

2024

**Legislative Assembly for the
Australian Capital Territory**

**Amendments to the
Voluntary Assisted Dying Bill 2023**

Supplementary Explanatory Statement

Presented by

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AMENDMENTS TO THE VOLUNTARY ASSISTED DYING BILL 2023

This explanatory statement relates to the Voluntary Assisted Dying Bill 2023 as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the bill and to help inform debate on it. It does not form part of the bill and has not been endorsed by the Assembly. The Statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Purpose

The proposed amendment to the bill would amend the section of the Voluntary Assisted Dying Bill 2023 which deals with the Review of the Act.

This amendment will limit the review to the operation and effectiveness of the Act.

Clause Notes

Part 12, clause 159 – review of act

This amendment will remove all of (2) in clause 159 in relation to the review of the Act.

The amended clause 159 will retain (1) (a) and (b) and remove the requirement for the Review to consider whether an individual should be allowed access to voluntary assisted dying under this Act if the individual has lived in the ACT for less than 12 months and is not eligible for an exemption under section 151; is a child with decision making capacity in relation to voluntary assisted dying; or seeks to access voluntary assisted dying through advanced care planning.

Prescribing what the review should consider, could be seen as pre-empting the outcome and removing impartiality. It is noted that this amendment does not prevent the review from considering a range of matters, but rather it does not specifically prescribe those issues the review must consider.

In relation to the Review considering whether a child should be allowed access to voluntary assisted dying, it is noted that the Government's own Explanatory Statement on the Bill details that there are still gaps in the evidence regarding the capacity of minors to give voluntary and informed consent to voluntary assisted dying.

CONSISTENCY WITH HUMAN RIGHTS

By removing the requirement for the Review to consider whether a child should be allowed access to voluntary assisted dying, the amendment promotes a child's right to life, which is section 9 of the HRA and the right to protection in section 11(2) of the HRA.