



Legislative Summary

BILL C-7: AN ACT TO AMEND THE CRIMINAL CODE (MEDICAL ASSISTANCE IN DYING)

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Legislative Summary of Bill C-7
(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-7: AN ACT TO AMEND THE CRIMINAL CODE (MEDICAL ASSISTANCE IN DYING)

1 BACKGROUND

Bill C-7, An Act to amend the Criminal Code (medical assistance in dying) was introduced in the House of Commons by the Minister of Justice on 24 February 2020 and received first reading that same day.¹ With the prorogation of the first session of the 43rd Parliament, that bill died on the *Order Paper*, but it was reintroduced in identical form and with the same number, C-7, on 5 October 2020.² The bill was read a second time and referred to the House of Commons Standing Committee on Justice and Human Rights (JUST) on 29 October 2020. JUST reported the bill, with amendments, to the House of Commons on 25 November 2020. Third reading took place on 10 December 2020, with no further amendments. In the meantime, the Standing Senate Committee on Legal and Constitutional Affairs (LCJC) began a pre-study of the bill. LCJC **issued an interim report**³ on 10 December 2020, the same day as first reading of Bill C-7 in that chamber. The bill was read a second time on 17 December 2020 and referred to LCJC, **which held meetings on the bill, in addition to the meetings it held during the pre-study. On 8 February 2021, LCJC presented its final report on the pre-study⁴ and also reported the bill back with observations but no amendments that same day.**⁵

Bill C-7 was amended in the Senate at third reading and passed on 17 February 2021 whereupon a message was sent to the House of Commons.⁶ The House of Commons then considered the Senate amendments and sent a message back to the Senate on 11 March 2021 agreeing with some of the amendments and disagreeing with others.⁷

The Senate concurred in the House of Commons amendments on 17 March 2021, and Bill C-7 received Royal Assent that same day.

Bill C-7 includes the federal response to the September 2019 Superior Court of Quebec decision in *Truchon c. Procureur général du Canada*,⁸ which related to the federal *Criminal Code* (the Code) provisions on medical assistance in dying (MAID)⁹ and Quebec's *Act respecting end-of-life care*.¹⁰ That decision declared that the Code requirement that a person could be eligible for MAID only if natural death was "reasonably foreseeable" was contrary to the *Canadian Charter of Rights and Freedoms*.

The amendments to the Code that are proposed in Bill C-7 also address some issues that have been raised since the Code provisions on MAID were first introduced in 2016. The bill amends the Code provisions on MAID by establishing a separate set of procedural safeguards for individuals whose natural death is not reasonably foreseeable and making some amendments to the safeguards that apply in the case of individuals whose natural death is reasonably foreseeable.

Bill C-7 also amends the eligibility criteria by establishing that mental illness is not an illness, disease or disability for the purpose of determining eligibility for MAID.

Following the tabling of the first Bill C-7, in the previous session of this Parliament, the Department of Justice presented a report on the results of consultations that had been held by the federal government in January and February 2020. Those consultations sought input from Canadians on issues relating to MAID, including whether MAID should be available to a person whose sole underlying condition is a mental illness.¹¹

1.1 *CARTER V. CANADA (ATTORNEY GENERAL) AND STUDIES IN THE WAKE OF CARTER*

The Code provisions relating to MAID were first introduced in 2016 by Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying).¹² Bill C-14 was introduced in response to the February 2015 Supreme Court of Canada decision in *Carter v. Canada (Attorney General)*.¹³ In *Carter*, the Court declared that sections 241(b) and 14 of the Code, which prohibited assistance in terminating life, infringed upon the Charter right to life, liberty and security of the person for individuals who want access to an assisted death. As a result, the provisions were found to be invalid. The Court suspended the declaration of invalidity for one year, and then for an additional four months at the request of the Attorney General of Canada.

In August 2015, the federal government established the External Panel on Options for a Legislative Response to *Carter v. Canada*. Although the panel was initially mandated both to carry out consultations on issues relating to assisted dying and to provide recommendations on legislative options, its mandate was revised to summarizing the key findings of the consultations instead. Those findings were released in December 2015.¹⁴ The Provincial–Territorial Expert Advisory Group on Physician-Assisted Dying was also established in August 2015; it presented its final report, containing 43 recommendations, on 30 November 2015.¹⁵

In December 2015, a special joint committee was established, consisting of members of Parliament and senators. The Special Joint Committee on Physician-Assisted Dying met in January and February of 2016, and its report, adopted by a majority of committee members, set out recommendations for a legislative framework on assisted dying.¹⁶ The report emphasized the need for the federal government to work collaboratively

with the provinces on this issue. While many of the special joint committee's recommendations were reflected in Bill C-14, two exceptions later formed the basis of separate reviews:

- that competent mature minors should have access to MAID within three years of the coming into force of the provisions relating to MAID for competent adults (and that during that three-year period, the issue of competent mature minors and MAID be examined) (recommendation 6); and
- that advance requests for MAID should be permitted in certain circumstances (recommendation 7).

The special joint committee also recommended that a psychiatric condition should not be a bar to eligibility (recommendation 3). Although individuals with a psychiatric condition or mental illness were not specifically excluded from being eligible for MAID, an expert panel that considered mental illness in the context of MAID noted that “[m]ost people with a mental disorder as their sole underlying medical condition cannot satisfy the current eligibility criteria for MAID.”¹⁷

1.2 BILL C-14, AN ACT TO AMEND THE CRIMINAL CODE AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS (MEDICAL ASSISTANCE IN DYING)¹⁸

Bill C-14 was introduced in the House of Commons on 14 April 2016 and received Royal Assent on 17 June 2016.¹⁹ The bill defined “medical assistance in dying” as

- (a) the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or
- (b) the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.

Bill C-14 included amendments to the Code providing exemptions from criminal liability for a number of people, including medical practitioners and nurse practitioners (NPs) who provide MAID and persons who assist them, such as pharmacists. In the context of individuals who have been approved for MAID and who choose to self-administer a substance to end their life, an individual who helps the person to self-administer is also exempt.

Other Code amendments contained both eligibility criteria for individuals who seek MAID and procedural safeguards. To be eligible for MAID, a person must

- be eligible for government-funded health services in Canada (section 241.2(1)(a));

- be 18 years of age or older, and capable of making health-related decisions (section 241.2(1)(b));
- have a “grievous and irremediable medical condition” (section 241.2(1)(c));
- make a voluntary request for MAID that is not coerced (section 241.2(1)(d)); and
- after having been provided with information about ways to alleviate suffering, give informed consent to MAID (section 241.2(1)(e)).

To have a “grievous and irremediable medical condition,” a person must

- have a serious and incurable illness, disease or disability (section 241.2(2)(a));
- be in an advanced state of irreversible decline in capability (section 241.2(2)(b));
- have enduring physical or psychological suffering “that is intolerable to them and that cannot be relieved under conditions that they consider acceptable” (section 241.2(2)(c)); and
- be in a state in which “natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining” (section 241.2(2)(d)).

The Code amendments also established offences for failing to comply with the safeguards (section 241.3), forging or destroying documents (section 241.4) and failing to comply with reporting requirements or contravening regulations (respectively sections 241.31(4) and 241.31(5)).

The final version of Bill C-14 included a requirement that one or more independent reviews be conducted on three circumstances under which MAID is currently restricted:

- MAID for mature minors;
- advance requests for MAID; and
- requests for MAID where mental illness is the sole underlying condition.²⁰

Reviews were carried out by three separate working groups of the Council of Canadian Academies, each of which released a report in December 2018.²¹

The *Regulations for the Monitoring of Medical Assistance in Dying*, which outline the reporting requirements relating to MAID requests, came into force in November 2018.²²

1.3 COURT CHALLENGES TO THE *CRIMINAL CODE* AMENDMENTS

There have been two high-profile challenges to the Code's MAID provisions. Julia Lamb, who has spinal muscular atrophy type 2, challenged the law as being too restrictive in requiring that a person be in an "advanced state of irreversible decline" and that a person's "natural death has become reasonably foreseeable."²³ The case, however, was adjourned after the Attorney General of Canada put forward expert evidence suggesting that Julia Lamb would likely be found to meet the criterion of having a reasonably foreseeable natural death.²⁴

The second high-profile case was brought by Jean Truchon and Nicole Gladu. Jean Truchon had cerebral palsy and was diagnosed with severe spinal stenosis and myelomalacia in 2012. Nicole Gladu was diagnosed with post-polio syndrome at the age of 47. As Quebec residents, they challenged both the Code requirement that their natural deaths be "reasonably foreseeable" and the Quebec assisted dying law requirement that they be "at the end of life." Both had made a request for MAID and had been found to meet all of the eligibility criteria except for those requirements.²⁵

On 11 September 2019, the Superior Court of Quebec declared that the Code provision that required a person's natural death to be "reasonably foreseeable" in order for that person to receive MAID was contrary to the rights to life, liberty and security of the person contained in section 7 of the Charter.²⁶ The judge also declared that that section of the Code and the section of the Quebec assisted dying law that required a person to be "at the end of life" in order to receive MAID were contrary to the equality rights provisions contained in section 15 of the Charter. Accordingly, those sections of those laws were declared invalid, with that declaration suspended for six months. The applicants were granted a constitutional exemption permitting them to access MAID during the suspension period.²⁷ **Four extensions to the suspension were requested by the Attorney General of Canada; all were granted.**²⁸ Neither the federal government nor the Government of Quebec appealed the ruling.

2 DESCRIPTION AND ANALYSIS

Bill C-7 contains **six** clauses. Key clauses are discussed in the following section.

As with Bill C-14, which introduced the first set of MAID amendments to the Code, Bill C-7 has a preamble that addresses a broad range of issues. Some of the provisions in the preamble are similar to those in Bill C-14, while others are new. For example, Bill C-7 refers to Canada's obligations under the *United Nations Convention on the Rights of Persons with Disabilities*, which Bill C-14 did not. The preamble in Bill C-7 also addresses the evolution of the law as a consequence of the *Truchon* case, stating that Parliament no longer sees the need to limit MAID to individuals whose natural death is reasonably foreseeable (while acknowledging the need for extra safeguards in cases where such death is not reasonably foreseeable).

2.1 THE “NATURAL DEATH HAS BECOME REASONABLY FORESEEABLE” CRITERION (CLAUSE 1(1))

Currently, section 241.2(2)(d) of the Code requires that the person’s

natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining.

As noted above, the *Truchon* decision found that provision to be unconstitutional.

In response to *Truchon*, clause 1(1) of Bill C-7 repeals section 241.2(2)(d) of the Code so that a person’s natural death no longer has to be reasonably foreseeable in order for that person to be eligible for MAID. As explained further below, however, the bill provides for two different sets of safeguards according to whether a person’s natural death is or is not reasonably foreseeable.

2.2 MENTAL ILLNESS AS THE SOLE UNDERLYING CONDITION (CLAUSES 1(2) AND 6)

Section 241.2(1)(c) of the Code lists a grievous and irremediable condition as a requirement for a person to be eligible for MAID. Section 241.2(2) defines a grievous and irremediable condition, one of whose elements is having a “serious and incurable illness, disease or disability.” The Department of Justice stated in *Legislative Background: Medical Assistance in Dying (Bill C-14)* that

people with a mental illness or physical disability would not be excluded from the regime but would ... be able to access medical assistance in dying [only] if they met all of the eligibility criteria.²⁹

That document recognizes that requests for MAID due to mental illness are complex and require additional study.

As noted above, after Bill C-14 received Royal Assent, the Council of Canadian Academies was tasked with studying three issues, one of which was requests for MAID where mental illness is the sole underlying condition. Their report acknowledges that some individuals may satisfy the current criteria for MAID due to their mental illness, but others will not. It notes, however, that it will be rare that individuals whose sole underlying condition is mental illness will meet the eligibility criteria.³⁰

While *Truchon* did not involve individuals with a mental illness as the sole underlying condition, the elimination of the requirement for natural death to be reasonably foreseeable could have permitted MAID for more people with a mental illness as their sole underlying condition than is currently the case. However, clause 1(2)

of Bill C-7 adds a new section 241.2(2.1) to the Code, which states that a mental illness is not an illness, disease or disability for the purposes of section 241.2(2)(a).

This means that a mental illness alone is not enough to qualify for MAID under Bill C-7, even if the other criteria are satisfied. **The Senate added a provision to Bill C-7 that would have repealed new section 241.2(2.1) of the Code 18 months after the bill receives Royal Assent.³¹ The House of Commons revised the period after which the provision would be repealed to two years after the bill receives Royal Assent (clause 6).**

2.3 TWO SETS OF SAFEGUARDS (CLAUSES 1(3) TO 1(7))

Bill C-7 makes several changes to the safeguards in place when MAID is provided. Currently, one set of safeguards applies for all cases of MAID. The bill creates two sets of safeguards: one for requests where natural death is foreseeable and another for requests where it is not. Some of the safeguards are the same whether natural death is foreseeable or not, while others are different. Only those safeguards that are amended or added by Bill C-7 are discussed here.

In both situations, Bill C-7 establishes that only one person is required to witness the signing of the request, instead of the two witnesses that are currently required (amended section 241.2(3)(c) and new section 241.2(3.1)(c) of the Code).

The 10-day waiting period that is currently required between the signing of a request for MAID and the day that MAID is provided is eliminated from the requirements where natural death is foreseeable (amended section 241.2(3)(g)). The Minister of Justice, in his speech at second reading, stated that during public consultations the government heard that individuals have given MAID a lot of consideration by the time they make a written request and that the waiting period unnecessarily prolongs suffering.³²

For requests where natural death is not reasonably foreseeable, the bill introduces a 90-day waiting period between when the first assessment is made and the provision of MAID, unless both of the physicians or NPs are of the opinion that the person's loss of capacity is imminent. If loss of capacity is imminent, the physician or NP who is to provide MAID determines the waiting period that is appropriate in the circumstances (new section 241.2(3.1)(i) of the Code).

Currently, consent must be verified in all cases, immediately prior to MAID being provided. Where natural death is reasonably foreseeable, the bill permits this final consent to be waived (new sections 241.2(3.2) to 241.2(3.5) of the Code). The specific requirements that apply in such situations are discussed in the next section of this Legislative Summary.

For requests where natural death is not reasonably foreseeable, at first reading of the bill, one of the physicians or NPs assessing eligibility would have been required to have expertise in the condition that is causing the person’s suffering (new section 241.2(3.1)(e)). An amendment proposed by JUST and adopted in the House of Commons permits that, where neither of the physicians or NPs has such expertise, they may consult with a third physician or NP with such expertise as an alternative to satisfy the requirement for expertise in the condition (new section 241.2(3.1)(e.1)).

When natural death is not reasonably foreseeable, Bill C-7 also requires that the patient be informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care. The patient must also be offered consultations with relevant professionals who provide those services (new section 241.2(3.1)(g)). Finally, the physicians or NPs must discuss the reasonable and available means to relieve the person’s suffering with the person and agree that the person has given serious consideration to those means (new section 241.2(3.1)(h)). The Minister of Justice stated that these additional requirements were added to “clarify the notion of informed consent for these kinds of cases.”³³

The current safeguards and the two sets of safeguards proposed in Bill C-7, as amended by the House of Commons, are outlined in Table 1.

Table 1 – Comparison of the Current Safeguards with the Safeguards Provided for in Bill C-7

Current Safeguards: Section 241.2(3) of the <i>Criminal Code</i>	Safeguards in Bill C-7 When Natural Death Is Foreseeable: Amended Section 241.2(3) and New Sections 241.2(3.2) to 241.2(3.5) of the <i>Criminal Code</i>	Safeguards in Bill C-7 When Natural Death Is Not Foreseeable: New Section 241.2(3.1) of the <i>Criminal Code</i>
The physician or nurse practitioner (NP) is of the opinion that the person meets all the criteria set out in section 241.2(1).	No change	No change
The request for medical assistance in dying (MAID) is made in writing, and signed and dated by the person after they were informed that they have a grievous or irremediable medical condition.	No change	No change
The request is signed and dated before two independent witnesses.	The request is signed and dated before one independent witness. ^a	The request is signed and dated before one independent witness. ^a

<p>Current Safeguards: Section 241.2(3) of the <i>Criminal Code</i></p>	<p>Safeguards in Bill C-7 When Natural Death Is Foreseeable: Amended Section 241.2(3) and New Sections 241.2(3.2) to 241.2(3.5) of the <i>Criminal Code</i></p>	<p>Safeguards in Bill C-7 When Natural Death Is Not Foreseeable: New Section 241.2(3.1) of the <i>Criminal Code</i></p>
<p>The person is informed that they may, at any time and in any manner, withdraw their request.</p>	<p>No change</p>	<p>No change</p>
<p>A second physician or NP provides a written opinion confirming that the person meets the criteria.</p>	<p>No change</p>	<p>A second physician or NP provides a written opinion confirming that the person meets the criteria. If the first physician or NP does not have expertise in the condition that is causing the person's suffering, the written opinion must be provided by a physician or NP with that expertise or a third physician or NP with such expertise must be consulted.</p>
<p>The second physician or NP is independent from the first.</p>	<p>No change</p>	<p>No change</p>
<p>There are at least 10 clear days between the day that the request is signed and the day that MAID is provided (unless the person's death or loss of capacity to provide informed consent is imminent).</p>	<p>Section repealed</p>	<p>There are at least 90 clear days between the day on which the first assessment begins and the day MAID is provided, or – if the assessments have been completed and both of the physicians or NPs are of the opinion that the loss of the person's capacity to provide consent to receive medical assistance in dying is imminent – any shorter period that the physician or NP who is to provide MAID considers appropriate in the circumstances.</p>
<p>Immediately before providing MAID, the person is given the opportunity to withdraw the request, and the physician or NP ensures that the person is giving their express consent.</p>	<p>Immediately before providing MAID, the person is given the opportunity to withdraw the request, and the physician or NP ensures that the person is giving their express consent. However, this verification of final consent may be waived if certain criteria are met (see section 2.4 of this Legislative Summary for details).</p>	<p>Immediately before providing MAID, the person is given the opportunity to withdraw the request, and the physician or NP ensures that the person is giving their express consent. However, this verification of final consent may be waived if certain criteria are met. The scenarios in which a waiver of the verification can occur are more limited than when natural death is reasonably foreseeable (see section 2.4 of this Legislative Summary for details).</p>

Current Safeguards: Section 241.2(3) of the <i>Criminal Code</i>	Safeguards in Bill C-7 When Natural Death Is Foreseeable: Amended Section 241.2(3) and New Sections 241.2(3.2) to 241.2(3.5) of the <i>Criminal Code</i>	Safeguards in Bill C-7 When Natural Death Is Not Foreseeable: New Section 241.2(3.1) of the <i>Criminal Code</i>
If the person has difficulty communicating, reasonable measures must be taken to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision.	No change	No change
No equivalent	No equivalent	The person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care, and has been offered consultations with relevant professionals who provide those services or that care.
No equivalent	No equivalent	Both of the physicians or NPs have discussed with the person the reasonable and available means to relieve the person's suffering and agree with the person that the person has given serious consideration to those means.

Note: a. The provision regarding who can be a witness is changed by clause 1(8) of Bill C-7 as well. See section 2.5 of this Legislative Summary for further details.

Sources: Table prepared by the Library of Parliament based on a comparison of the existing law with Bill C-7. See [Criminal Code](#), R.S.C. 1985, c. C-46, s. 241.2(3); and [Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\)](#), 2nd Session, 43rd Parliament.

2.4 FINAL CONSENT WAIVER (CLAUSE 1(7))

Currently, a person must have the capacity to consent immediately before MAID is provided. The high-profile case of Audrey Parker, who had cancer that had spread to her brain, illustrates the impact of this requirement. She was eligible for MAID but was concerned that she might lose capacity before she received an assisted death and would, thus, lose eligibility. For this reason, she chose to receive MAID in November 2018, although she would have preferred to wait until after Christmas of that year, as stated in a highly publicized video that she made before her death.³⁴ Justice Minister David Lametti is reported to have cited Ms. Parker's case as inspiration for the changes outlined in Bill C-7 regarding final consent prior to receiving MAID.³⁵

New section 241.2(3.2) of the Code outlines the criteria for waiving the requirement for consent to be given immediately before MAID is provided. This option is possible only when natural death is reasonably foreseeable and all the following criteria are satisfied:

- Before the person loses the capacity to consent to MAID,
 - they satisfied the criteria for MAID and all the relevant safeguards;
 - they entered into an arrangement in writing with the physician or NP for a substance to be administered to cause their death on a specified day;
 - they were informed by the physician or NP of the risk of losing the capacity to consent prior to the specified day; and
 - in the written arrangement, they consented to the administration of a substance to cause their death on or before the specified day if they lost capacity to consent prior to that day.
- The person has lost capacity to consent to MAID.
- The person neither demonstrates refusal by words, sounds or gestures, nor resists the administration of the substance. Bill C-7 clarifies this provision by stating
 - that involuntary words, sounds or gestures made in response to contact do not constitute refusal or resistance (new section 241.2(3.3)); and
 - that once the person demonstrates refusal or resistance, MAID cannot be provided to them based on the written arrangement (new section 241.2(3.4)).
- The substance is administered in accordance with the terms of the arrangement.

New section 241.2(3.5) of the Code introduces a provision relating to advance consent in the specific case of self-administration, which is available both in cases where natural death is reasonably foreseeable and where it is not. There have been situations in which self-administration did not result in death, but the person then lost the capacity to consent to have a physician or NP administer a substance to cause their death. Consent to practitioner-administered MAID after self-administration has not resulted in death could be understood as providing advance consent, which is not currently legal in Canada. There are differences of opinion as to whether, in such cases, a physician or NP is permitted to administer a substance to cause the death of the person based on the current law.³⁶

The new provision clarifies what is permitted and allows a physician or NP to administer a substance when a person has self-administered and lost the capacity to consent but has not died, if the following conditions are met:

- Before the person lost the capacity to consent to MAID, the person entered into an agreement in writing with the physician or NP providing MAID that
 - requires the physician or NP to be present at the time of the self-administration; and

- allows the physician or NP to administer a second substance to cause the person's death if the person lost capacity to consent and did not die within a specified period after self-administration.
- The person self-administered the first substance but did not die within the specified period and has lost capacity to consent to MAID.
- The second substance is administered to the person in accordance with the terms of the arrangement.

