

2017 Alabama Laws Act 2017-231 (H.B. 96)

ALABAMA 2017 SESSION LAW SERVICE

2017 REGULAR SESSION

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Act 2017-231

H.B. No. 96

HEALTH, MENTAL HEALTH, AND ENVIRONMENTAL CONTROL—ASSISTED SUICIDE BAN ACT

By: Representative Butler

Enrolled. An Act, To establish the Assisted Suicide Ban Act; to prohibit a person or a health care provider from providing aid in dying under certain conditions; to provide civil and criminal penalties; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Assisted Suicide Ban Act.

Section 2. The Legislature finds all of the following:

- (1) In almost every state, it is a crime to assist a suicide. These bans are long-standing expressions of the commitment of the states to protect and preserve all human life.
- (2) The state has an interest in protecting vulnerable groups, including the impoverished, the elderly, and disabled persons from abuse, neglect, and mistakes. A ban on assisted suicide reflects and reinforces our belief that the lives of those in vulnerable groups are no less valued than the lives of the young and healthy.
- (3) The state has an interest in protecting the integrity and ethics of the medical profession, including its obligation to serve its patients as healers and adhere to the principles articulated in the Hippocratic Oath.
- (4) The state recognizes the close link between physician-assisted suicide and euthanasia where a right to die can easily become a duty to die. A prohibition against assisted suicide is the only reasonable means to protect against foreseeable abuses.
- (5) The state recognizes the distinction between a patient refusing life-sustaining medical treatment where he or she dies from the underlying fatal disease and a patient ingesting or administering a lethal medication prescribed by a physician, where the medication is the cause of death. The state also recognizes the difference between pain management intended to alleviate pain and pain medicine used to assist in causing death.

Section 3. As used in this act, the following terms shall have the following meanings:

(1) **AID IN DYING.** The act of a person providing the means or manner for another person to be able to commit suicide, with actual knowledge that the person deliberately intends on committing suicide by that means or manner.

(2) **ARTIFICIALLY PROVIDED NUTRITIONAL HYDRATION.** A medical treatment consisting of the administration of food and water through a tube or intravenous line, where the recipient is not required to chew or swallow voluntarily. Artificially provided nutrition and hydration does not include assisted feeding, such as spoon or bottle feeding.

(3) **DELIBERATELY.** More than knowing the consequences of an act or action; meaning to consider carefully; done on purpose; intentional; requiring premeditation; with intent to cause the death of a person.

(4) **HEALTH CARE PROVIDER.** Any individual who may be asked to participate in any way in a health care service, including, but not limited to, a physician, physician's assistant, nurse, nurse's 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 health care services.

(5) **LIFE-SUSTAINING TREATMENT.** Any medical treatment, procedure, or intervention that, in the judgment of the attending physician, when applied to the patient, would serve only to prolong the dying process where the patient has a terminal illness or injury, or would serve only to maintain the patient in a condition of permanent unconsciousness. These procedures include, but are not limited to, assisted ventilation, cardiopulmonary resuscitation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs and antibiotics. Life-sustaining treatment does not include the administration of medication or the performance of any medical treatment where, in the opinion of the attending physician, the medication or treatment is necessary to provide comfort or to alleviate pain.

(6) **PERSON.** Any natural person, and when appropriate, an organization, to include all of the following:

- a. A public or private corporation, company, association, firm, partnership, or joint-stock company.
- b. Government or a governmental instrumentality.
- c. A foundation, institution, society, union, club, or church.

(7) **PHYSICIAN.** A person licensed to practice medicine in the state, including medical doctors and doctors of osteopathy.

(8) **SUICIDE.** The act or instance of taking one's own life voluntarily and intentionally.

Section 4. (a) Any person who deliberately assists another person to commit suicide or provides aid in dying is guilty of a Class C felony.

(b) Any physician or health care provider who prescribes any drug, compound, or substance to a patient deliberately to aid in dying or assists or performs any medical procedure deliberately to aid in dying is guilty of a Class C felony.

Section 5. (a) Any person, physician, or health care provider who deliberately violates this act by aiding in dying shall be liable for damages.

(b) If any person deliberately aids in dying in violation of this act that results in death, the personal representative or administrator of the estate of the decedent may bring an appropriate action for wrongful death.

(c) Any physician or other health care provider who deliberately aids in dying in violation of this act shall be considered to have engaged in unprofessional conduct for which his or her license to provide health care services in the state shall be suspended or revoked by the appropriate licensing board.

Section 6. Nothing in this act shall be construed to prohibit a physician or health care provider from doing any of the following:

(1) Participating in the execution of a person sentenced by a court to death by ~~lethal injection~~ **any means recognized by Alabama law**.

(2) Following a patient's wishes or health care proxy's instructions to withhold or withdraw life-sustaining treatment or artificially provided nutritional hydration.

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

(4) Following the wishes or instructions of an individual which are made in compliance with Chapter 8A of Title 22, Code of Alabama 1975.

Section 7. **It is the intent of the Legislature that the Attorney General exhaust the internal resources and personnel of the office prior to the retention of any outside counsel to assist in the defense of any constitutional challenge to this act.**

Section 8. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 4, 2017.