

Bulletin of Acts and Decrees 2001, 194

Act of 12 April 2001 containing review procedures for the termination of life on request and assisted suicide and amending the Criminal Code and the Burial and Cremation Act (Termination of Life on Request and Assisted Suicide (Review Procedures) Act)¹

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that it is desirable to include in the Criminal Code grounds for granting immunity to a physician who, acting in accordance with the statutory due care criteria laid down in this Act, terminates life on request or provides assistance with suicide, and also that it is desirable to create a statutory notification and review procedure;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

CHAPTER I. DEFINITIONS

Section 1

For the purposes of this Act, the following definitions apply:

- a. Our Ministers: the Minister of Justice and the Minister of Health, Welfare and Sport;
- b. assisted suicide: intentionally helping another person to commit suicide or providing him with the means to do so as referred to in article 294, paragraph 2, second sentence, of the Criminal Code;
- c. the attending physician: the physician who, according to the notification, has terminated life on request or has provided assistance with suicide;
- d. the independent physician: the physician who has been consulted about the attending physician's intention to terminate life on request or to provide assistance with suicide;
- e. the care providers: the persons referred to in article 446, paragraph 1, of Book 7 of the

¹ See for proceedings in the States General: Parliamentary Papers, House of Representatives, 1998/1999, 1999/2000, 2000/2001, 26 691; Proceedings of the House of Representatives, 2000/2001, pp. 2001-2072, 2107-2139, 2202-2223, 2233-2260, 2372-2375; Parliamentary Papers, Senate, 2000/2001, 26 691 (137, 137a, 137b, 137c (reprint), 137d, 137e, 137f, 137g, 137h); Proceedings of the Senate, 2000/2001, see session of 10 April 2001.

Civil Code;

- f. the committee: a regional review committee as referred to in section 3;
- g. regional inspector: a regional inspector employed by the Health Care Inspectorate of the Public Health Supervisory Service.

CHAPTER II. DUE CARE CRITERIA

Section 2

1. In order to comply with the due care criteria referred to in article 293, paragraph 2, of the Criminal Code, the attending physician must:
 - a. be satisfied that the patient's request is voluntary and well considered;
 - b. be satisfied that the patient's suffering is unbearable, with no prospect of improvement;
 - c. have informed the patient about his situation and prognosis;
 - d. have come to the conclusion, together with the patient, that there is no reasonable alternative in the patient's situation;
 - e. have consulted at least one other, independent physician, who must see the patient and give a written opinion on whether the due care criteria set out in (a) to (d) have been fulfilled;
 - f. have exercised due medical care and attention in terminating the patient's life or assisting in his suicide.
2. If a patient aged sixteen or over who is no longer capable of expressing his will, but before reaching this state was deemed capable of making a reasonable appraisal of his own interests, has made a written declaration requesting that his life be terminated, the attending physician may, in accordance with the provisions of subsection 1, comply with this request unless he has well-founded reasons for declining to do so.
3. If the patient is a minor aged between sixteen and eighteen and is deemed to be capable of making a reasonable appraisal of his own interests, the attending physician may comply with a request made by the patient to terminate his life or provide assistance with suicide, after the parent or parents who have responsibility for him, or else his guardian, has or have been consulted.
4. If the patient is a minor aged between twelve and sixteen and is deemed to be capable of making a reasonable appraisal of his own interests, the attending physician may, if a

parent or the parents who have responsibility for him, or else his guardian, is or are unable to agree to the termination of life or to assisted suicide, comply with the patient's request provided that the attending physician is satisfied that ending the patient's life will prevent the patient from suffering profound distress. Subsection 2 applies *mutatis mutandis*.

CHAPTER III. REGIONAL REVIEW COMMITTEES FOR THE TERMINATION OF LIFE ON REQUEST AND ASSISTED SUICIDE

Division 1: Establishment, composition and appointment

Section 3

1. There are regional committees to review reported cases of the termination of life on request or assisted suicide as referred to in article 293, paragraph 2, and article 294, paragraph 2, second sentence, of the Criminal Code.
2. A committee consists of an odd number of members, including in any event one legal expert who also chairs the committee, one physician and one expert on ethical or moral issues. A committee also comprises alternate members from each of the categories mentioned in the first sentence.

Section 4

1. The chair, the members and the alternate members are appointed by Our Ministers for a period of six years. They may be reappointed once for a period of six years.
2. A committee has a secretary and one or more deputy secretaries, all of whom must be legal experts appointed by Our Ministers. The secretary attends the committee's meetings in an advisory capacity.
3. The secretary is accountable to the committee alone in respect of his work for the committee.

Division 2: Resignation and dismissal

Section 5

The chair, the members and the alternate members may tender their resignation to Our Ministers at any time.

Section 6

The chair, the members, and the alternate members may be dismissed by Our Ministers on the grounds of unsuitability or incompetence or for other compelling reasons.

