

# California State Senate

SENATOR  
LOIS WOLK

MAJORITY WHIP  
THIRD SENATE DISTRICT



## Senate Bill 128 End of Life Option Act

*By Senator William Monning, Senator Lois Wolk  
and Assemblymember Susan Talamantes Eggman*

### **Bill Summary**

SB 128 would establish the End of Life Option Act in California, modeled after Oregon's Death with Dignity Act that was enacted in 1997. This would allow a mentally competent, terminally ill adult in California in the final stages of his or her disease to request medication from a physician to bring about a peaceful death.

Specifically, this bill will allow a terminally ill person the right to obtain a prescription from his or her physician for medication to be self-administered. It requires two physicians to confirm a prognosis of six months or less, a written request and two oral requests to be made a minimum of 15 days apart, and two witnesses to attest to the request. The two physicians must also ensure that the person has the mental competency to make health care decisions for him or herself.

SB 128 includes safeguards for physicians, pharmacists and health care providers that follow the law to ensure they will be immune from civil or criminal liability or professional disciplinary action when a patient exercises this option. In addition, participation for physicians, pharmacists and health care providers in this law is voluntary with the ability to opt-out. Measures to protect vulnerable patients are also included in the legislation by establishing felony penalties for coercing someone to request the medication or forging a request. The attending physician of the terminally ill patient who wishes to engage in the End of Life Option Act is required to discuss feasible alternatives or additional treatment opportunities, including but not limited to comfort care, hospice care, palliative care and pain control. Finally, the patient can decide not to use the prescription or can rescind his or her request for the drug at any time.

### **Background**

This medical practice, known as aid in dying, is already recognized in other states such as Oregon, Washington and Vermont and in Montana under the State Supreme Court's 2010 decision in the *Baxter* case. The experiences in these states demonstrate that any objections or legitimate concerns initially raised have been shown to be unfounded. The data collected in Oregon shows this end of life option is sparingly used with fewer than 1 in 500 deaths (60 or 70 a year out of a total of over 30,000 deaths). Comparable numbers are seen in the state of Washington.

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A recent study in Oregon also showed that a sizable percentage of individuals who obtained the prescription never ingested the medication in the end.

Recent polls indicate that public opinion has changed significantly in the last few years. Two-thirds of Californians, including majorities from every demographic subgroup, support the freedom of terminally ill individuals to exercise this end-of-life option. Recently, Medscape conducted a survey and found that most American physicians now also support this measure for patients with an incurable and terminal disease.

**Support**

Compassion & Choices  
The California Senior Legislature  
Conference of California Bar Associations  
Congress of California Seniors  
Death with Dignity National Center  
Gray Panthers of Long Beach  
National Council of Jewish Women

**Opposition**

Medical Oncology Association of Southern California, Inc.

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