

2021 Regular Session

HOUSE RESOLUTION NO. 109

BY REPRESENTATIVE CHARLES OWEN

CIVIL/INTERDICTION: Requests the Louisiana State Law Institute to study provisions of law relative to the consent of a curator to an abortion or sterilization of an interdict

1 A RESOLUTION

2 To urge and request the Louisiana State Law Institute to study provisions of law relative to  
3 consent of a curator to an abortion or sterilization of an interdict, and to report its  
4 findings to the House of Representatives of the Legislature of Louisiana no later than  
5 February 1, 2022.

6 WHEREAS, persons with disabilities have equal personal dignity and human rights  
7 as all other individuals; and

8 WHEREAS, any invasion of the autonomy of a person with a disability must have  
9 a strong legal justification; and

10 WHEREAS, the practice of sterilizing individuals with disabilities and aborting  
11 pregnancies of persons with disabilities without their consent began based on flawed eugenic  
12 principles of hereditary inferiority; and

13 WHEREAS, the legislature rejects forced sterilization and forced abortion based on  
14 negative stereotypes about persons with disabilities, as such stereotypes are immoral and  
15 inconsistent with the values of the citizens of this state; and

16 WHEREAS, Code of Civil Procedure Article 4566 allows a person with a disability  
17 who has been interdicted or placed under a continuing tutorship to be forcibly sterilized or  
18 receive a forced abortion with the approval of a judge; and

19 WHEREAS, the current law in Louisiana establishes no process, legal standard, or  
20 burden of proof and provides inadequate legal protections for the person with a disability  
21 who is faced with the possibility of a forced sterilization or forced abortion; and

1           WHEREAS, in the absence of a governing legal standard, the judicial authorization  
2 of a forced sterilization or forced abortion may be based on stigma, personal bias, or  
3 negative stereotypes about persons with disabilities; and

4           WHEREAS, the current law allowing forced sterilization and forced abortion is  
5 inconsistent with fundamental principles of human rights and equal dignity for all  
6 individuals; and

7           WHEREAS, the law should include a set of robust procedural protections for persons  
8 with disabilities who have been interdicted or placed under a continuing tutorship; and

9           WHEREAS, procedural protections should include specific requirements to assess  
10 the consent and wishes of the individual with a disability; and

11           WHEREAS, the procedural protections should include notice, the appointment of a  
12 curator or supported decision-maker, and appointed counsel; and

13           WHEREAS, the law should require specific timelines in the case of a legal  
14 proceeding seeking authorization for abortion; and

15           WHEREAS, the law should enumerate specific requirements of proof, allocate the  
16 burden of proof, and set the standard to which each fact must be proven; and

17           WHEREAS, the law should be written so as not to interfere with necessary medical  
18 care.

19           THEREFORE, BE IT RESOLVED that the House of Representatives of the  
20 Legislature of Louisiana urges and requests the Louisiana State Law Institute to study  
21 provisions of law relative to the consent of a curator to an abortion or sterilization of an  
22 interdict, and to report its findings to the House of Representatives no later than February  
23 1, 2022.

24           BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge  
25 and request the Louisiana State Law Institute to include representatives of Disability Rights  
26 Louisiana and Louisiana Right to Life, to the extent not already included in the study group.

27           BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
28 director of the Louisiana State Law Institute.

1 BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit  
2 one print copy and one electronic copy of any report produced pursuant to this Resolution  
3 to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HR 109 Original

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Charles Owen

Requests the La. State Law Institute to study provisions of law relative to consent of a curator to an abortion or sterilization of an interdict, and to report its findings to the La. House of Representatives no later than Feb. 1, 2022.