

JAN 19 2007

A BILL FOR AN ACT

RELATING TO MANSLAUGHTER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 707-702, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§707-702 Manslaughter. (1) A person commits the offense
4 of manslaughter if:

5 (a) The person recklessly causes the death of another
6 person; or

7 (b) The person intentionally causes another person to
8 commit suicide.

9 (2) In a prosecution for murder or attempted murder in the
10 first and second degrees it is an affirmative defense, which
11 reduces the offense to manslaughter or attempted manslaughter,
12 that the defendant was, at the time the defendant caused the
13 death of the other person, under the influence of extreme mental
14 or emotional disturbance for which there is a reasonable
15 explanation. The reasonableness of the explanation shall be
16 determined from the viewpoint of a reasonable person in the
17 circumstances as the defendant believed them to be.



1 ~~[(3) Manslaughter is a class A felony.]~~

2 (3) This section shall not apply to a medical caregiver
3 with prescriptive authority or authority to administer
4 medication who prescribes or administers medication for
5 palliative care to a terminally ill patient with the consent of
6 the terminally ill patient or his or her agent.

7 (4) For purposes of this section:

8 "Agent" means a person appointed to represent the interest
9 of the terminally ill patient by a medical power of attorney,
10 power of attorney, health care proxy, or any other similar
11 statutory or regular procedure used for designation of such a
12 person.

13 "Medical caregiver" means a physician, registered nurse,
14 nurse practitioner, or physician assistant licensed by the
15 State.

16 "Palliative care" means medical care and treatment provided
17 by a licensed medical caregiver to a patient with an advanced
18 chronic or terminal illness whose condition might not be
19 responsive to curative treatment and who is receiving treatment
20 that relieves pain and suffering and supports the best possible
21 quality of life.



1 (5) Nothing in subsection (4) shall permit a medical
2 caregiver to assist in the suicide of the patient.

3 (6) Manslaughter is a class A felony."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun, before its effective date.

9 SECTION 4. This Act shall take effect upon its approval.

10

INTRODUCED BY: *Shianne Chun Oakland*



Report Title:

Manslaughter; Exception

Description:

Creates an exception to the offense of manslaughter for a medical caregiver who has prescriptive authority or authority to administer medication when the caregiver provides consensual palliative care to a terminally ill patient. Does not permit a medical caregiver to assist a patient in committing suicide.

