

**NEWS  
FROM:**

**U.S. SENATOR FOR KANSAS  
SENATE REPUBLICAN LEADER**

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**Contact: Clarkson  
(202) 224-5358**

**PHYSICIAN-ASSISTED SUICIDE**

**DOLE CLAIMS AMERICAN PEOPLE, NOT UNELECTED FEDERAL JUDGES,  
SHOULD DECIDE WHETHER TO PERMIT OR PROHIBIT PHYSICIAN-ASSISTED  
SUICIDE; CREATING NEW 'CONSTITUTIONAL RIGHT' DENIES AMERICANS  
OPPORTUNITY TO ADDRESS MORALLY CHARGED ISSUE  
THROUGH DEMOCRATIC PROCESS**

One of the most profound and sensitive issues facing our society today is whether doctors should be allowed to assist in the suicide of their patients.

**Doctors Sworn as Life Givers - Not Life Takers**

On this issue, I happen to share the view of the American Medical Association -- that doctors who are sworn to be life-givers, should not act as life-takers, and that the licensing of doctors to administer death is "fundamentally inconsistent with the pledge physicians make to devote themselves to healing and to life."

Now, I recognize that there are those who do not share this point of view. But the process we use to work out such disagreements and come to a social consensus is called democracy. I will vigorously defend the right of every fellow citizen to disagree with me, but I will also defend the constitutional process by which our laws are made. The people, through their elected representatives, should be the ones to decide whether to permit or to prohibit physician-assisted suicide. It is the give and take of meaningful public debate that enables our democratic society to examine complicated social issues and, hopefully, reach a consensus that enjoys broad popular support.

In recent weeks, however, two influential federal courts -- the Ninth Circuit of Appeals on the West Coast and the Second Circuit Court of Appeals on the East Coast -- have determined that the United States Constitution flatly prohibits the states from outlawing physician-assisted suicide.

The Ninth Circuit ruled that individuals have a liberty interest in controlling the time and manner of our deaths and that a Washington State law prohibiting assisted suicide was, therefore, a violation of the due process clause of the 14th Amendment. In a more narrowly drawn opinion, the Second Circuit declared that a similar New York State law outlawing physician-assisted suicide violates the 14th Amendment's equal protection clause.

**Unfortunate Effect of Substituting Judgment of Unelected Judges**

These decisions, like others in recent years, have the unfortunate effect of substituting the judgment of unelected federal judges for the democratic process. If the Ninth Circuit's decision purporting to find a "fundamental right" to physician-assisted suicide is upheld by the Supreme Court, then all meaningful public debate on this issue would effectively be cut off. All of the moral and ethical concerns on both sides would, with a single stroke, be replaced with a judicial fiat. The only citizens whose voices matter in such a decision would be the judges themselves. As columnist Charles Krauthammer writes: "not a single country in the world (save Holland) permits doctors to help patients kill themselves. Now judges have declared that America will be such a country, indeed that the Constitution demands that America be such a country."

I yield to no one in my respect for the role of the judiciary in preserving our fundamental liberties. On occasion, judges may even be required to strike down a legislative act because it clearly conflicts with fundamental freedoms and guarantees of equal protection set forth in our Constitution. This is part of the genius of our system, the fundamental check on the legislative and executive branches created by the Framers of the Constitution.

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