

ASSEMBLY, No. 5525

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman ROBERT AUTH
District 39 (Bergen and Passaic)

Co-Sponsored by:

Assemblymen Space, Dancer and DiMaio

SYNOPSIS

Repeals “Medical Aid in Dying for the Terminally Ill Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning medical aid in dying for the terminally ill,
2 amending P.L.1991, c.270 and N.J.S.2C:11-6, and repealing
3 sections 1 through 26 of P.L.2019, c.59.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to
9 read as follows:

10 1. a. Any person who is licensed in the State of New Jersey to
11 practice psychology, psychiatry, medicine, nursing, clinical social
12 work, or marriage and family therapy, whether or not compensation
13 is received or expected, is immune from any civil liability for a
14 patient's violent act against another person or against himself unless
15 the practitioner has incurred a duty to warn and protect the potential
16 victim as set forth in subsection b. of this section and fails to
17 discharge that duty as set forth in subsection c. of this section.

18 b. A duty to warn and protect is incurred when the following
19 conditions exist:

20 (1) The patient has communicated to that practitioner a threat of
21 imminent, serious physical violence against a readily identifiable
22 individual or against himself and the circumstances are such that a
23 reasonable professional in the practitioner's area of expertise would
24 believe the patient intended to carry out the threat; or

25 (2) The circumstances are such that a reasonable professional in
26 the practitioner's area of expertise would believe the patient
27 intended to carry out an act of imminent, serious physical violence
28 against a readily identifiable individual or against himself.

29 **【A duty to warn and protect shall not be incurred when a
30 qualified terminally ill patient requests medication that the patient
31 may choose to self-administer in accordance with the provisions of
32 P.L.2019, c.59 (C.26:16-1 et al.).】**

33 c. A licensed practitioner of psychology, psychiatry, medicine,
34 nursing, clinical social work, or marriage and family therapy shall
35 discharge the duty to warn and protect as set forth in subsection b.
36 of this section by doing one or more of the following:

37 (1) Arranging for the patient to be admitted voluntarily to a
38 psychiatric unit of a general hospital, a short-term care facility, a
39 special psychiatric hospital, or a psychiatric facility, under the
40 provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

41 (2) Initiating procedures for involuntary commitment to
42 treatment of the patient to an outpatient treatment provider, a short-
43 term care facility, a special psychiatric hospital, or a psychiatric
44 facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et
45 seq.);

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (3) Advising a local law enforcement authority of the patient's
2 threat and the identity of the intended victim;

3 (4) Warning the intended victim of the threat, or, in the case of
4 an intended victim who is under the age of 18, warning the parent
5 or guardian of the intended victim; or

6 (5) If the patient is under the age of 18 and threatens to commit
7 suicide or bodily injury upon himself, warning the parent or
8 guardian of the patient.

9 d. A practitioner who is licensed in the State of New Jersey to
10 practice psychology, psychiatry, medicine, nursing, clinical social
11 work, or marriage and family therapy who, in complying with
12 subsection c. of this section, discloses a privileged communication,
13 is immune from civil liability in regard to that disclosure.

14 e. In addition to complying with subsection c. of this section, a
15 licensed practitioner shall notify the chief law enforcement officer
16 of the municipality in which the patient resides or the
17 Superintendent of State Police if the patient resides in a
18 municipality that does not have a full-time police department that a
19 duty to warn and protect has been incurred with respect to the
20 patient and shall provide to the chief law enforcement officer or
21 superintendent, as appropriate, the patient's name and other non-
22 clinical identifying information. The chief law enforcement officer
23 or superintendent, as appropriate, shall use that information to
24 ascertain whether the patient has been issued a firearms purchaser
25 identification card, permit to purchase a handgun, or any other
26 permit or license authorizing possession of a firearm.

27 If the patient has been issued a firearms purchaser identification
28 card, permit to purchase a handgun, or any other permit or license
29 authorizing possession of a firearm, or if there is information
30 indicating that the patient otherwise may have access to a firearm,
31 the information provided may be used in determining whether the
32 patient has become subject to any of the disabilities set forth in
33 subsection c. of N.J.S.2C:58-3. If the chief law enforcement officer
34 or superintendent, as appropriate, determines that the patient has
35 become subject to any of the disabilities set forth in subsection c. of
36 N.J.S.2C:58-3, any identification card or permit issued to the
37 patient shall be void and subject to revocation by the Superior Court
38 in accordance with the procedure established in subsection f. of
39 N.J.S.2C:58-3.

40 If the court determines that the patient is subject to any of the
41 disabilities set forth in subsection c. of N.J.S.2C:58-3 and revokes
42 the patient's firearms purchaser identification card in accordance
43 with the procedure established in subsection f. of N.J.S.2C:58-3, the
44 court may order the patient to surrender to the county prosecutor
45 any firearm owned by or accessible to the patient and order the
46 prosecutor to dispose of the firearms. When the court orders the
47 county prosecutor to dispose of the firearms, the prosecutor shall
48 dispose of the firearms as provided in N.J.S.2C:64-6.

1 If the court, upon motion of the prosecutor, finds probable cause
2 that the patient has failed to surrender any firearm, card, or permit,
3 the court may order a search for and removal of these items at any
4 location where the judge has reasonable cause to believe these items
5 are located. The judge shall state with specificity the reasons and
6 the scope of the search and seizure authorized by the order.

7 A firearm surrendered or seized pursuant to this subsection
8 which is not legally owned by the patient shall be immediately
9 returned to the legal owner of the firearm if the legal owner submits
10 a written request to the prosecutor attesting that the patient does not
11 have access to the firearm.

12 A law enforcement officer or agency shall not be held liable in
13 any civil action brought by any person for failing to learn of, locate,
14 or seize a firearm pursuant to this subsection.

15 A patient who is determined to be subject to any of the
16 disabilities established in paragraph (3) of subsection c. of
17 N.J.S.2C:58-3 and submits a certificate of a medical doctor or
18 psychiatrist licensed in New Jersey, or other satisfactory proof in
19 accordance with that paragraph shall be entitled to the reinstatement
20 of any firearms purchaser identification cards, permits to purchase a
21 handgun, and any other permit or license authorizing possession of
22 a firearm seized pursuant to this subsection.

23 (cf: P.L.2019, c.59, s.27)

24

25 2. N.J.S.2C:11-6 is amended to read as follows:

26 2C:11-6. Aiding Suicide. A person who purposely aids
27 another to commit suicide is guilty of a crime of the second degree
28 if his conduct causes such suicide or an attempted suicide, and
29 otherwise of a crime of the fourth degree. **【Any action taken in
30 accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.)
31 shall not constitute suicide or assisted suicide.】**

32 (cf: P.L.2019, c.59, s.28)

33

34 3. Sections 1 through 26 of P.L.2019, c.59 (C.26:16-1 et al.)
35 are repealed.

36

37 4. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill repeals the “Medical Aid in Dying for the Terminally Ill
43 Act,” P.L.2009, c.59 (C.26:16-1 et seq.), which allows terminally ill
44 patients to request medication that the patient may self-administer
45 to terminate the patient’s life.