



issues backgrounder

May 2013

NSW Parliamentary Library

Euthanasia

Contents

| | |
|---|----|
| Developments in NSW | 1 |
| The ongoing debate | 2 |
| Definitional issues | 2 |
| End-of-life treatment – guidelines and legislation | 3 |
| Criminal Law in NSW | 3 |
| Criminal laws and cases in Australia | 4 |
| Recent parliamentary material in other Australian jurisdictions | 5 |
| Recent media coverage in Australia | 7 |
| Selected journal articles – Australia | 8 |
| Selected overseas jurisdictions | 9 |
| Advocacy groups for and against euthanasia | 13 |

Developments in NSW

This updated version (of an October 2010 issues backgrounder) takes account of the recent introduction of the Rights of the Terminally Ill Bill in NSW. Recent cases in Australia are canvassed as are proposed reforms and recommendations in selected jurisdictions, notably South Australia, Tasmania and the United Kingdom. New sections on Canada and New Zealand are also included in this update and recent journal articles and media reports have been added.

The [Rights of the Terminally Ill Bill](#) was introduced by Greens MLC, Cate Faerhmann, in the Legislative Council on 2 May 2013. The overview of the Bill in the [Explanatory Note](#) states:

The object of this Bill is to provide a legislative framework for the rights of terminally ill persons to request and receive assistance to end their lives voluntarily. Under this framework, terminally ill persons may be assisted by their medical practitioners to administer a substance to themselves.

The Bill provides protection for persons providing such assistance and sets up safeguards against possible abuse of the right recognised by the Bill.

A number of previous attempts have been made to introduce similar bills. The [Rights of the Terminally Ill Bill 2001](#) was introduced into the Legislative Council by the Greens MLC Ian Cohen. The Bill did not proceed beyond its [Second Reading](#) stage and lapsed on prorogation. Notice of motion for the subsequent [Rights of the Terminally Ill Bill 2003](#) was withdrawn on 24 February 2004. In the interim, in 2002 and 2003 Ian Cohen also sponsored a Private Member's Bill titled, [Voluntary Euthanasia Trial \(Referendum\) Bill](#). According to the [Second Reading](#) speech of 17 September 2003, its purpose was to: 'require the holding of a referendum to determine whether the people of New South Wales approve in principle of a legally and medically supervised trial of voluntary euthanasia for a period of 18 months'. The Bill was defeated at the [Second Reading stage](#) on 13 November 2003.

The ongoing debate

In 2001 the NSW Parliamentary Research Service published [Euthanasia: An Update](#). This paper reviewed recent developments in Australia, including those associated with the Northern Territory's [Rights of the Terminally Ill Act 1995](#), the Commonwealth's [Euthanasia Laws Act 1997](#) and the NSW case of [Northbridge v Central Sydney Area Health Service](#) [2000] NSWSC 1241, which concerned the withdrawal of treatment and life support from a patient. Developments in relevant overseas jurisdictions, notably in the US State of Oregon and the Netherlands, were also considered.

Later developments, in Australia and in the relevant overseas jurisdictions, were updated in 2008 by the Victorian Parliamentary Library Research Service publication [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#). Statistical findings were presented in relation to Oregon's [Death with Dignity Act 1998](#) and the Dutch [Termination of Life on Request and Assisted Suicide \(Review Procedures\) Act 2002](#). See also RG Richardson, [Euthanasia: an issues review](#), South Australian Parliament Research Library, Research Paper 25/2010.

Note that, internationally, the Netherlands and Belgium ([Act on Euthanasia 2002](#)) have legislated for voluntary euthanasia under certain conditions. In the United States, Oregon and the State of [Washington](#) have laws permitting assisted suicide, and laws in Switzerland are permissive of assisted suicide, provided that the person assisting is acting altruistically and not out of self-interest (*Swiss Penal Code 1937*, SR 311.0).

There are many accounts of the pros and cons of voluntary euthanasia and physician assisted suicide. See for example – E Jackson and J Keown, *Debating Euthanasia*, Hart Publishing 2012; G Dworkin, '[Should physician –assisted suicide be legalized?](#)' and N Levy, '[Slippery slopes and physician assisted suicide](#)' in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008; and Stanford Encyclopaedia of Philosophy, [Voluntary Euthanasia](#).

