



Summary of

Voluntary Assisted Dying legislation

in Australia

Feb 2022

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The state of play in Australia

It is little known that Australia was home to the world's first assisted dying law. The Rights of the Terminally Ill Act passed the Northern Territory's Legislative Assembly by a vote of 15 to 10 in 1995. Four terminally ill people used the law to die before the Federal Parliament passed legislation to overturn the law a year later.

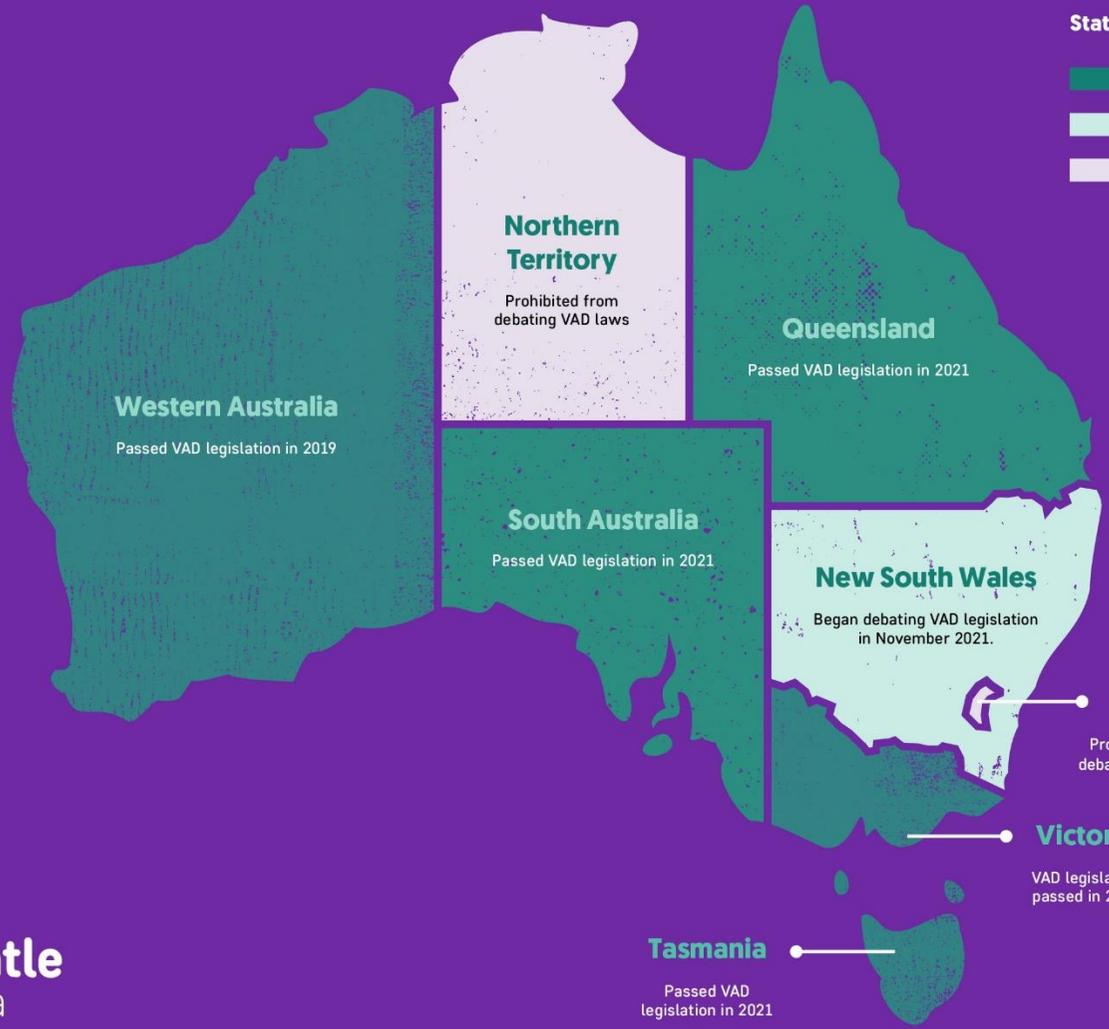
Despite consistent efforts from local campaigners, it was another two decades until Victoria's Voluntary Assisted Dying Act 2017 passed. Since then, five of Australia's six states have passed laws.

However, Australia's most populous state, New South Wales, is yet to pass legislation and a Federal law continues to block both the Northern Territory and Australian Capital Territory "the Territories" from passing VAD laws.

Although there are small differences state-to-state, there is an Australian model of Voluntary Assisted Dying legislation emerging which allows for terminally ill, mentally competent adults with less than six months to live (12 months in some scenarios) to request life-ending medication from their doctor, provided they are residents of the state. They must follow a tightly safeguarded process, be approved by two doctors and if the medication is not used - as has so far happened in around a third of cases in Victoria - it must be promptly returned. All laws allow individual healthcare workers to conscientiously object.

State of VAD legislation in Australia

- States with legislation
- States debating legislation
- Prohibited from debating VAD



Victoria

On 29 November 2017, Victoria became the first Australian state to pass legislation allowing voluntary assisted dying.

Victoria's Voluntary Assisted Dying Act 2017 became effective on 19 June 2019 and has now been operating for more than two years. You can read more here on the [Dying with Dignity Victoria website](#) and read the Victorian VAD Review Board's excellent reports [here](#).

The Board reports that 331 people have died from taking the prescribed medications since the law's inception. Of those, the average age was 72. The scheme is working safely and as intended.

Western Australia

In December 2019 the [Voluntary Assisted Dying Act 2019](#) passed into law. It became effective on 1 July 2021. By the end of that year, 50 eligible Western Australians had legally ended their lives under the law.

Want to know more about the history of the bill? Read it on [the website of Dying With Dignity Western Australia](#).

Tasmania

In May 2021, Tasmania became the third state to pass a VAD law with the [End-of-Life Choices \(Voluntary Assisted Dying\) Act 2021](#). The Act is due to commence on 23 October 2022.

The bill was drafted and sponsored by independent Upper House member Mike Gaffney. The state made history as the only legislature in the world to pass a VAD law unopposed when the Upper House voted unanimously in favour.

This was the state's fourth attempt to pass a Voluntary Assisted Dying law. In 2017, an attempt to introduce voluntary assisted dying laws was defeated with eight MPs voting for and 16 voting against the bill.

South Australia

In June 2021, South Australia became the fourth state - and second that year - to legalise Voluntary Assisted Dying. Following an implementation period, yet to be determined, the [Voluntary Assisted Dying Act 2021](#) will become effective in early 2023.

This follows 17 previous attempts across 25 years. You can read more about the history of South Australia's VAD legislation [here](#).

Queensland

In September 2021, Queensland became the fifth state - and third that year - to legalise VAD. The unicameral Parliament voted to pass the [Voluntary Assisted Dying Bill 2021](#) into law without amendment, 61 votes to 30. The law will become effective on 1 January 2023.

Following a lengthy parliamentary inquiry into end of life choice, the Labor government fulfilled an election promise and introduced a VAD bill to parliament in May 2021. The bill, widely considered to be the most accessible and equitable law of its kind in Australia, was the result of a forensic investigation and report from the state's Law Reform Commission and oversight from parliament's Health Committee.

Read the Queensland Law Reform Commission's report [here](#).

New South Wales

A Voluntary Assisted Dying bill, introduced to the Lower House by Independent MP Alex Greenwich, is currently being considered by NSW Parliament.

In November 2021, the bill passed the Legislative Assembly (Lower House) 52 votes to 32. It is now the subject of an Legislative Council (Upper House) inquiry, whose report is expected on 22 February 2022. Debate will then commence in the Upper House.

A VAD bill was last debated by the NSW Parliament in 2017, where it was defeated in the Upper House by one vote.

You can read more about the bill on the NSW Parliament website [here](#) and at [Dying with Dignity NSW](#).

The Territories

At present, a federal law blocks the Territories (Northern Territory and the Australian Capital Territory) from passing their own laws on VAD. Both Territories consider this undemocratic and want to be able to decide for themselves on the issue. In March 2021, NT Attorney General Selena Uibo and the ACT's Human Rights Minister Tara Cheyne wrote an open letter to federal politicians drawing attention to this inequality and suggesting it may be a violation of international human rights obligations.

In late 2021, NT senator Sam McMahon introduced the Ensuring Northern Territory Rights Bill 2021, which would have the effect of allowing the Northern Territory's parliament to again legislate on voluntary assisted dying. The bill did not cover the Australian Capital Territory.

