

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1072

STATE OF NEW JERSEY  
218th LEGISLATURE

DATED: MARCH 29, 2019

SUMMARY

- Synopsis:** “Medical Aid in Dying for the Terminally Ill Act”; permits qualified terminally ill patient to self-administer medication to end life in humane and dignified manner.
- Type of Impact:** Potential State expenditure and revenue increase
- Agencies Affected:** Department of Corrections; Department of Health

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, under \$100,000	Indeterminate, under \$100,000	Indeterminate, under \$100,000
State Revenue	Indeterminate increase	Indeterminate increase	Indeterminate increase

- The Office of Legislative Services (OLS) estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100.
- This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses, as well as persons convicted of coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request.

BILL DESCRIPTION

This bill establishes the “Medical Aid in Dying for the Terminally Ill Act,” which allows an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined to be terminally ill by that individual’s attending and consulting physicians, to obtain

medication that the patient may self-administer to terminate the patient's life. The bill establishes the requirements and procedures to be followed by patients, physicians, other health care professionals, pharmacists and health care facilities pursuant to which a terminally ill patient may legally self-administer medication to termination his or her life. The bill provides immunity from civil and criminal liability, and from professional disciplinary action, for any action that is undertaken in compliance with the bill. The bill also provides that any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of the second degree crime of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. Second degree crimes carry the presumption of incarceration. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100. While there is insufficient data upon which to base a projection of convictions for this criminal offense, the OLS notes that over thirty convictions would have to occur in order for marginal costs to exceed \$100,000. For example, according to the non-profit organization Compassion & Choices, since Oregon's Death with Dignity Act, to which this bill is similar, has been in effect (1997) there has not been a single instance of coercion or abuse. The OLS notes that annual reports by the Oregon Public Health Authority, Public Health Division, Center for Health Statistics, does not contain information on criminal violations associated with its Death with Dignity Act.

While the bill also prescribes as a third degree offense coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request, this degree of crime carries the presumption against incarceration, so the OLS concludes that no marginal expenditures will result from this aspect of the bill.

This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses. Conviction of a second degree crime can result in a fine of up to \$150,000; conviction of a third degree crime can result in a fine of up to \$15,000.

The bill requires the Department of Health to the extent practicable to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The bill also requires the department to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions. The OLS concludes that no marginal costs are likely

to result from the department's discharge of these additional administrative duties. For example, according to the website of the Oregon Health Authority, a research analyst dedicates about four hours per week throughout the year and up to eight hours per week for two months on report preparation, and press calls and other questions require staff time of about four hours per month.

*Section: Legislative Budget and Finance Office*

*Analyst: Frank W. Haines III  
Legislative Budget and Finance Officer*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).