain intact.