Current federal Labor leader Anthony Albanese has pledged if he becomes leader at the next federal election in 2022 that he will restore the Territories' rights to legislate on VAD.

The current federal Liberal Attorney General does not support the restoration of Territory rights.

Organisations active in Australia

National organisations

- [Go Gentle Australia](#)
- [Christians Supporting Choice for Voluntary Assisted Dying](#)
- [Doctors for Voluntary Euthanasia Choice](#)
- [Health Professionals for Voluntary Assisted Dying Choice](#)

State -based

- [Dying with Dignity New South Wales](#)
- [Dying with Dignity Victoria](#)
- [Dying With Dignity Queensland](#)
- [Dying with Dignity Western Australia](#)
- [Voluntary Assisted Dying South Australia \(VADSA\) \[formerly known as South Australian Voluntary Euthanasia Society \(SAVES\)\]](#)
- [Dying with Dignity Tasmania](#)
- [Dying With Dignity ACT](#)
- [Northern Territory Voluntary Euthanasia Society](#)

Comparative table of Voluntary Assisted Dying Legislation in Australia

This table seeks to provide an overview only.

A link to the acts is included in the page 1 column headings.

	<u>Queensland</u>	<u>Victoria</u>	<u>Western Australia</u>	<u>Tasmania</u>	<u>South Australia</u>	<u>NSW Bill</u>	
Criteria for access to assisted dying	Guiding principles in legislation	✓	✓	✓	✓	✓	
	Over 18 years of age	✓	✓	✓	✓	✓	
	Resident in jurisdiction	✓ (or granted exemption)	✓ (12 m)	✓ (12 m)	✓ (12 m)	✓ (12 m)	✓ (or granted exemption)
	Citizen or permanent resident only	✓ (or 3 years' residency in Australia)	✓	✓	✓ (or 3 years' residency in Australia)	✓	✓ (or 3 years' residency in Australia)
	Person has decision-making capacity in relation to assisted dying	✓	✓	✓	✓	✓	✓
	Person is acting voluntarily and without coercion	✓	✓	✓	✓	✓	✓
	Diagnosed with an eligible disease, illness or medical condition (eg, advanced, incurable, progressive, will cause death)	✓	✓	✓	✓ (or injury)	✓	✓
	Disease, illness or medical condition is expected to cause death within a specified timeframe	✓ (12 m)	✓ (6 m, 12 m for a neuro-degenerative condition)	✓ (6 m, 12 m for a neuro-degenerative condition)	✓ (6 m, 12 m for a neuro-degenerative condition, unless exempted)	✓ (6 m, 12 m for a neuro-degenerative condition)	✓ (6 m, 12 m for a neuro-degenerative condition)
	Person is suffering	✓	✓	✓	✓	✓	✓
	Express provision that mental illness or disability alone is not an eligible disease, illness or medical condition	✓	✓	✓	✓	✓	✓
	All criteria must be met	✓	✓	✓	✓	✓	✓
	Review by tribunal of some criteria (eg residency, decision making capacity or voluntariness, or relevant medical condition (prognosis))	✓	✓	✓	✓ (by Voluntary Assisted Dying Commission)	✓	✓
Request to access assisted dying	Health practitioner must not initiate discussion about or suggest voluntary assisted dying	✓ (unless medical practitioner or nurse practitioner also informs person of treatment and palliative care options at the same time)	✓	✓ (unless medical practitioner or nurse practitioner also informs person of treatment and palliative care options at the same time)	✓ (unless medical practitioner or nurse practitioner also informs person of treatment and palliative care options at the same time)	✓	✓ (unless medical practitioner/ registered nurse also informs person of treatment and palliative care options at the same time; nurses & paramedics must refer to GP)
	Person themselves must make request	✓	✓	✓	✓	✓	✓
	Person can make a request in an advance directive						
	Person must make three requests	✓	✓	✓	✓	✓	✓

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One request must be in writing	✓	✓	✓	✓	✓	✓
Two witnesses to written request	✓	✓	✓	✓ (or a commissioner for declarations)	✓	✓
Waiting period between first and final requests	✓ (unless likely to die or lose capacity)	✓ (unless likely to die)	✓ (unless likely to die or lose capacity)	✓ (unless likely to die or lose capacity)	✓ (unless likely to die)	✓ (unless likely to die or lose capacity)
Any interpreter must be independent and accredited	✓	✓	✓	✓	✓	✓
Person may withdraw request at any time	✓	✓	✓	✓	✓	✓
Entity participation	“Facility” includes hospitals/non-residential health care, as well as retirement villages and residential health care	✓			✓	✓
	Facility must not hinder person’s access to information about VAD	✓			✓	✓
	Facility must allow residents reasonable access to or facilitate transfer for assessments	✓			✓	✓
	Facility may object to allowing assessments for non-residents (unless unreasonable, causing harm or financial loss to patient, in which case access must be allowed or transfer facilitated).	✓			✓	✓ (hospitals not required to allow access)
	Facility must allow residents administration of VAD substance	✓			✓	✓
	Facility may object to allowing administration of substance for non-residents (unless unreasonable, causing harm or financial loss to patient, in which case access must be allowed or transfer facilitated).	✓			✓	✓ (hospitals not required to allow administration)
	Facility must inform public of non-availability of VAD	✓			✓	✓
		✓				✓
Assessment for access to assisted dying	Assessment of criteria for access is carried out by medical practitioners	✓	✓	✓	✓	✓
	Two independent assessments by two medical practitioners	✓	✓	✓	✓	✓
	Referral to another medical practitioner if eligibility cannot be determined (eg there is uncertainty about the person’s diagnosis or decision-making capacity)	✓	✓	✓	✓	✓
	Person must be given particular information (eg about their diagnosis, options and the taking of the substance)	✓	✓	✓	✓	✓
	Assessments may be performed by audio-visual communication			✓	✓ (initial information given must be in person)	✓
Assessing	Meet minimum requirements about qualifications and experience	✓	✓	✓	✓	✓
	Complete mandatory training before assessing person	✓	✓	✓	✓	✓
	Conscientious objection	✓	✓	✓	✓	✓

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	✓		✓	✓		✓	
	✓	✓	✓	✓	✓	✓	
Administration of substance	Additional approval process — permit required to prescribe and supply, or possess and administer, voluntary assisted dying substance		✓	✓	✓	✓	
	Self-administration, but practitioner administration permitted	✓ (if self-administration inappropriate)	✓ (if patient incapable to self-administer)	✓ (if self-administration inappropriate)	✓ (optional)	✓ (if patient incapable to self-administer)	✓ (optional)
	Practitioners allowed to administer		Doctors	Doctors, Nurse Practitioners	Doctors, Nurse Practitioners, Registered Nurses	Doctors	Doctors, Nurse Practitioners, Registered Nurses
	Requirement for practitioner administration to be witnessed	✓	✓	✓		✓	✓
	Provisions governing the management of the voluntary assisted dying substance eg, must be prescribed in accordance with requirements	✓	✓	✓	✓	✓	✓
	A contact person must be appointed	✓	✓	✓ (self-administration)	✓ (self-administration)	✓	✓ (self-administration)
		✓	✓	✓	✓	✓	✓
Offences and protections	Offence to induce a person, through dishonesty or undue influence, to request assisted dying	✓	✓	✓	✓	✓	✓
	Offence to induce a person, through dishonesty or undue influence, to self-administer the substance	✓	✓	✓	✓	✓	✓
	Offence to falsify records, or make a false or misleading statement	✓	✓	✓	✓	✓	✓
	Offence to fail to report on assisted dying	✓	✓	✓	✓	✓	✓
	Offence to administer the substance when not authorised to do so	✓	✓	✓	✓	✓	✓
	Offence for practitioner to wilfully fail to comply with requirement of legislation						
	Offence for contact person to fail to return unused substance	✓	✓	✓	✓	✓	✓
	Protection for a person who assists in or facilitates access to assisted dying	✓	✓	✓	✓	✓	✓
	Protection for health practitioners acting in good faith and without negligence	✓	✓	✓	✓	✓	✓
Protection for health practitioners present at time of self-administration	✓	✓		✓	✓	✓	
Oversight	Review by tribunal of some criteria for access (eg residency, decision making capacity or voluntariness)	✓	✓	✓	✓ (by VAD Commission)	✓	✓ (Supreme Court)
	Oversight by an independent body	✓	✓	✓	✓	✓	✓
	Review of legislation	3 years	4 years (before 5 th anniversary)	2 years (then no more than 5 year intervals)	3 years (then every 5 years)	4 years (before 5 th anniversary)	1 year (then every 5 years)