

Decriminalization of Suicide

Where did this idea that suicide is a “crime” come from? The criminality of suicide in the U.S. dates back to English common law, which, beginning in the 13th century “perceived suicide as an immoral, criminal offense against God and also against the King, who as a result thereof was deprived of one of his subjects. In addition, English law declared suicide to be a social injustice and an act of cowardice that was to be punished cruelly to discourage others from committing suicide.”¹

When and why did that thinking change? In England, the criminality of suicide was gradually repealed during the years 1823-1961, motivated by the recognition that suicide is an “unpunishable crime” and by the development of a more lenient perception of suicide as the result of an emotional or mental disorder.¹ In 1823, the *Right to Burial Act* ended the tradition of “ignominious [dishonorable] burial at the highway,” and in 1870 the *Abolition of Forfeiture Act* removed the penalty of forfeiture of the estate of the deceased.² Completing suicide remained a crime in England, albeit without punishment, until the passage of the *Suicide Act of 1961*, which provided that “[t]he rule of law whereby it is a crime for a person to commit suicide is hereby abrogated.”²

What about here in the U.S.? U.S. law was originally derived in large part from English common law, and the criminality of suicide is no exception. Generally, there has never been punishment for suicide in the U.S., with the exception of Massachusetts, which by a statute enacted in 1660 provided for “unholy internment in the common highway,” (this was repealed in 1823).³ Currently, there is no state that *by statute* makes the completion of suicide a crime,² and the majority of states have gradually repealed the common law crime. The most recent states to remove the common law crime of suicide include New Jersey (1971), North Carolina (1973), North Dakota (1973), and Washington (1976).

Is suicide really still considered a crime in Virginia? Yes. Virginia has repealed parts of the common law’s punishments, like the forfeiture of goods, but the idea of suicide being a criminal act still stands until today. Notably, the Virginia Supreme Court ruling in *Wackwitz v. Roy (1992)* showed that Virginia case law continues to view suicide as an “immoral and illegal act,” which only adds to the stigma of those who are living with mental illness or who have lost a loved one to suicide and could potentially deter individuals who are struggling from seeking help.

What can we do to change this common law in Virginia? In Virginia, common law remains in effect except where repealed by statute. The Virginia legislature must therefore pass a bill that explicitly states that suicide is not a crime to overturn the common law provision.

Past attempts to do this failed in **2014** (HB 79, Del. Rob Krupicka and SB 22, Sen. Adam Ebbin) and in **2015** (HB 1869, Del. Rob Krupicka).

Major arguments against the bills were:

1. By decriminalizing suicide, we are opening the door for assisted suicide
2. By decriminalizing suicide, we will be normalizing suicide and increasing the likelihood that others will complete suicide
3. By decriminalizing suicide, we remove a specific law provision that allows for law enforcement to investigate “suspicious deaths” which currently, by default, are assumed to be suicides to begin the investigation – without the death being deemed criminal, there can be no investigation

The 2015 bill version address arguments #1 and #3. We know that, contrary to #2, stigma reduction actually increases help seeking and can save lives.

¹ 18 Seton Hall Legis. J. 732 (1993-1994). To Help or Not to Help: Assisted Suicide and Its Moral, Ethical, and Legal Ramifications; Mangini, L. L.

² 18 Hastings Int’l & Comp. L. Rev. 595 (1994-1995). Individual Versus Society: The Cultural Dynamics of Criminalizing Suicide; Faye, B. P.

³ 14 Vill. L. Rev. 463 (1969). Punishment of Suicide – A Need for Change, The; Markson, D. S.