Definitional issues

Difficult definitional and philosophical distinctions are involved. **Euthanasia** is defined by the [Australian Medical Association](#) (AMA) as: 'The act of deliberately ending the life of a patient for the purpose of ending intolerable pain and/or suffering'.

Various sub-categories of euthanasia are referred to, notably: voluntary, non-voluntary, or involuntary euthanasia and/or active or passive euthanasia.

- **Voluntary euthanasia** is generally defined as 'ending the life of a competent, informed patient at their request'.
- **Passive euthanasia** is generally defined as 'not initiating or no longer continuing life-sustaining treatment that results in death as a direct consequence of the underlying disease'.

A related term is **physician assisted suicide**, applied by the AMA to 'where the assistance of the medical practitioner is intentionally directed at enabling an individual to end his or her own life'.

End-of-life treatment – guidelines and legislation

In its 2007 guidelines, [The Role of the Medical Practitioner in End of Life Care](#), the AMA wrote that, in its view, if a medical practitioner acts in accordance with good medical practice, the following forms of management at the end of life do not constitute euthanasia or physician assisted suicide:

- not initiating life-prolonging measures;
- not continuing life-prolonging measures;
- the administration of treatment or other action intended to relieve symptoms which may have a secondary consequence of hastening death.

In 2005 the NSW Department of Health published [Guidelines for End-of Life care and Decision Making](#). Relevant legislation in the other States includes South Australia's [Consent to Medical Treatment and Palliative Care Act 1995](#) and Victoria's [Medical Treatment Act 1988](#).

Criminal Law in NSW

In NSW both euthanasia and physician-assisted suicide carry heavy penalties under the criminal law. A person found guilty of engaging in active voluntary euthanasia could be convicted of murder and liable to life imprisonment; s 19A of the *Crimes Act 1900*. A person found guilty of aiding or abetting the suicide of another person would be liable to a penalty of 10 years imprisonment; s 31C of the *Crimes Act 1900*.

By s 31B of the *Crimes Act 1900* a survivor of a 'suicide pact' is not to be found guilty of murder or manslaughter but may be guilty of an offence under s 31C (Aiding etc suicide). Section 31C of the *Crimes Act 1900* provides in full:

- (1) A person who aids or abets the suicide or attempted suicide of another person shall be liable to imprisonment for 10 years.
- (2) Where: (a) a person incites or counsels another person to commit suicide, and (b) that other person commits, or attempts to commit, suicide as a consequence of that incitement or counsel,

the firstmentioned person shall be liable to imprisonment for 5 years.

[R v Justins](#) [2008] NSWSC 1194 is a sentencing decision. Shirley Justins had been found guilty by a jury of the manslaughter of her partner Graeme Wylie who suffered from Alzheimer's disease. The deceased died on 22 March 2006 from a lethal dose of a substance known as Nembutal (which had been obtained from overseas by a co-offender - Caren Jennings - who had since committed suicide). It was accepted by the Crown that the deceased voluntarily drank this substance and that the chief motivation of Justins in providing the drug to the deceased was so that he could take his own life in accordance with what she believed to be his wishes. Justins was sentenced to a non-parole period of 22 months with a balance of term of 8 months, the sentence to be served by way of periodic detention.

A later development in the above case is the decision by the NSW Court of Criminal Appeal in [Justins v R](#) [2010] NSWCCA 242 overturning the manslaughter conviction and ordering a new trial. In a complex judgment, Spigelman CJ, Simpson and Johnson JJ all agreed that the trial judge had given incorrect instructions to the jury about what they had to consider when deciding if Mr Wylie had the capacity to commit suicide. For a commentary see – G Jacobsen, 'Conviction overturned but retrial is pending', [Sydney Morning Herald](#), 29 October 2010; and T Faunce, 'Justins v The Queen: Assisted Suicide, Juries and the Discretion to Prosecute', (2011) 18 [Journal of Law and Medicine](#) 706. In April 2011, the Crown accepted Justins' plea of guilty to aiding and abetting suicide. In the sentencing decision, [R v Justins](#) [2011] NSWSC 568, the judge noted that the offender had already served the manslaughter sentence (a more serious offence) and did not impose any further sentence.

