




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 14 September 2021

VOLUNTARY ASSISTED DYING BILL

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (12.47 pm): I am proud to rise in support of this very important bill. Access to voluntary assisted dying for all Queenslanders is about providing those who are nearing the end of their life with greater choice about how, when and where they die. I acknowledge that this is a very personal and important issue for many Queenslanders. This is not a choice between life and death; it is a choice for those who are dying, that is, to be able to make the choice to have dignity in death. This bill will provide Queenslanders with that choice.

Navigating and distilling the diverse and divergent stakeholder views into a draft bill was no easy task and I begin by acknowledging the incredible work of the Queensland Law Reform Commission. They undertook extensive consultation, thorough research and months and months of deep consideration on every single issue in order to prepare a legislative framework for voluntary assisted dying. I especially acknowledge the leadership of this work by the Chairperson of the QLRC, the Hon. Justice Peter Applegarth, and thank the other members of the commission who worked on the report: the Hon. Margaret Wilson QC, Dr Nigel Stobbs, Ms Ruth O’Gorman, Ms Penelope White, Judge Anthony Rafter SC, Mr Mark Hinson QC, Ms Clare Endicott and Ms Constance Johnson. They met with a diverse range of stakeholders including health practitioners, organisations, religious bodies, unions, legal bodies and members of the public.

The QLRC’s members met more frequently to consider in-depth the human rights engaged, how to ensure appropriate safeguards for vulnerable persons and ways in which the scheme could be developed so that it was suitable and appropriate for Queensland’s diverse, geographic, cultural and healthcare environment.

I also want to thank the Health and Environment Committee and, in particular, its chair, the member for Thuringowa. Thank you to everyone who came forward and made a submission or attended a public hearing. Together, the committee and the QLRC heard from thousands of Queenslanders and heard many of their personal and emotional stories. Thank you to all.

Like so many Queenslanders, I have lost a loved one to a terminal illness. I was just 14 as I watched my grandad suffer from terminal brain cancer. I still to this day clearly remember the pain and suffering he endured as he deteriorated towards the end of his life. When he was diagnosed with his illness, he said to my mum, ‘I am not afraid of dying. I am afraid of the way in which I am going to die.’ My grandad’s wish was to die with dignity, but he was not given a choice of how, when and where he would die. This bill before us, at its heart, is about giving people that choice.

An integral part of the bill is the establishment of safeguards to protect vulnerable persons from coercion and exploitation. The bill incorporates a staged request and assessment process. A person is required to make three separate requests, one of which must be witnessed and in writing, with a minimum waiting period of nine days between the first and final request. The witness cannot be someone who knows or believes that they are a beneficiary under the will of the person seeking to

access the scheme, or may otherwise benefit financially, or in any other material way from the death of the person making the request, or is an owner or responsible for the management of any health facility at which the person making the request is being treated or resides, or is the coordinating practitioner or consulting practitioner. These exceptions provide an important safeguard against coercion.

In addition, the person must be independently assessed against the eligibility criteria by two medical practitioners who are qualified and trained to do so. Those safeguards are reinforced, in the case of registered health practitioners, by codes of ethics and professional standards and processes to enforce them. It is important to note that these elements, while providing increased accessibility, are not done at the expense of safeguards.

Central to this bill is the principle that all persons, including health practitioners, have freedom of thought, conscience and belief. Entities including faith based hospitals and other services, also have general legal rights to choose not to offer certain types of services. The QLRC took considerable time determining an appropriate balance of these rights. The bill provides for registered health practitioners who have a conscientious objection to voluntary assisted dying to have the right to refuse to participate in the process.

Unlike in other jurisdictions, the bill provides certainty in our legislative framework for the participation of entities in the scheme. As professors Willmott and White said in a recent opinion piece on the bill—

This is important because there is evidence in Victoria that institutions are blocking access to voluntary assisted dying.

I understand that there are considerable concerns from some of our faith based entities about this feature of the legislation. I also, though, want to put on record that it will be a very rare occurrence for patients to seek voluntary assisted dying services from an entity known to be opposed to this scheme. It stands to reason that any person wishing to access voluntary assisted dying is unlikely to choose to reside or seek treatment from an entity that is known to be opposed to the scheme. The majority of patients will seek out entities that are known to participate in the scheme or patients will consider a transfer to another facility where it is safe to do so.

The government has, however, taken considerable time to consult with these institutions and has committed to putting in place clear, clinical guidelines relating to the participation of entities. This will provide certainty and help entities develop policies and help manage referral pathways, patient transfer arrangements, clinical handovers and, importantly, will ensure that they are properly consulted.

I would also like to acknowledge the many members of my local community who have reached out to me with their views on this issue. During this debate, I have been reflecting on the words of my good friend and constituent, Yvonne Breitreutz from Bethania, who shared her thoughts with me based on her faith and Christian upbringing. She said to me in an email—

The Christian belief is that dying is the act of leaving this earthly life and meeting our Maker in the world to come. Surely this means that suffering should not accompany any act of dying. The Christian believes that there is a peace which passes all understanding in the world to come. Then why let people suffer terrible pain, debilitation and all the other horrific health issues that arise in order to prolong life? It is not prolonging life anyway. It is extending the process of dying a terrible death. It is completely logical therefore for the Christian that having this trust in the Lord means no fear of dying itself. This is my strong belief as a Christian so therefore I would support this Bill.

Thank you, Yvonne, and the many other residents who reached out to me to talk to me about their deeply held personal views.

Apart from recommending that this bill be passed, the committee made two other important recommendations: that the Commonwealth government amend the Criminal Code Act 1995 by inserting a definition declaring that suicide does not include voluntary assisted dying carried out lawfully pursuant to a law of a state or territory, and that the Commonwealth Director of Public Prosecutions issue prosecutorial charging guidelines indicating that the offences in sections 474.29A and 474.29B of the Criminal Code will not be prosecuted where a doctor or other person is acting in accordance with the procedure outlined in a state or territory law.

These provisions in the Criminal Code make it an offence to use a carriage service which can be as simple as a telephone call or email to distribute material that counsels committing or attempting to commit suicide.

These Commonwealth provisions may have the effect of limiting access to voluntary assisted dying by Queenslanders, particularly in rural and remote areas, unable to have conversations over the phone or via email, such as telehealth. It is a concern for medical practitioners in providing information about the scheme or whether or not someone would be eligible. I urge the Commonwealth to create certainty around the application of these laws for the benefit of all Queenslanders.

I would like to conclude my contribution by thanking the many organisations and advocates that I have met with and discussed who have been advocating for these laws for many years. In particular I thank David Muir, Peter Johnson and the Clem Jones Group, Dying with Dignity, in particular Dr Jenny Brown and Jeanette Wiley, Dr Sid Finnigan from Doctors for Assisted Dying, Andrew Denton and Go Gentle Australia, the Queensland union movement, and in particular Penny Tovey and the team at the ETU, Labor for Dignity and the thousands of Queenslanders who have made their voices heard.

This bill will give those Queenslanders who are suffering and dying and who are eligible under the scheme the choice about whether or not to die with dignity. This is rightly their choice to make within the scheme of this bill. The bill, in my view, strikes the right balance and offers the appropriate safeguards.