Division 3: Remuneration

Section 7

The chair, the members and the alternate members are paid an attendance fee and a travel and subsistence allowance in accordance with current government regulations, in so far as these expenses are not covered in any other way from the public purse.

Division 4: Duties and responsibilities

Section 8

1. The committee assesses, on the basis of the report referred to in section 7, subsection 2 of the Burial and Cremation Act, whether an attending physician, in terminating life on request or in assisting with suicide, acted in accordance with the due care criteria set out in section 2.
2. The committee may request the attending physician to supplement his report either orally or in writing, if this is necessary for a proper assessment of the attending physician's conduct.
3. The committee may obtain information from the municipal pathologist, the independent physician or the relevant care providers, if this is necessary for a proper assessment of the attending physician's conduct.

Section 9

1. The committee notifies the attending physician within six weeks of receiving the report

referred to in section 8, subsection 1, of its findings, giving reasons.

2. The committee notifies the Board of Procurators General and the regional health care inspector of its findings:
 - a. if the attending physician, in the committee's opinion, did not act in accordance with the due care criteria set out in section 2; or
 - b. if a situation occurs as referred to in section 12, last sentence, of the Burial and Cremation Act. The committee notifies the attending physician accordingly.
3. The time limit defined in the first subsection may be extended once for a maximum of six weeks. The committee notifies the attending physician accordingly.
4. The committee is empowered to explain its findings to the attending physician orally. This oral explanation may be provided at the request of the committee or the attending physician.

Section 10

The committee is obliged to provide the public prosecutor with all the information that he may request:

- 1° for the purpose of assessing the attending physician's conduct in a case as referred to in section 9, subsection 2; or
- 2° for the purposes of a criminal investigation.

Division 6: Procedures

Section 11

The committee is responsible for making a record of all reported cases of termination of life on request or assisted suicide. Our Ministers may lay down further rules on this point by ministerial order.

Section 12

1. The committee adopts its findings by a simple majority of votes.
2. The committee may adopt findings only if all its members have taken part in the vote.

Section 13

The chairs of the regional review committees meet at least twice a year in order to discuss the methods and operations of the committees. A representative of the Board of Procurators General and a representative of the Health Care Inspectorate of the Public Health Supervisory Service will be invited to attend these meetings.

Division 7: Confidentiality and disqualification

Section 14

The members and alternate members of the committee are obliged to maintain confidentiality with regard to all the information that comes to their attention in the course of their duties, unless they are required by a statutory regulation to disclose the information in question or unless the need to disclose the information in question is a logical consequence of their responsibilities.

Section 15

A member of the committee sitting to review a particular case must disqualify himself and may be challenged if there are any facts or circumstances which could jeopardise the impartiality of his judgment.

Section 16

Any member or alternate member or the secretary of the committee must refrain from giving any opinion on an intention expressed by an attending physician to terminate life on request or to provide assistance with suicide.

Division 8: Reporting requirements

Section 17

1. By 1 April of each year, the committee must submit to Our Ministers a report on its activities during the preceding calendar year. Our Ministers may lay down the format of such a report by ministerial order.

2. The report referred to in subsection 1 must state in any event:
 - a. the number of cases of termination of life on request and assisted suicide of which the committee has been notified and which the committee has assessed;
 - b. the nature of these cases;
 - c. the committee's findings and its reasons.

Section 18

Each year, when they present their budgets to the States General, Our Ministers must report on the operation of the committees on the basis of the report referred to in section 17, subsection 1.

Section 19

1. On the recommendation of Our Ministers, rules will be laid down by order in council on:
 - a. the number of committees and their powers;
 - b. their locations.
2. Further rules may be laid down by Our Ministers by or pursuant to order in council with regard to:
 - a. the size and composition of the committees;
 - b. their working methods and reporting procedures.

CHAPTER IIIa. Bonaire, St Eustatius and Saba

Section 19a

This act also applies in the territories of the public bodies Bonaire, St Eustatius and Saba, in accordance with the provisions of this chapter.

Section 19b

1. For the purposes of:
 - section 1 (b), 'article 294, paragraph 2, second sentence, of the Criminal Code' is replaced by: 'article 307, paragraph 2, second sentence, of the Criminal Code of Bonaire, St Eustatius and Saba';

- section 1 (f), ‘a regional review committee as referred to in section 3’ is replaced by: ‘a committee as referred to in section 19c’;
- section 2, subsection 1, opening words, ‘article 293, paragraph 2, second sentence, of the Criminal Code’ is replaced by: ‘article 306, paragraph 2, second sentence, of the Criminal Code of Bonaire, St Eustatius and Saba’;
- section 8, subsection 1, ‘section 7, subsection 2 of the Burial and Cremation Act’ is replaced by: ‘section 1, subsection 3 of the Death Certificates (Bonaire, St Eustatius and Saba) Act’;
- section 8, subsection 3, ‘or the relevant care providers’ lapses;
- section 9, subsection 2, opening words, ‘the Board of Procurators General’ is replaced by ‘the Procurator General’.

2. Section 1 (e) does not apply.

Section 19c

Notwithstanding section 3, subsection 1, a committee will be appointed by Our Ministers that is competent to review reported cases of termination of life on request or assisted suicide as referred to in article 306, paragraph 2, and article 307, paragraph 2, second sentence, of the Criminal Code of Bonaire, St Eustatius and Saba.

Section 19d

The chair of the committee referred to in section 19c takes part in the meetings referred to in section 13. The Procurator General or a representative appointed by him and a representative of the Health Care Inspectorate also take part.

CHAPTER IV. AMENDMENTS TO OTHER LEGISLATION

Section 20

The Criminal Code² is amended as follows.

A

² Last amended by the Act of Parliament of 26 January 2001, Bulletin of Acts and Decrees, 70.

Article 293 is amended to read as follows:

Article 293

1. Anyone who terminates another person's life at that person's express and earnest request is liable to a term of imprisonment not exceeding twelve years or a fifth-category fine.
2. The act referred to in the first paragraph is not an offence if it is committed by a physician who fulfils the due care criteria set out in section 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act, and if the physician notifies the municipal pathologist of this act in accordance with the provisions of section 7, subsection 2 of the Burial and Cremation Act.

B

Article 294 is amended to read as follows:

Article 294

1. Anyone who intentionally incites another to commit suicide is, if suicide follows, liable to a term of imprisonment not exceeding three years or to a fourth-category fine.
2. Anyone who intentionally assists another to commit suicide or provides him with the means to do so is, if suicide follows, liable to a term of imprisonment not exceeding three years or a fourth-category fine. Article 293, paragraph 2 applies *mutatis mutandis*.

C

The following is inserted in article 295, after '293': , first paragraph,.

D

The following is inserted in article 422, after '293': , first paragraph,.

Section 21

The Burial and Cremation Act³ is amended as follows.

A

Section 7 is amended to read as follows:

Section 7

1. The person who conducted the post-mortem examination must issue a death certificate if he is satisfied that the death was due to natural causes.
2. If death was the result of the termination of life on request or assisted suicide as referred to in article 293, paragraph 2, or article 294, paragraph 2, second sentence, of the Criminal Code respectively, the attending physician must not issue a death certificate and must immediately notify the municipal pathologist or one of the municipal pathologists of the cause of death by completing a report form. The attending physician must enclose with the form a detailed report on compliance with the due care criteria set out in section 2 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.
3. If the attending physician decides, in cases other than those referred to in subsection 2, that he is unable to issue a death certificate, he must immediately notify the municipal pathologist or one of the municipal pathologists accordingly by completing a report form.

B

Section 9 is amended to read as follows:

Section 9

1. The form and layout of the models for the death certificates to be issued by the attending physician and the municipal pathologist must be laid down by order in council.

³ Bulletin of Acts and Decrees 1991, 133, last amended by the Act of Parliament of 1 July 1998, Bulletin of Acts and Decrees, 466.

2. The form and layout of the models for the notification and the detailed report as referred to in section 7, subsection 2, for the notification as referred to in section 7, subsection 3 and for the forms referred to in section 10, subsections 1 and 2, must be laid down by order in council on the recommendation of Our Minister of Justice and Our Minister of Health, Welfare and Sport.

C

Section 10 is amended to read as follows:

Section 10

1. If the municipal pathologist decides that he is unable to issue a death certificate, he must immediately notify the public prosecutor by completing a form and must immediately notify the Registrar of Births, Deaths and Marriages.
2. Without prejudice to subsection 1, the municipal pathologist must, if notified as referred to in section 7, subsection 2, report to the regional review committee referred to in section 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act by completing a form. He must enclose a detailed report as referred to in section 7, subsection 2.

D

The following sentence is added to section 12: If the public prosecutor decides, in cases as referred to in section 7, subsection 2, that he is unable to issue a certificate of no objection to burial or cremation, he must immediately notify the municipal pathologist and the regional review committee as referred to in section 3 of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

E

In section 81, first point, '7, subsection 1' is replaced by: 7, subsections 1 and 2,.

Section 22

The General Administrative Law Act⁴ is amended as follows.

In section 1:6, the full stop at the end of point (d) is replaced by a semi-colon, and a fifth point is inserted as follows:

e. orders and actions implementing the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

CHAPTER V. CONCLUDING PROVISIONS

Section 23

This Act enters into force on a date to be determined by Royal Decree.

Section 24

This Act may be cited as the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.

We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at The Hague on 12 April 2001

Beatrix

A.H. Korthals,
Minister of Justice

E. Borst-Eilers,
Minister of Health, Welfare and Sport

Published on the twenty-sixth of April 2001

⁴ Bulletin of Acts and Decrees 1998, 1, last amended by the Act of Parliament of 26 January 2001, Bulletin of Acts and Decrees, 71.

A.H. Korthals,
Minister of Justice