



MEDICAL ASSISTANCE IN DYING IN CANADA

Bill C-39: Proposed extension of the temporary exclusion of eligibility for persons suffering solely from mental illness

On February 2, 2023, the Government of Canada introduced legislation (Bill C-39) to extend the temporary exclusion of eligibility for medical assistance in dying (MAID) where a person's sole medical condition is a mental illness until **March 17, 2024**.

Canada's medical assistance in dying (MAID) law was revised in March 2021, in response to the Superior Court of Québec's 2019 *Truchon* decision, in which it found the "reasonable foreseeability of natural death" eligibility criteria in the *Criminal Code*, as well as the "end-of-life" criterion from Québec's *Act Respecting End-of-Life Care*, to be unconstitutional. The revised law was also informed by Canada's experience with MAID, feedback from over 300,000 Canadians, experts, practitioners, stakeholders, provinces and territories, provided during the January and February 2020 consultations, and the testimony of over 120 expert witnesses heard throughout former Bill C-7's study by the House of Commons and the Senate.

Changes to the law in March 2021 included eligibility for persons whose death is not reasonably foreseeable but meet all other eligibility criteria, new and strengthened procedural safeguards, and provisions to allow for the waiver of final consent in specific circumstances. The revised law also included delayed eligibility for two years—until March 17, 2023—for persons suffering solely from a mental illness.

What effects would Bill C-39 have?

If passed, Bill C-39 would extend the temporary exclusion of eligibility for MAID where a person's sole medical condition is a mental illness by one year, until **March 17, 2024**. This means that persons suffering solely from a mental illness would not be eligible for MAID in Canada before March 17, 2024.

Why is this proposed delay needed?

Since the 2021 MAID law came into force, some experts and Canadians have voiced concerns about supporting the safe and consistent assessment of requests and provision of MAID in the complex circumstances where a person's sole medical condition is a mental illness.

Extending eligibility for MAID to persons whose sole medical condition is a mental illness is complex, and we need to get this right to protect those who may be vulnerable, and to also support autonomy and freedom of choice.

If passed, Bill C-39 would provide more time for:

- **dissemination and uptake of key resources**, such as MAID practice standards and MAID education and training curriculum, by the medical and nursing communities, to ensure MAID assessors and providers are ready to assess requests for MAID for persons suffering solely from a mental illness in a safe and consistent manner across Canada
- **consideration of any recommendations** arising from the Special Joint Committee on MAID's final report, expected in February 2023, alongside the recommendations of the Expert Panel on MAID and Mental Illness