A more recent case is [R v Mathers](#) [2011] NSWSC 339. Mathers, a 64 year-old man assisted his female partner of 22 years, who suffered pain from a spinal condition, to commit suicide when she was aged 78. His assistance involved bringing her a large number of anti-depressant/pain relief pills and suffocating her. He was charged with murder but the Crown accepted a plea of guilty to manslaughter. The sentencing judge imposed a suspended sentence of two years imprisonment. In imposing this suspended sentence, the judge took into account several mitigating factors including:

- The motives of love and compassion which attended his acts;
- The fact that she was very ill and in severe pain and wanting to end her life;
- The medical evidence that he suffered a depressive reaction and the development of an adjustment disorder and depression with anxiety which impaired his perception of events and decision-making capacity;
- His plea of guilty and genuine remorse for his actions.

For a media report, see "Mercy killer escapes jail over agonising conflict", [SMH](#), 28 April 2011.

Criminal laws and cases in Australia

For a review of Australian legislation and case law see - L Bartels and L Otlowski, 'A right to die? Euthanasia and the law in Australia' (2010) 17(4) [Journal of Law and Medicine](#) 532. There have been a couple of recent cases in other States where people have been convicted of offences in relation to assisted suicide.

In Victoria, a 64-year old man (Victor Rijn) assisted his 70-year old wife who was suffering chronic hip pain, to commit suicide. He pleaded guilty to inciting suicide and

a magistrate placed him on a good behaviour bond for three years. The sentencing decision is not available online. For a media report, see A Lowe, '[Husband's suicide push driven by 'love'](#)', *The Age*, 23 May 2011.

In Queensland, a 46 year-old man assisted a 76-year old man to commit suicide by obtaining and supplying him with the drug nembutal. The man had several medical conditions but the extent of his pain and suffering were not clear. The accused was a beneficiary under the man's will. In the sentencing decision, [R v Nielsen](#) [2012] QSC 29, he was sentenced to three years imprisonment with a non-parole period of six months. For a media report, see R Barrett, '[Queensland teacher Merin Nielsen jailed for aiding suicide of man, 76](#)', *The Australian*, 16 February 2012.

Recent parliamentary material in other Australian jurisdictions

Western Australia

Greens MLC Robin Chapple, May 2010, [Voluntary Euthanasia Bill 2010](#). The Bill was defeated at the [Second Reading](#) stage by 24 votes to 11 on 23 September 2010. A commentary on the Bill can be found [here](#).

Tasmania

On 2 February 2013, the Premier, Lara Giddings, and Greens leader, Nick McKim, jointly released a consultation paper entitled [Voluntary Assisted Dying: A Proposal for Tasmania](#). A joint [media release](#) stated that "the paper puts forward a model for voluntary assisted dying and is designed to inform public debate, and seek feedback, ahead of the drafting of a joint Private Members Bill later this year. The consultation period ended on 15 March 2013. For a media report, see G Williams, "Tasmania leads the way on voluntary euthanasia", [SMH](#), 27 February 2013.

Greens MP Nick McKim [Dying with Dignity Bill 2009](#). The Bill was [defeated](#) by 15 votes to 7 in the Lower House on 4 November 2009.

Parliament of Tasmania, Joint Standing Committee on Community Development, [Report on the Dying With Dignity Bill 2009](#).

South Australia

Dr Bob Such MP (Independent), February 2013, [Ending Life with Dignity Bill](#). The second reading speech can be found [here](#). The Second Reading debate was [adjourned](#) on 21 March 2013. The Bill would establish a Voluntary Euthanasia Board to provide constant review of the operation of the law. The long title of the Bill reads:

An Act to provide for the administration of medical procedures to assist death of a limited number of persons who are terminally ill, suffering unbearably and who have expressed a desire for the procedures subject to appropriate safeguards; and for other purposes.

The same member introduced the [Voluntary Euthanasia Bill 2012](#), which was defeated on a [conscience vote](#) (20 to 22) in the House of Assembly on 14 June 2012. Premier Jay Weatherill voted for the Bill.

On 10 March 2011 ALP House of Assembly member Stephen Key introduced the [Criminal Law Consolidation \(Medical Defences – End of Life Arrangements\) Amendment Bill 2011](#). The Bill passed the second reading stage on 24 March 2011,

only for that vote to be rescinded on 5 May 2011. The Bill was subsequently referred to the committee of the whole and eventually lapsed on prorogation of Parliament.

Greens MLC Mark Parnell and Stephen Key, September 2010, [Consent to Medical Treatment and Palliative Care \(End of Life Arrangements\) Amendment Bill 2010](#). The Second Reading debate was adjourned in the Lower House on 16 September 2010; the Bill was read a first time in the Upper House on 29 September 2010. On November 24 2010 the Bill failed on the voices in the Legislative Council. The Bill lapsed in the House of Assembly.

RG Richardson, [Euthanasia: an issues review](#), South Australian Parliament Research Library, Research Paper 25/2010.

Dr Bob Such MP (Independent), June 2010, [Voluntary Euthanasia Bill 2010](#). The Second Reading debate was adjourned on 1 July 2010.

Dr Bob Such MP (Independent), October 2008, [Voluntary Euthanasia Bill 2008](#).

Greens MLC Mark Parnell, November 2008, [Consent to Medical Treatment and Palliative Care \(Voluntary Euthanasia\) Amendment Bill 2008](#). The Bill was defeated by 11 votes to 9 in the Upper House on 19 November 2009. For a commentary on the Bill see - B Pollard, 'Fatal licence: commentary on the Consent to Medical Treatment and Palliative Care (Voluntary Euthanasia) Amendment Bill 2008' (2010) 22(2) [Bioethics Research Notes](#) 19.

Victoria

Greens MLC Coleen Hartland [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#).

Victorian Parliamentary Library Research Service, [Medical Treatment \(Physician Assisted Dying\) Bill 2008](#), Current Issues Brief 1/2008.

Commonwealth

Greens Senator Richard Di Natale, [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2012](#).

Greens Senator Bob Brown, October 2010, [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill 2010](#). For a brief comment see M Metherell, 'NT rights bill splits parties', [Sydney Morning Herald](#), 29 October 2010.

Greens Senator Bob Brown, February 2008 [Rights of the Terminally Ill \(Euthanasia Laws Repeal\) Bill 2008](#).

The Senate, Standing Committee on Legal and Constitutional Affairs, [Rights of the Terminally Ill \(Euthanasia Laws Repeal\) Bill 2008](#), June 2008.

Greens Senator Bob Brown, September 2008 [Restoring Territory Rights \(Voluntary Euthanasia Legislation\) Bill](#)

Recent media coverage in Australia

(a) Sample of articles canvassing the current debate:

T Tancred, "Euthanasia debate needed", [Central Western Daily](#), 1 April 2013.

"I'll allow conscience vote on euthanasia: Premier", [Maitland Mercury](#), 19 March 2013.

A Patty, "Greens MP champions right to die bill", [SMH](#), 18 March 2013.

S Parnell, "Seizures of euthanasia drugs rise", [The Australian](#), 11 February 2013.

L Dayton, 'Alliance aims to assist those who want to die', [The Australian](#), 9 October 2010.

T Ahmed, "'How to die" becoming as important a question as "how to live"', [Sydney Morning Herald](#), 7 October 2010.

R Browne and S Whyte, 'Give us the right to choose: euthanasia support grows', [Sun Herald](#), 3 October 2010

N Perpetch, 'Doctors for dying "focused on care"', [The Australian](#), 24 September 2010.

S Nicholls and B Robins, 'Greens to introduce state euthanasia bill', [The Sydney Morning Herald](#), 22 September 2010.

'Keneally urges caution on euthanasia debate', [Wagga Daily Advertiser](#), 22 September 2010.

'WA Health Minister Kim Hames helped patient to die', [News.com.au](#), 22 September 2010.

M Methererell, J Mahar and L Murdoch, 'PM open to debate on legalising euthanasia', [Sydney Morning Herald](#), 20 September 2010.

S Dunlevy, 'Euthanasia debate on Greens agenda', [Daily Telegraph](#), 20 September 2010.

M Kennedy, 'Australia bans pro-euthanasia TV advert', [The Guardian](#), 13 September 2010.

C Alexander, ' Pro-euthanasia TV ad ban 'a violation of free speech', [The Age](#), 13 September 2010

J Medew, 'Young people gain access to euthanasia drug', [Sydney Morning Herald](#), 15 February 2010.

J Medew, 'Half of cancer patients in unnecessary pain, says specialist', [Sydney Morning Herald](#), 12 February 2010.

(b) Sample of articles canvassing opposition to voluntary euthanasia:

J Tovey, "Euthanasia is just a bridge too far", [SMH](#), 23 October 2012.

L McKenny, "Euthanasia a bad law by bad people, says bishop", [SMH](#), 1 February 2011.

