

2021 Regular Session

HOUSE RESOLUTION NO. 109

BY REPRESENTATIVE CHARLES OWEN

A RESOLUTION

To urge and request the Louisiana 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 House of Representatives of the Legislature of Louisiana no later than February 1, 2022.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana urges and 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, and to report its findings to the House of Representatives no later than February 1, 2022.

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES