

**VOLUNTARY EUTHANASIA BILL 2010**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Robin Chapple**, and read a first time.

*Second Reading*

**HON ROBIN CHAPPLE (Mining and Pastoral)** [10.25 am]: I move —

That the bill be now read a second time.

I am proud to introduce the Voluntary Euthanasia Bill 2009. This bill will afford immunity from criminal prosecution and civil ramifications to a person who assists a suffering terminally ill patient to die, provided that person acts in accordance with the terms of the bill. This bill is not about legalising suicide. This bill is not about devaluing life or about pushing the boundaries of morality. This bill is about giving choice to a suffering terminally ill person and about providing civil and criminal immunity to those people who assist such a person to carry out that choice. This bill is about nothing more than that.

Today I will set out five reasons why I think members should support this bill. I am sure there are many other reasons but I will start with these five. None of these reasons is better or worse than the other but I hope that at least one will ring true with each of us here today.

The first reason to support this bill relates to my personal experience. The first reason applies to those of us who have seen loved ones suffer in the final days, weeks, months or even years of their lives. The fact is that the last stages of a terminal illness are oftentimes of unbearable pain, unendurable suffering, loss of dignity and great anguish. Those of us who have seen loved ones endure this suffering know this suffering first hand and we do not want it to be ours one day or, indeed, anyone else's to bear. The first reason to support this bill is therefore a very personal one. I do not wish others to suffer the way my loved one suffered. The first reason is of great relevance to me, although I also happen to believe strongly in each of the other reasons I will mention today. This is the reason closest to my heart.

The death of my own mother is one of the reasons I am determined to follow through with this legislation. More than 25 years ago my mother was diagnosed as terminally ill here in Perth. For five or six weeks she lay in a hospital bed waiting to die, wanting to die. She expressed to me on a number of occasions her personal desire and wish for an end to her suffering. At the end of each day she would say goodbye, with the hope that she could will herself to end it all during the night. When I would arrive the next day, she would have tears in her eyes because of her failure to will herself to depart. There are other people in this state with similar stories to tell. Maybe some of them are in this chamber. Most of them have one thing in common—a desire to see this bill succeed.

The second reason to support this bill is related to compassion and is related to the first reason, although it is more altruistic. The second reason that a member might support this bill is if the member believes that we as a society have progressed sufficiently such that we will no longer force a person to suffer as they approach death just because we used to believe, or because some of us still believe, that it is wrong to end that suffering through death. It is widely acknowledged that sometimes as death comes closer, even with advancements in palliative care, no amount of painkillers is enough to stop the pain and no amount of sedatives is enough to provide relief. In that instance, often the only way to escape suffering is through the cessation of life. Christian Rossiter taught us this as one of the last acts of his life. For him the suffering was such that there was no escape, other than to die. Although Mr Rossiter would not have been able to make use of this bill because he did not have a defined terminal illness, he showed all of us that sometimes suffering cannot be alleviated and death is the only way to escape. What options did Mr Rossiter have available to him in his time of need? The Western Australian Supreme Court said that his carers could stop giving him food and water in accordance with his instructions. The option he was given was to starve or dehydrate to death to escape his suffering. Imagine a society where this is the only option available. We do not have to imagine for too long; this is the reality of our society. Other people are more fortunate than Mr Rossiter in that they can move and swallow. These people have more choices available to them because they can buy the drugs that might cause their deaths themselves or they bring about death through other ways. These ways often involve pain and they are, at best, clandestine, and of course shocking to their family and friends. I believe that our society is more compassionate than this. I believe that our society is sufficiently compassionate that it can recognise that for some people the pain and suffering is so great and so prolonged that death is the only way out. Surely we can do better for those people than death by starvation or dehydration, or some other way that the person conjures up. Surely we can offer a controlled, gentle, peaceful and quick death. This bill will provide that option.

A third reason for many members to vote in favour of this bill is that of autonomy; that is, people's right to largely control what they do with their life should, within reason, include the ability to choose when and how

that life will end. Laws exist for many reasons. They exist to prevent people from harming each other, to protect property, to uphold social decorum and to maintain the fabric of a functioning and civilised society. Euthanasia transgresses none of these. Provided the terminally ill person's wish to die is properly informed and the consistent expression of a sound mind, the death of that suffering person hurts no-one. It is the most personal act imaginable. Because of this, who are we, the lawmakers of this state, to deny such a person that choice? If we vote against this bill, would that be forcing our ethical framework onto others? A person has a right to choose many things. In the case of the terminally ill, when and how their life will end should be one of them.

The fourth reason that I will give members to support this bill is, in my opinion, the reason least open to argument. This reason is that this bill will insert regulation, safeguards and legal clarity into a practice that is already occurring without any such legal framework. Euthanasia is a frequent and, it seems, fairly uncontroversial result of good palliative care. It happens when a doctor acts out of compassion and quietly administers what he or she thinks may be slightly too many sedatives or painkillers. Death may not necessarily be intended in this instance, but it is an outcome that is possible and borders on an anticipated outcome. Premier Colin Barnett alluded to this practice himself when he said, as *The West Australian* reported, "... I do support the right of families with the doctors to deal with situations on a case by case basis." This is a statement in support of lawless and unregulated euthanasia. I think we would all agree that death being brought about in this manner is far from ideal, even though it may be done in good faith and with great compassion.

Broadly speaking, there are two main problems with the existing system of administering euthanasia. The first problem is that it affords inadequate protection to doctors, and anyone else, who assist in the administration of slightly too many painkillers to a terminally ill person in the process of administering palliative care. Some protection is afforded by the Criminal Code, but only if a jury finds the doctor's administration of those painkillers "reasonable". What doctor wants to take that risk? The second problem is that the covert system affords no protection to the patient. There is no law that obliges a doctor to be sure that a patient wants to die, or that the patient has arrived at his or her decision with a sound mind and without the burden of external pressure. There is nothing to oblige a doctor to tell that patient about the availability of counselling or the benefits of palliative care, and there is nothing to ensure that families do not force a decision to obtain benefits under the patient's will. These problems are exacerbated by the fact that because a death through terminal sedation is not unusual, it is often not investigated. This only serves to make the risk of abuse greater. Although instances of abuse may well be rare, surely the fact that the door is open to risk means that we need to act now to close that door through the passage of this bill.

The fifth and final reason that I will set out today, and it is a reason that no politician can safely ignore, is the evidence of demand from the public for this reform. In August 2009, Westpoll declared that 79 per cent of Western Australians support voluntary euthanasia. In October 2009, Newspoll declared that 87 per cent of Western Australians support voluntary euthanasia. Regional members take note: this figure increases to 92 per cent in regional Western Australia. For many members here, these statistics will not sway them one way or the other, and that is as it should be. Certainly, there are issues that I could not be swayed on just because the figures say that I should for the sake of retaining my seat. But what each of us should take note of is this: the majority of Western Australians want us to introduce a law that legalises euthanasia. The way we vote on this may affect whether we retain our seats at the next election. This is democracy working as it should. It needs to be noted that this issue is one that voters may well be paying attention to next time around.

What the bill does: I will now move to a brief discussion of the content of the bill. The bill will allow a Western Australian who is of sound mind, 21 years or over, who can communicate his or her intentions, who has a terminal illness that will cause death within two years and is experiencing pain, suffering or debilitation that is considerable, to make a request to a medical practitioner for the administration of euthanasia. The request must be witnessed by two independent and unrelated people. If the applicant cannot sign the application himself or herself, someone can sign on his or her behalf by complying with the requirements set out in the act. The medical practitioner must ensure that the applicant is aware of palliative care options and the availability of counselling and other support services before assessing the request. The request must be assessed by two independent medical practitioners each with five years' experience. Among other things, the medical practitioners must determine that the applicant's request is not wholly referable to a state of clinical depression, is not motivated by a desire to cease to be a burden, and that the applicant has made a request freely, voluntarily and with the full knowledge of the consequences. The applicant must then wait 14 days to make the final request a second time, and the medical practitioner must again assess the request against the criteria set out in the act before euthanasia may be administered. A third independent medical practitioner, again with five years' experience, must be present for the administration of euthanasia and must verify that the medical practitioner administering euthanasia does so in accordance with the requirements of the act. Following the administration of euthanasia, the medical practitioner must provide certain statistical information regarding the applicant to the coroner to allow detailed records to be kept about the use of this act.

By any definition, this is a restrictive bill. It will apply only to people who have a terminal illness and who have lived in WA for the previous three consecutive years. Further, it will apply only to people whose terminal illness will cause their death within two years. The applicant must be in considerable pain and suffering. Only a medical practitioner will be able to administer euthanasia. Despite this, it is a bill that will provide comfort to those people who fit within the requirements of the bill—that they will not have to suffer needlessly if they do not wish to do so.

Dr Rodney Syme has said that a right to live does not include an obligation to do so under every circumstance. I think he is right. Surely as a society we have progressed past the point at which we prevent a suffering terminally ill person from ending his or her life just because some of us still think that it is wrong to do so. Surely the fact that euthanasia hurts no-one means that it can give such people control over this part of their lives. And surely because it is already happening, we need a law that inserts regulation and protection for doctors and patients alike. All that this law will do is give people a choice—a choice that the majority no longer believe is wrong. I will say it again: the right to live does not include an obligation to do so under every circumstance. I hope members will take heed of this sentiment when casting their votes on this bill. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.