

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1243

By: Hendrick of the Senate

and

Vaughn of the House

(health care professionals - punitive damages - actions
or proceedings - license - codification - emergency)

AUTHORS: Add the following House Coauthors: Claunch and Ramsey

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

An Act relating to public health and safety; enacting
the Assisted Suicide Prevention Act; providing
short title; stating legislative intent; defining
terms; prohibiting certain conduct; stating
exceptions; authorizing injunctive relief;
authorizing action for civil damages; providing for
license revocation under certain circumstances;
providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 8 of this act shall be known and may be cited as the "Assisted Suicide Prevention Act".

B. It is the intent of the Oklahoma Legislature to protect vulnerable persons from suicide, to reduce the cost to taxpayers of enforcing the assisted-suicide laws by promoting civil enforcement and providing for reimbursement of attorney fees by those found to be violating the law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Assisted Suicide Prevention Act:

1. "Licensed health care professional" means a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist; and

2. "Suicide" means the act or instance of intentionally taking one's own life.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A person violates the Assisted Suicide Prevention Act when the person, with the purpose of assisting another person to commit or to attempt to commit suicide, knowingly either:

1. Provides the physical means by which another person commits or attempts to commit suicide; or

2. Participates in a physical act by which another person commits or attempts to commit suicide.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A licensed health care professional who administers, prescribes, or dispenses medications or procedures for the purpose of alleviating pain or discomfort, even if their use may increase the risk of death, shall not be deemed to have violated Section 3 of this act or Section 813 or 814 of Title 21 of the Oklahoma Statutes so long as such medications or procedures are not also furnished for the purpose of causing, or the purpose of assisting in causing, death for any reason.

B. A licensed health care professional who withholds or withdraws a medically administered, life-sustaining procedure does not violate Section 3 of this act or Sections 813 or 814 of Title 21 of the Oklahoma Statutes.

C. This section shall not be construed to affect the duty of care or the legal requirements concerning acts or omissions under subsections A or B of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate, who is in the course of violating, or who has violated Section 3 of this act by any person who is:

1. The spouse, parent, child, or sibling of the person who would commit suicide;
2. Entitled to inherit from the person who would commit suicide;
3. A current or former health care provider of the person who would commit suicide;
4. A public official with appropriate jurisdiction to prosecute or enforce the laws of this state;
5. A guardian of the person who would commit suicide;
6. The Department of Human Services; or

7. An attorney-in-fact of the person who would commit suicide. Such an injunction shall legally prevent the person from assisting any suicide in this state regardless of who is being assisted.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person given standing by paragraph 1 or 2 of Section 5 of this act, or the person who would have committed suicide, in the case of an attempt, may maintain a cause of action against any person who violates or attempts to violate Section 3 of this act for compensatory damages and punitive damages. Any person given standing by paragraphs 3 through 7 of Section 5 of this act may maintain a cause of action against any person who violates or attempts to violate Section 3 of this act for punitive damages. An action under this section may be brought whether or not the plaintiff had prior knowledge of the violation or attempt.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

In any action or proceeding brought pursuant to Section 5 or 6 of this act, the court shall allow the prevailing plaintiff a reasonable attorney fee as part of its costs. If the court determines that the action or proceeding was brought frivolously or in bad faith, the court shall allow a prevailing defendant a reasonable attorney fee as part of its costs.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3141.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

The licensing agency which issued a license or certification to a licensed health care professional who assists in a suicide in violation of Section 3 of this act shall revoke or suspend the license or certificate of that person upon receipt of:

1. A copy of the record of criminal conviction or plea of guilty for a felony in violation of Section 813, 814 or 815 of Title 21 of the Oklahoma Statutes;

2. A copy of the record of a judgment of contempt of court for violating an injunction issued under Section 5 of this act; or

3. A copy of the record of a judgment assessing damages under Section 6 of this act.

SECTION 9. This act shall become effective November 1, 1998."

Passed the House of Representatives the 8th day of April, 1998.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate