

HB 505 Fact Sheet

Preventing "Purposely" Assisting Suicide

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1. What is HB 505?

HB 505 is a short two page bill that will end the confusion over whether physician-assisted suicide is legal in Montana. The bill does this by clearly stating that physician-assisted suicide is not legal.

2. What is Assisted Suicide?

Assisted suicide means that someone provides the means and/or information for another person to commit suicide. When a physician provides the means and/or the information, the term is physician-assisted suicide. Other involved persons can include family members who assist the suicide, for example, by taking the patient to the doctor. Such persons do not always have the best interest of the patient at heart.

3. Who Supports HB 505?

HB 505 is supported by 112 Montana physicians who joined together to run supporting ads throughout the state. HB 505 is also supported by Montanans Against Assisted Suicide, a grassroots group, which has submitted 4000 plus signatures against assisted suicide into the Senate Judiciary Committee. See http://www.montanansagainstassistedsuicide.org/2013/03/support-for-hb-505_3117.html

4. Why is Legalizing Assisted Suicide a Bad Idea?

In the two states where physician-assisted suicide is legal (Oregon and Washington), problems have emerged including elder abuse and steerage to suicide by the state health plan. See <http://www.montanansagainstassistedsuicide.org/p/quick-facts-about-assisted-suicide.html>

5. What does HB 505 do?

a. HB 505 clarifies Montana's existing prohibition against "aiding or soliciting suicide" in 45-5-105, to clearly state that

physician-assisted suicide is not legal in Montana. The bill states: "A person who purposely aids or solicits another person to commit suicide, ~~but such suicide does not occur, including~~ physician-assisted suicide, commits the offense of aiding or soliciting suicide." (HB 505, Section 1, lines 13-15). To view a copy of the bill, go here:

<http://data.opi.mt.gov/bills/2013/billpdf/HB0505.pdf>

b. HB 505 gives doctors a clear safe harbor by expressly providing that the term, "physician-assisted suicide," does not include palliative care to a dying person or any act to withhold or withdraw treatment authorized under the Rights of the Terminally Ill Act. (Title 50, Chapters 9). (HB 505, Section 4) In other words, the law regarding palliative care and the withholding or withdrawing of treatment remains unchanged.

c. HB 505 only applies when a defendant "purposely" aids or solicits another person to commit suicide. (HB 505, Section 1, line 13; and Section 4(b), lines 23 and 24). A doctor will not somehow get into trouble for merely discussing "end of life" options.

d. HB 505 gives prosecutors an optional charging mechanism with lower penalties than current law in which assisted suicide is charged as a homicide. The 10 year maximum penalty in HB 505 is commensurate with the 10 year maximum penalty in the new elder abuse bill, SB 134.

e. HB 505 expressly provides that consent of the victim is not a defense. (HB 505, Section 2, lines 16 to 17). This is consistent with the 1973 Law Commission Comments that accompany 45-5-105, which state: "If the conduct of the offender made him the agent of the death, the offense is criminal homicide, *notwithstanding the consent or even the solicitations of the victim.*" (Emphasis added).

6. Why is HB 505 needed now?

The 2009 *Baxter* decision has created confusion regarding existing statutes against physician-assisted suicide. A doctor has also admitted to assisting three suicides, claiming that his actions were legal under *Baxter*. If he is not prosecuted, or if the prosecution fails due to confusion over *Baxter*, assisted suicides will be encouraged. If, instead, HB 505 is enacted, there will be a clear statement going forward that assisted suicide is not legal in Montana. The negative consequences of legalization will be avoided. This is why HB 505 is needed now.