The Senate amended both the existing Code provisions and Bill C-7's provisions relating to the safeguards that apply both when natural death is reasonably foreseeable and when it is not (existing section 241.2(3) and new section 241.2(3.1), respectively). The Senate amendments would have meant that a medical practitioner or NP was not required to ensure that the request is signed only *after* the person had been informed that they had a grievous and irremediable medical condition; the request could be signed before they were so informed.³⁷ This would have allowed for an advance request for assisted dying. The House of Commons disagreed with these amendments,³⁸ however, and the Senate did not insist on them.

The Senate also revised the amendments proposed in Bill C-7 relating to waiving final consent (new section 241.2(3.2) of the Code). The revised amendments would have permitted consent immediately before MAID is provided to be waived when natural death is not reasonably foreseeable.³⁹ The House of Commons also disagreed with these revised amendments,⁴⁰ and the Senate did not insist on them.

2.5 WHO CAN BE A WITNESS (CLAUSE 1(8))

Section 241.2(5) of the Code outlines who can witness the signing of a request for MAID. Currently, among other restrictions, no one directly involved in providing health care services or personal care to the person making the request can act as a witness.

New section 241.2(5.1) of the Code allows such individuals to act as a witness if the provision of care is their primary occupation and they are paid to provide that care. However, the change does not permit the physician or NP providing MAID or the physician or NP providing the second assessment to act as a witness.

2.6 FILING INFORMATION (CLAUSE 3)

Bill C-14 required Health Canada to develop regulations to establish a monitoring regime for MAID. Those regulations require reporting when MAID is provided, when a person who has requested MAID is referred to another physician or NP, when a

person is found to be ineligible, when a person withdraws the request and when a person dies of another cause. Under the current monitoring regime, information about those cases is collected by Health Canada only if a written request for MAID is submitted. However, referral, ineligibility, withdrawal of a request or death by another cause that occur after an assessment is carried out but before the written request is made are not documented. Amended section 241.31(1) of the Code expands the cases requiring filing of information to include any case in which an assessment takes place, not only cases in which a written request has been submitted to the physician or NP.

Clause 3 of Bill C-7 introduces new section 241.31(1.1) of the Code. That section requires any person responsible for carrying out preliminary assessments of eligibility for MAID to file the required information, just as physicians and NPs are currently expected to do, unless they are exempted from doing so in the regulations. Similarly, under amended section 241.31(2) of the Code, a pharmacist, and now also a pharmacy technician, who dispenses a substance in connection with the provision of MAID must file the required information.

Bill C-7 also amends the regulation-making authority of the Minister of Health with respect to filing requirements to add information provided or collected in relation to preliminary assessments (amended section 241.31(3)(a)(i) of the Code). The Senate amended this provision to include information relating to the person's race with that person's consent (new section 241.31(3)(a)(i)(B)). The House of Commons revised the amendment relating to race to also include Indigenous identity and added a new provision concerning information respecting a person's disability as defined in section 2 of the *Accessible Canada Act* (new section 241.31(3)(a)(i)(C)). The Senate accepted these changes.

The Senate also amended section 241.31(3)(b) of the Code relating to the use, analysis and interpretation of the information collected under the regulation-making authority to include “for the purposes of identifying race-based inequities and how race intersects with other forms of systemic inequality in medical assistance in dying.” This was revised by the House of Commons such that the use, analysis and interpretation of information could include “for the purposes of determining the presence of any inequality – including systemic inequality – or disadvantage based on race, Indigenous identity, disability or other characteristics, in medical assistance in dying.” The Senate accepted these changes.

An amendment introduced by JUST and adopted in the House of Commons requires that the Minister of Health, when developing regulations, consult the minister responsible for the status of persons with disabilities when appropriate (new section 241.31(6)).

