



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

H.B. No. 5898 (RAISED) AN ACT CONCERNING AID IN DYING FOR TERMINALLY ILL PATIENTS.

JOINT COMMITTEE ON PUBLIC HEALTH
March 2019

The Division of Criminal Justice takes no position on the concept of H.B. No. 5898, An Act Concerning Aid in Dying for Terminally Ill Patients, but must raise the same concerns that we brought to the Joint Committee on Judiciary when similar legislation was proposed in 2015 (H.B. No. 7015). We state again, as we did then, that the bill as now written could have unintended and very unwelcome consequences.

Section 9 (b) of H.B. No. 5898 effectively mandates the falsification of death certificates under certain circumstances. It states: “The person signing the qualified patient’s death certificate shall list the underlying terminal illness as the cause of death.” This simply is not the case; the actual cause of death would be the medication taken by or given to the patient. This language contradicts the death certificate form itself, which states for the person making the certification: “On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.”

This becomes problematic when read in conjunction with Section 14 of the bill, which criminalizes certain conduct with regard to the “aid in dying” as defined by the overall bill. The practical problem for the criminal justice system will be confronting a potential Murder prosecution where the cause of death is not accurately reported on the death certificate. Should the Committee choose to move forward with H.B. No. 5898, the Division would respectfully recommend that Section 9 (b) be deleted in its entirety.

Section 14 of the bill makes unnecessary changes to the statutory framework for what constitutes the crime of Murder, and the results can best be described as bizarre. As now written, there is no causation requirement, which is an essential element of the crime of Murder. Section 14 provides that a person is guilty of Murder when that person (1) willfully alters or forges a request for aid in dying or conceals or destroys a rescission of such a request with the intent or effect of causing the patient’s death; or (2) coerces or exerts undue influence on a patient to either complete a request for aid in dying or to destroy a rescission of such a request with the intent or effect of causing the patient’s death.

None of these proscribed acts causes death. In fact, under Section 14 death is not necessarily required before Murder could be charged. Willfully altering or forging a request for aid in dying, or concealing or destroying a rescission, may offer evidence of an intent to kill, but it does not cause death. Taking the fatal dose causes death and that is Murder only if the actor himself or herself administers it to the patient, or he or she coerces, forces or tricks a patient he or she knows does not want to die into self-administering the medication. Section 14 of the bill, and any associated references to it, must be deleted for these reasons.

In conclusion, the Division respectfully recommends that should the Committee choose to proceed with H.B. No. 5898, that the Committee amend the legislation to delete Section 9 (b) in its entirety and to delete Section 14 and all references to it. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.