A Cameron, 'Euthanasia question needs wider discussion', [Sydney Morning Herald](#), 8 October 2010.

Cardinal George Pell, 'Greens' dark path fraught with hidden dangers', [Sunday Telegraph](#) 3 October 2010.

P Kelly, 'Brown's euthanasia bill a perilous test for Gillard', [The Australian](#), 29 September 2010.

(c) Sample of articles canvassing support for voluntary euthanasia:

"Right to die backed by experts", [Daily Telegraph](#), 27 April 2013.

S Edeleman, "Time for politicians to recognise the right to die with dignity", [SMH](#), 22 October 2012.

L Dayton, 'Laws can safeguard the dying', [The Australian](#), 16 October 2010.

K Legge, 'GPs back euthanasia for old people "tired of life"', [The Australian](#), 29 September 2010.

Dr Philip Nitschke, 'Time to end church hold on lawmakers', [Newcastle Herald](#), 28 September 2010.

(d) Sample of articles commentating on opinion polls:

J Baker, "Support for right to die bill", [Sunday Telegraph](#), 14 April 2013.

S Parnell, "Fight to the death", [The Australian](#), 11 February 2013.

J Robotham, "Support for voluntary euthanasia at 85%", [SMH](#), 11 March 2011.

A Horin, "Support steadfast for death to ease pain", [SMH](#), 6 January 2011.

A Shanahan, 'Right to die polls no basis for radical change', [The Australian](#) 2 October 2010.

B Hills, 'Death wishes should be met', [Sunday Telegraph](#), 26 September 2010.

Selected journal articles – Australia

B White and J Downie, "Prosecutorial guidelines for voluntary euthanasia and assisted suicide: autonomy, public confidence and high quality decision making" (2012) 36 [Melbourne University Law Review](#) 656.

B White and L Willmott, "How should Australia regulate voluntary euthanasia and assisted suicide?" (2012) 20(2) [Journal of Law and Medicine](#) 410.

J Werren, N Yuksel and S Smith, 'Avoiding a fate worse than death: an argument for legalising voluntary physician-based euthanasia' (2012) 20(1) [Journal of Law and Medicine](#) 184

J Prichard, 'Euthanasia: A reply to Bartels and Otlowski' (2012) 19(3) [Journal of Law and Medicine](#) 610

L Bartels and L Otlowski, 'A right to die? Euthanasia and the law in Australia' (2010) 17(4) [Journal of Law and Medicine](#) 532.

B Pollard, 'Fatal licence: commentary on the Consent to Medical Treatment and Palliative Care (Voluntary Euthanasia) Amendment Bill 2008' (2010) 22(2) [Bioethics Research Notes](#) 19.

Bob Brown, 'The right to die: legislation for euthanasia', [Precedent](#), Issue 89, November/December 2008, p 29.

A Rothschild, '[Physician-assisted death: an Australia perspective](#)' in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

DA Neil and others, 'End-of-life decisions in medical practice: a survey of doctors in Victoria (Australia)' (2007) 33 [Journal of Medical Ethics](#) 721.

R Patterson and K George, 'Euthanasia and assisted suicide: a liberal approach versus the traditional moral view' (2005) 12(4) [Journal of Law and Medicine](#) 49.

MA Somerville, 'Death talk: debating euthanasia and physician assisted suicide in Australia' (2003) 178(4) [The Medical Journal of Australia](#) 17.

DW Kissane, A Street and P Nitschke, 'Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia' (1998) 352 [The Lancet](#) 1097.

Selected overseas jurisdictions

See generally – G Lewy, [Assisted Death in Europe and America: Four Regimes and Their Lessons](#), Oxford Scholarship Online 2011 (summary only).

The Netherlands

In 2002, the Netherlands legalised euthanasia. Euthanasia is still a criminal offence but the law codified a twenty-year old convention of not prosecuting doctors who have committed euthanasia in specific circumstances. The Dutch [Termination of Life on Request and Assisted Suicide \(Review Procedures\) Act 2002](#) states that euthanasia and physician-assisted suicide are not punishable if the attending physician acts in accordance with criteria of due care. These criteria concern the patient's request, the patient's suffering (unbearable and hopeless), the information

provided to the patient, the presence of reasonable alternatives, consultation of another physician and the applied method of ending life. To demonstrate their compliance, the Act requires physicians to report euthanasia to a review committee.

“Strong demand as Dutch mobile euthanasia clinics begin operating”, [SMH](#), 5 March 2012.

K Hallam, “No rise in euthanasia following legal nod”, [SMH](#), 12 July 2012.

Right to Die Netherlands, [Completed Life: What are we talking about?](#) 2010

J Rietjens and others, 'Two decades of research on euthanasia from the Netherlands: what have we learnt and what questions remain?' (2009) 6(3) [Journal of Bioethical Inquiry](#) 27.

H Buiting and others, 'Reporting of euthanasia and physician-assisted suicide in the Netherlands: descriptive study' (2009) 10(1) [BMC Med Ethics](#) 18.

J Griffiths, '[Physician-assisted suicide in the Netherlands and Belgium](#)' in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

A van der Heide and others, 'End-of-Life Practices in the Netherlands under the Euthanasia Act' (2007) [New England Journal of Medicine](#), 356 (19) pp.1957-1965

J Legemaate, 'The Dutch Euthanasia Act and related issues' (2004) 11(3) [Journal of Law and Medicine](#) 312.

F Parkes, 'Tolerance and pragmatism in the Netherlands: euthanasia, coffeshops and prostitution in the purple years, 1994-2002' (2003) 5(4) [International Journal of Police Science and Management](#).

Belgium

The Belgian [Act on Euthanasia 2002](#) is similar to the Dutch Euthanasia Act, including similar criteria of due care.

J Robothan, 'Legal euthanasia does not increase rate, says Belgium expert', [Sydney Morning Herald](#), 29 October 2010.

T Smets, 'Legal euthanasia in Belgium: characteristics of all reported euthanasia cases' (2010) 48(2) [Medical Care](#) 187.

K Chambaere and others. 'Physician-assisted deaths under the euthanasia law in Belgium: a population-based survey' (2010) 182 (9) [Canadian Medical Association Journal](#) 895.

T Smets and others, 'The medical practice of euthanasia in Belgium and The Netherlands: legal notification, control and evaluation procedures' (2009) 90(2) [Health Policy](#) 181.

J Bilsen and others, 'Medical End-of-Life Practices under the Euthanasia Law in Belgium' (2009) 361 [New England Journal of Medicine](#) 1119.

J Bilsen and others, 'Changes in medical end-of-life practices during the legalization process of euthanasia in Belgium' (2007) 16(4) [Social Science & Medicine](#) 803.

Oregon and Washington

The [2009 summary](#) of the report on Oregon's Death with Dignity Act states:

Oregon's Death with Dignity Act, which was enacted in late 1997, allows terminally-ill adult Oregonians to obtain and use prescriptions from their physicians for self-administered, lethal doses of medications. The Oregon Public Health Division is required by the Act to collect information on compliance and to issue an annual report.

These annual reports, which contain a range of statistical and other material, are available at - [Oregon Death with Dying Act records and reports](#). Oregon State Government also provides [FAQs about Oregon's Death with Dignity Act](#). Washington's [Death with Dignity Act](#) is based on the Oregon model.

KA Chamberlain, 'Looking for a "good death": the elderly terminally ill's right to die by physician assisted suicide' (2009) 17(1) [Elder Law Journal](#) 61.

L Ganzini and E Dahl, '[Physician-assisted suicide in Oregon](#)' in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

TE Quill, 'Legal regulation of physician-assisted death – the latest report card' (2007) 356(19) [The New England Journal of Medicine](#) 1911.

A Rothschild, 'Oregon: does physician assisted suicide work?' (2004) 12(2) [Journal of Law and Medicine](#) 21.

R Steinbrook, 'Physician assisted suicide in Oregon – an uncertain future' (2002) 346(6) [New England Journal of Medicine](#) 460.

United Kingdom

Debbie Purdy has multiple sclerosis and may, at some stage, want her husband to help her to travel to a jurisdiction where assisted suicide is permitted. She asked the DPP to identify the factors he takes into account in deciding whether to give his consent to prosecution for the offence of assisting suicide contrary to the *Suicide Act 1961* (UK), s 2. The DPP declined. Purdy sought judicial review. In [R \(on the application of Purdy\) v DPP](#) [2009] UKHL 45 the Law Lords granted her application and ordered the DPP to set out a policy identifying the facts and circumstances he will take into account in a case such as hers. Published in February 2010 by the Crown Prosecution Service (England and Wales) was [Policy for prosecutors in respect of cases of encouraging or assisting suicide](#).