**2.7 INDEPENDENT REVIEW
(CLAUSE 3.1)**

As mentioned in section 2.2 of this Legislative Summary, the Senate amended Bill C-7 to repeal the provision that excludes mental illness as a grievous and irremediable medical condition for the purpose of MAID 18 months after the bill receives Royal Assent. When the House of Commons considered that amendment to the bill (and extended the repeal period to two years), it also added clause 3.1, which requires the Minister of Justice and the Minister of Health to cause an independent review to be conducted by experts “respecting recommended protocols, guidance and safeguards to apply to requests made for medical assistance in dying by persons who have a mental illness” (clause 3.1(1)). Clause 3.1(2) stipulates that the report must be provided to the ministers within one year of Bill C-7 receiving Royal Assent. The report must be tabled in each house of Parliament within the first 15 days during which the House is sitting after the day it receives the report (clause 3.1(3)).

**2.8 TRANSITIONAL PROVISION
(CLAUSE 4)**

The requirements in the current version of the Code will continue to apply to requests for MAID signed and dated before the Royal Assent of Bill C-7, except for the following changes, which will be applied to all cases upon Royal Assent:

- There is no 10-day waiting period in cases where natural death is reasonably foreseeable (that is, the change to section 241.2(3)(g) of the Code applies in all cases).
- The final consent can be waived (new sections 241.2(3.2) to 241.2(3.5) apply in all cases).

**2.9 REVIEW
(CLAUSE 5)**

Bill C-14 required that the provisions contained in the bill be referred to a committee of the Senate, the House of Commons or both for review at the start of the fifth year after the day the bill received Royal Assent, which would have been in June 2020. The statutory review was to include an examination of the state of palliative care, and the committee was to provide a report with recommendations. That review was not commenced either prior to the introduction of Bill C-7 or during its consideration in the House of Commons or the Senate.

The Senate amended Bill C-7 to add clause 5, which requires the establishment of a joint Senate and House of Commons committee to conduct a comprehensive review of the *Criminal Code* MAID provisions and their application. Provided that Parliament was not prorogued or dissolved before 15 September 2021, the joint committee was to report on its review by that date. In any other case, the joint committee was to report no later than 180 days after the joint committee’s establishment.⁴¹

The House of Commons revised those amendments to specify that the review must include “issues relating to mature minors, advance requests, mental illness, the state of palliative care in Canada and the protection of Canadians with disabilities.” The House of Commons also set out provisions relating to the start date of the joint committee’s review, among other matters, and revised the reporting date to one year after the joint committee commences its review.⁴²

NOTES

1. [Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\)](#), 1st Session, 43rd Parliament.
2. [Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\)](#), 2nd Session, 43rd Parliament (S.C. 2021, c. 2).
3. Senate, Standing Committee on Legal and Constitutional Affairs [LCJC], [Examine the subject matter of Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\)](#), Second Report, 2nd Session, 43rd Parliament, 10 December 2020.
4. LCJC, [Examine the subject matter of Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\)](#), Third Report, 2nd Session, 43rd Parliament, 8 February 2021.
5. LCJC, [Bill C-7, An Act to amend the Criminal Code \(medical assistance in dying\), without amendment but with observations](#), Fourth Report, 2nd Session, 43rd Parliament, 8 February 2021.
6. House of Commons, “Messages from the Senate,” [Journals](#), No. 60, 2nd Session, 43rd Parliament, 17 February 2021, pp. 536–538.
7. Senate, “Bills – Messages from the House of Commons,” [Journals](#), No. 30, 2nd Session, 43rd Parliament, 15 March 2021, pp. 372–374.
8. [Truchon c. Procureur général du Canada](#), 2019 QCCS 3792 (CanLII). [Unofficial translation]
9. [Criminal Code](#), R.S.C. 1985, c. C-46, ss. 241.1–241.4.
10. Quebec’s law relating to medical assistance in dying (MAID) received Royal Assent in June 2014. Quebec, [Act respecting end-of-life care](#), R.S.Q., c. S-32.0001.
11. Department of Justice, [Medical assistance in dying: January and February 2020 Consultations](#).
12. This Legislative Summary provides a concise background to these issues. More detailed information about MAID in Canada is available in the following Library of Parliament publications: Marlisa Tiedemann, [Assisted Dying in Canada after Carter v. Canada](#), Publication no. 2019-43-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 29 November 2019; and Julia Nicol and Marlisa Tiedemann, [Euthanasia and Assisted Suicide in Canada](#), Publication no. 2015-139-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 15 December 2015. Information on MAID outside Canada is available in Julia Nicol, [Medical Assistance in Dying: The Law in Selected Jurisdictions Outside Canada](#), Publication no. 2015-116-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 29 November 2019.
13. [Carter v. Canada \(Attorney General\)](#), 2015 SCC 5.

