

STATES OF JERSEY



DRAFT ASSISTED DYING LAW 202- (P.65/2025): FOURTH AMENDMENT (P.65/2025 AMD.(4)) – COMMENTS

**Presented to the States on 13th February 2026
by the Minister for Health and Social Services**

STATES GREFFE

COMMENTS

PAGE 143, ARTICLE 8; PAGE 144, ARTICLE 9; PAGE 165, ARTICLE 42 and PAGE 190, ARTICLE 98: Removal of appeals by persons with special interest

1. This proposed amendment seeks to remove the right of a person with a special interest (e.g., a family member) to appeal against a decision to approve an individual's assisted dying request (a 'third-party appeal').
2. The Minister does not accept the proposed amendment on the grounds that the inclusion of third-party appeals form part of the framework of safeguards intended to ensure that decisions authorising an assisted death are lawful and robust.

Background

3. The draft law provides that:
 - a. a person with a special interest [third party] may appeal against a decision to approve an assisted dying request at Step 5 (review and decision on assisted dying request)
 - b. an appeal may be made on the grounds that:
 - the decision was not made in accordance with the law
 - the decision was unreasonable (or irrational if a decision on the health criteria) – i.e. decision was incorrect
 - c. a person with special interest cannot appeal on the basis that they disagree with the individual's decision to seek an assisted death
 - d. it is for the Court to determine if the person has 'special interest in the care and treatment of the individual' – for example a close family member or a professional involved in the person's assisted dying process. This would not include a campaigning organisation
 - e. the Court must determine the appeal as quickly as reasonably practicable.
4. The draft law provides for third-party appeals in response to feedback received during the policy development process. Third-party appeals were subject to detailed considered during the Phase 2 public consultation with 63% of all respondents supporting the inclusion on third party appeals, with that support rising to 80% amongst respondents who strongly supported the principle of assisted dying.
5. The matter of third-party appeals was also considered by 2023 Ethical review authors who considered the proposed appeals process, including the right to third-party appeal, and concluded that:

“On balance, it appears appropriate to include an appeals process, involving the Court, as there is a precedent for this, it may help build public confidence, it may prevent or limit under-inclusion and over-inclusion, and it places AD within the legal domain, which may assuage some of the concerns about a medicalised

process. The AD process would be prolonged, but arguably not excessively so, at least relative to the safeguards an appeals process brings, but the system would need to have the resources to support the process and, arguably, those patients who might lose out as a result of an appeal.”

6. The inclusion of third-party appeals also accords with the Assembly’s P18/2024 decision.

Human rights and autonomy

7. Whilst it is recognised that thirdparty appeals may create a limited interference with an individual’s Article 8 right to autonomy (as stated by the Panel’s advisors), the Minister is wholly satisfied, based on advice received, that this interference is **proportionate and justified** given the matter in hand.
8. As stated by the 2023 Ethical Review authors, a right of appeal strengthens system integrity, helps detect coercion or errors in decisions, and assists the State in properly protecting the right to life. Further to that, third-party appeals provide an additional safeguard allowing for challenges against decisions that are believed to be incorrect or not made in accordance with the law, prior to an assisted death taking place.
9. The draft law, cognisant of the potential interface with Article 8 of the ECHR, contains strict protections to ensure third-party appeals remain proportionate and justified and cannot be misused to undermine the individual’s dignity, choice, or privacy. As referenced above, these protections include:
 - a. only a person the Court determines has a special interest in the care and treatment of the person may appeal, which prevents appeals for campaigning organisations
 - b. a third party may appeal only on very limited grounds. They cannot appeal simply because they disagree with the individual’s choice
 - c. the Court must determine the appeal as quickly and as reasonably practicable.
10. Furthermore, the Rules of Court will provide that certain matters may be decided ‘on the papers’ (Article 98) i.e. an oral hearing may not be required where, for example, it is clear the appeal is made on the basis that the third party disagrees with the individual’s decision to request assisted dying, as opposed to a genuine challenge against an incorrect decision
11. While appeals may prolong the process in some cases, this delay is judged not to be excessive relative to the safeguards gained. The inclusion of third-party appeals reflects a careful balance between autonomy, protection, and public assurance.

Confidentiality and integrity

12. The Panel’s expert advisors’ report makes reference to whether there would be a breach of ‘*legal and ethical expectations... of patient confidentiality*’ and a

possible risk of ‘a *third party sharing confidential information in a way that potentially breaches the assisted dying law*’ but gives no further detail as to what may be considered a potential breach.

13. The Panel’s amendment report raises concerns about the ‘*disclosure of highly sensitive medical information*’ in relation to appeal. Whilst Article 41 of the draft law does permit the disclosure of information in relation to an appeal, Article 98 provides for Rules of Court which may provide for processes associated with the disclosure of information as a part of the appeals process. Furthermore, this would also be addressed by the Court’s inherent jurisdiction to regulate its own process (see e.g. Rule 20/11 of the Royal Court Rules 2004).

Characterisation as a ‘veto’

14. The references to a “thirdparty veto” in the Panel’s expert advisors’ report—and subsequently reported on by the local media—is inaccurate, as the third party right of appeal allows only for challenges to decisions that are potentially unlawful or incorrect. Third-party appeals do not allow a family member to ‘veto’ or overturn a decision that they merely disagree with. (Veto means a power or right to refuse something, and the third party does not have this right in the draft law).

Conclusion

15. The Panel’s comments note that at present, Queensland is the only jurisdiction that provides for third-party appeals. The fact third-party appeals are not a common feature in other assisted dying models is not of itself a satisfactory justification to remove them from the Jersey process.
16. The thirdparty appeals pathway is a targeted and proportionate **additional safeguard** within the draft law. It protects individuals, strengthens public trust, and ensures lawful decisionmaking—without granting any “veto” power or enabling interference based on personal disagreement.
17. Accordingly, Members are asked not to support the amendment.
18. [Note: in the event the Assembly does remove third-party appeals, it is nevertheless the case that the draft law provides multiple other safeguards that are sufficient to ensure only those who meet the eligibility criteria are approved for an assisted death].