In [R \(Nicklinson\) v Ministry of Justice](#) [2012] EWHC 2381, the High Court rejected an application for judicial review by two persons who were suffering from catastrophic

physical difficulties and who wished to obtain assistance to end their lives. The claimants unsuccessfully sought declarations in relation to a number of issues, including whether voluntary euthanasia was a possible defence to murder; whether the Suicide Act was incompatible with the European Convention on Human Rights, and whether the DPP had a duty to clarify existing policy on assisted suicide so that third parties providing assistance in Switzerland would know whether they faced prosecution in the UK. Mr Nicklinson died shortly after the decision. His wife has been granted leave to appeal his case in relation to the human rights issue and another man (Paul Lamb) has joined the appeal.

S Burns, [‘The death of humanity?’](#), *New Law Journal*, 14 September 2012.

All Party Parliamentary Group, [Safeguarding Choice: a draft Assisted Dying Bill for consultation](#), 2012

[The Commission on Assisted Dying](#), January 2012, Demos.

R Daw and A Solomon, 'Assisted suicide and identifying the public interest in the decision to prosecute' [2010] Issue No 10 [Criminal Law Review](#) 737.

B Murphy, 'Human rights, human dignity and the right to die: lessons from Europe on assisted suicide' (2009) 33(6) [Criminal Law Journal](#) 341.

J Keown, 'Purdy: assisted suicide by judicial legislation' (2009) Vol 159, No 7387 [New Law Journal](#) 1340.

M Hirst, 'Assisted suicide after Purdy: the unresolved issue' [2009] Issue 12 [Criminal Law Review](#) 870.

S McLean, [‘Assisted dying: the view from the United Kingdom’](#) in *Giving Death a Helping Hand*, edited by D Birnbacher and E Dahl, Springer-Verlag, 2008.

D Bell, 'The legal framework for end of life care: a United Kingdom perspective' (2007) 33 [Intensive Care Med](#) 158.

House of Lords, [Assisted Dying for the Terminally Ill Bill: First Report](#), Session 2004-05.

Guardian.co.uk has an [‘Assisted Suicide’](#) page which houses opinions and a database of international news articles on the topic.

Canada

M Butler et al, [Euthanasia and assisted suicide in Canada](#), Background Paper, Library of Parliament, 15 February 2013

K Dougherty, [‘Dying with Dignity Law on its Way’](#), *Montreal Gazette*, 15 January 2013

Quebec National Assembly Select Committee on Dying with Dignity, [Dying with Dignity](#), Report, March 2012

Royal Society of Canada Expert Panel, [End-of-Life Decision-Making](#), Report, November 2011

Francine Lalonde [An Act to Amend the Criminal Code \(Right to Die with Dignity\) 2010](#) C-384 (Private Members Bill). This Bill was defeated by 228 votes to 59.

New Zealand

[R v Mott](#) [2012] NZHC 2366. A man who pleaded guilty to assisting his wife to commit suicide was discharged without conviction (previous sentencing decisions in New Zealand are referred to in the judgment).

Maryan Street, [End of Life Choice Bill](#) (Draft for Consultation), July 2012

NZ Parliamentary Library, [Voluntary Euthanasia and New Zealand](#), Background Note 07/2003, 22 September 2003

Peter Brown, [Death with Dignity Bill 2003](#). The Bill was defeated on 30 July 2003 by 60 votes to 58.

Advocacy groups for and against euthanasia

[Dying with Dignity NSW](#)
[Exit International Australia](#)
[NSW Right to Life](#)
[Euthanasia.com](#)

Authors: Gareth Griffith and Lenny Roth

Last updated: 3 May 2013

For further information please contact the Library on 9230 2356

Issues Backgrounders are prepared by the NSW Parliamentary Library for Members of Parliament on Bills or subjects of topical importance.

This Issues Backgrounder provides links to parliamentary material, journal articles, media articles and interest group web sites to provide Members with detailed information relating to matters under consideration by the NSW Parliament. Although every attempt is made to ensure that the information provided is correct at the time of publication, no guarantee can be made as to its ongoing relevancy or accuracy. This Issues Backgrounder should not be considered a comprehensive guide to this particular subject and is only a representative sample of the information available. This Issues Backgrounder does not constitute a professional legal opinion.