

FACTSHEET 28: Montana: Physician- Assisted- Dying Law

On 5th December 2008 Montana District Court ruled in the case of *Baxter v. State of Montana* that Montana residents have the legal right to physician-assisted dying: making it the third US state to legalise this right.

Following an appeal in a lower court, on December 31st 2009 the Montana Supreme Court subsequently affirmed in the case of *Baxter v. State of Montana* that physician-assisted dying is not against public policy in Montana. The court ruled that public policy does not criminalise, and much in current public policy affirmatively supports, aid-in-dying. The Court further ruled that state law protects doctors in Montana from prosecution for helping terminally ill patients to die.

In a detailed review of Montana law on the Rights of the Terminally Ill, the Court concluded that the legislature specifically defers to a patient's own decision and offers patients the right to control their own bodies at the end of life. The decision to self-administer life-ending medication is consistent with a decision to discontinue life sustaining therapies such as mechanical ventilation.

The court declined to rule on the larger question of whether physician-assisted dying is a right guaranteed under Montana's Constitution. The Montana state solicitor acknowledged that it is a policy question for the people of Montana and their Legislature.

On February 16th 2011 a bi-partisan group of lawmakers, voted 7 to 5 against Sen. Greg Hinkle's bill (SB 116), that would have revoked the right of terminally ill patients to request aid in dying from their physicians.

Willing providers are now allowed to assist mentally competent terminally ill Montanans. Compassion & Choices Montana is working with medical professionals and citizen activists to educate the public, implement the practice with appropriate safeguards, and protect the right of Montanans to die with dignity.

Washington and Oregon are the other US states allowing physician assisted dying. These were as a result of state-wide referenda, without either state's highest court examining the constitutional right to die.

For further information see:

1. World Federation of Right to Die Societies website: <http://worldrtd.net/node/976>
2. Compassion and Choices website: <https://compassionandchoices.org/sslpage.aspx?pid=452>
Compassion and Choices website on Montana Aid in Dying
3. *Baxter v. State of Montana* (1.5MB) , Dec. 5, 2008
4. *Opinion/Order of the Montana Supreme Court on Baxter v. State of Montana* (357KB), Dec. 31, 2009