14. Department of Justice, [Consultations on Physician-Assisted Dying – Summary of Results and Key Findings](#).
15. Provincial–Territorial Expert Advisory Group on Physician-Assisted Dying, [Final Report](#), 30 November 2015.
16. Parliament of Canada, Special Joint Committee on Physician-Assisted Dying, [Medical Assistance in Dying: A Patient-Centred Approach](#), Report of the Special Joint Committee on Physician-Assisted Dying, 1st Session, 42nd Parliament, February 2016.
17. Expert Panel Working Group on MAID Where a Mental Disorder Is the Sole Underlying Medical Condition, [The State of Knowledge on Medical Assistance in Dying Where a Mental Disorder Is the Sole Underlying Medical Condition](#), Council of Canadian Academies, December 2018, p. 62.
18. Most of this section is taken from Tiedemann (2019).
19. [Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts \(medical assistance in dying\)](#), 1st Session, 42nd Parliament (S.C. 2016, c. 3).
20. This requirement was added during the study of the first Bill C-7 by the House of Commons Standing Committee on Justice and Human Rights.
21. Expert Panel Working Group on MAID for Mature Minors, [The State of Knowledge on Medical Assistance in Dying for Mature Minors](#), Council of Canadian Academies, December 2018; Expert Panel Working Group on Advance Requests for MAID, [The State of Knowledge on Advance Requests for Medical Assistance in Dying](#), Council of Canadian Academies, December 2018; and Expert Panel Working Group on MAID Where a Mental Disorder Is the Sole Underlying Medical Condition (2018).
22. [Regulations for the Monitoring of Medical Assistance in Dying](#), SOR/2018-166.
23. British Columbia Civil Liberties Association [BCCLA], [Lamb v. Canada: the Death with Dignity Case Continues](#).
24. Evidence quoted in a letter from counsel for the plaintiffs to the Supreme Court of British Columbia. Joseph J. Arvay, [Letter to the Supreme Court of British Columbia \(Re: Lamb and BCCLA v. AGC\)](#), 6 September 2019.
25. *Truchon c. Procureur général du Canada*, 2019 QCCS 3792.
26. Ibid.
27. Of the two applicants, only Mr. Truchon availed himself of the right to apply for MAID during the suspension period. He died on 7 April 2020.
28. [Truchon c. Procureur général du Canada](#), 2020 QCCS 772 (CanLII) [unofficial translation]; [Truchon c. Procureur général du Canada](#), 2020 QCCS 2019 (CanLII) [unofficial translation]; [Truchon c. Procureur général du Canada](#), 2020 QCCS 4388 (CanLII) [available in French only]; and [Truchon c. Procureur général du Canada](#), 2021 QCCS 590 (CanLII) [available in French only].
29. Department of Justice, [“IV. Eligibility Criteria for Medical Assistance in Dying,” Legislative Background: Medical Assistance in Dying \(Bill C-14\)](#).
30. Expert Panel Working Group on MAID Where a Mental Disorder Is the Sole Underlying Medical Condition (2018), p. 36.
31. **House of Commons (17 February 2021), p. 538.**
32. House of Commons, [Debates](#), 1st Session, 43rd Parliament, 26 February 2020, 1600 (The Honourable David Lametti, Minister of Justice).
33. Ibid., 1605.
34. Dying With Dignity Canada, [“Audrey Parker’s last message to Canadians,” YouTube](#), 6 February 2019.
35. Andrea Gunn, [“Audrey’s amendment: Changes to assisted dying legislation await judgment by Parliament,” Chronicle Herald](#) [Halifax], 25 February 2020.
36. Francis Bakewell, [“Medical Assistance in Dying \(MAID\) in the ED: Implications for EM practice,” Canadiem](#), 22 June 2016; F. Bakewell and V. N. Naik, [Complications with Medical Assistance in Dying \(MAID\) in the Community in Canada: Review and Recommendations](#), Canadian Association of MAiD Assessors and Providers [CAMAP], White Paper, 28 March 2019; and CAMAP and University of Ottawa, Faculty of Medicine, [Final Report: 2nd Annual Medical Assistance in Dying Conference 2018](#), 2018, p. 15.

- 37. House of Commons (17 February 2021), p. 537.
- 38. Senate (15 March 2021), p. 372.
- 39. House of Commons (17 February 2021), p. 537.
- 40. Senate (15 March 2021), p. 372.
- 41. House of Commons (17 February 2021), p. 538.
- 42. Senate (15 March 2021), p. 374.