

Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer

DATE: October 5, 2016

SUBJECT: Fiscal Impact Statement – Death with Dignity Act of 2016

REFERENCE: Bill 21-38, Draft Committee Print sent to the Office of Revenue Analysis on September 28, 2016

A handwritten signature in black ink that reads "Jeffrey S. DeWitt".

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$125,000 to implement in fiscal year 2017. There will be no cost to implement the bill in fiscal years 2018 through 2020.

Background

The bill allows a person who is terminally ill to request life-ending medication¹ from a physician, as long as the person:

- Is capable²;
- Is a resident of the District of Columbia;
- Has a terminal disease;
- Goes through steps required by the bill to request the medicine; and
- Makes the request for the medicine voluntarily.

To request the medicine from a physician, a person must make two oral requests and one written request in the presence of witnesses. Before a physician can dispense or prescribe the medication, the physician must go through a series of steps, including determining if the patient is terminally ill

¹ Which the bill calls “covered medication.”

² Meaning, in the opinion of a court or the patient’s attending physician, consulting physician, psychiatrist, or psychologist, the person has the ability to make and communicate health care decisions to health care providers.

The Honorable Phil Mendelson

FIS: Bill 21-38, "Death with Dignity Act of 2016," Draft Committee Print sent to the Office of Revenue Analysis on September 28, 2016

and mentally competent, discussing with the patient feasible alternatives, referring the patient to counseling, if appropriate, and referring the patient to a consulting physician, among other things. The physician must include in the patient's medical file the patient's requests for the life-ending medicine, evidence that the patient qualifies for the medicine (diagnosis, prognosis, determination that the patient is mentally competent, etc.), notation that the physician and patient have met all requirements of the bill, and notation detailing all the steps the physician and patient have taken to carry out the patient's request for medicine.

The law will not require healthcare providers to prescribe or dispense life-ending medication, even if a patient qualifies to receive it.

Within 30 days of dispensing life-ending medication, a healthcare provider must send to the Department of Health (DOH) a copy of the information that the physician who prescribed the medicine recorded to comply with the requirements of this bill. (Specifically, the provider will send the information via a form that DOH will create.) If a patient ingests the medication, and dies from it, a health care provider must notify DOH of the patient's death as soon as is practical.

Each year, DOH will review a sample of the records it receives for patients who were prescribed the medication. DOH will also annually publish a report with the number of patients who received a prescription for the medicine, the number of patients who died after ingesting the medicine, and other data, like characteristics of those who died (age, race, underlying illness) and trends over time.

A person who tampers with a request for life-ending medicine can be charged with a Class A felony. A person who coerces another person to request or ingest life-ending medicine can also be charged with a Class A felony.

People who comply with the Death with Dignity law will be immune from civil or criminal liability and professional disciplinary action.

Providers of annuity policies or life, health, or accident insurance, cannot make changes to the policy of a person who requests life-ending medicine.

Any District entity that incurs costs from a person terminating their life in public can make a claim against the estate of the person to recover costs and attorney fees.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The bill will cost \$125,000 to implement in fiscal year 2017. There will be no cost to implement the bill in fiscal years 2018 through 2020.

Based on the experience of Oregon, which has had a Death with Dignity law in place since 1997, we estimate the number of deaths in D.C. during the first four years of implementation to be fewer than 10 a year, and the number of people obtaining life-ending medications to fewer than 15 a year³.

³ In year 10 of its program, Oregon had 27 prescriptions for life-ending medication per 10,000 deaths, and about 16 deaths from the life-ending medication per 10,000 deaths. If D.C. residents use the medication and

The Honorable Phil Mendelson

FIS: Bill 21-38, "Death with Dignity Act of 2016," Draft Committee Print sent to the Office of Revenue Analysis on September 28, 2016

Because of the low number of people we expect to engage in the Death with Dignity process, the increase in work for DOH, the Department of Insurance, Securities, and Banking, and the Office of the Attorney General will be small enough that these agencies can do the work without additional resources.

The cost of the bill comes from the modifications DOH will need to make to its electronic death registration system to capture data on people who request the life-ending medicine and use it to end their life. We estimate there will be a one-time cost of \$125,000 in FY 2017 for DOH to modify its system. This is the amount of money Alaska budgeted to meet almost identical reporting requirements for the Death with Dignity bill it is currently considering.⁴ While we expect the number of people for which DOH will need to collect statistics to be low, tracking information in a simple way, such as in a spreadsheet, could make it difficult for DOH to meet the requirements of the bill. Washington State, which had a Death with Dignity law go into effect in 2009, found tracking data in a spreadsheet to be an "unwieldy solution," according to research done by Alaska⁵.

Cost of Bill 21-38, the Death with Dignity Act of 2016, FY 2017 - FY 2020					
	FY 2017	FY 2018	FY 2019	FY 2020	Four-Year Total
Modifications to electronic death registration system	\$125,000	\$0	\$0	\$0	\$125,000

die at the same rate, it would result in about 13 prescriptions and 7 deaths a year in D.C. Not all people who get the life-ending medication end up using it.

⁴ See Alaska House Bill 99, available here: <http://bit.ly/2dJlaww>, and the fiscal note for that bill, available here: <http://bit.ly/2dSf5jP>.

⁵ See Alaska's fiscal note for House bill 99, available here: <http://bit.ly/2dSf5jP>.