



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

GOV. MSG. NO. 543

April 25, 2006

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on April 25, 2006, the following bill was signed into law:

SB2506 HD1

A BILL FOR AN ACT RELATING TO  
THE REPRODUCTIVE RIGHTS PROTECTION  
COMMITTEE.  
(ACT 25)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

on APR 25 2006

THE SENATE  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

S.B. NO. 2506  
H.D. 1

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# A BILL FOR AN ACT

RELATING TO THE REPRODUCTIVE RIGHTS PROTECTION COMMITTEE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature finds that the reproductive  
2 rights protection (RRP) committee was created in 1986 to assist  
3 the family court by providing a recommendation, based on a  
4 multidisciplinary assessment, on whether to sterilize an adult  
5 with a developmental disability who has a guardian. The purpose  
6 of the committee is to ensure that the interests of the ward are  
7 adequately taken into consideration and that unnecessary  
8 sterilization does not occur, especially if other alternatives  
9 are available. The input from the committee is advisory only  
10 and the family court may make its own determination regardless  
11 of the recommendation provided by the committee.

12 The RRP committee is currently placed for administrative  
13 purposes in the department of health and has no budget or staff.  
14 A staff member of the department of health coordinates  
15 administrative matters and any budgetary needs come from the  
16 disability and communication access board. There have been no  
17 expenditures in the past eight years because, from 1995 through  
18 2004, only one case was reviewed. It is unknown why no cases



1 were referred to the committee. The legislature finds that the  
2 RRP committee has not served its intended purpose by virtue of  
3 being inactive for nearly eight years.

4 The purpose of this Act is to abolish the RRP committee and  
5 to provide for a resource list of advisors willing to assist the  
6 family court as an ad hoc panel when needed.

7 SECTION 2. Chapter 560, Hawaii Revised Statutes, is  
8 amended by adding a new section to part 6 of article V to be  
9 appropriately designated and to read as follows:

10 "§560:5- Reproductive rights advisory list. The family  
11 court may maintain a resource list of advisors in the  
12 disciplines of law, medicine, theological or philosophical  
13 ethics, social work, and psychology or psychiatry with knowledge  
14 regarding the reproductive rights of incapacitated adults with  
15 disabilities. The court may seek advice and recommendations  
16 from one or more of the advisors on any petition for  
17 sterilization. The recommendations shall consider whether the  
18 ward is capable of giving informed assent and, if not, whether  
19 sterilization is in the best interest of the ward, consistent  
20 with the criteria set forth in section 560:5-608."

21 SECTION 3. Section 560:5-607, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "~~[+]§560:5-607[+]~~ **Hearing.** (a) The court shall set a  
2 hearing on the petition [~~upon receipt of the recommendations of~~  
3 ~~the reproductive rights [protection] committee~~] and shall order  
4 that notice of the time and place of hearing be provided to the  
5 ward, the guardian, and the guardian ad litem for the ward and  
6 [~~such~~] any other persons [~~as~~] that the court may designate.

7           (b) The ward [~~is~~] shall be entitled to be present at the  
8 hearing[~~7~~] and to see and hear all evidence bearing on the  
9 petition. The ward [~~is~~] shall be entitled to be represented by  
10 an attorney, in addition to the court-appointed guardian ad  
11 litem, to present evidence, and to cross examine witnesses,  
12 including any person submitting a report[~~7~~, ~~and members of the~~  
13 ~~reproductive rights [protection] committee~~]. The ward may be  
14 absent from the hearing if the ward is unwilling or is unable to  
15 participate."

16           SECTION 4. Section 560:5-612, Hawaii Revised Statutes, is  
17 amended to read as follows:

18           "~~[+]§560:5-612[+]~~ **No liability arising from sterilization;**  
19 **exception.** No physician[~~7~~] or hospital, [~~members of the~~  
20 ~~reproductive rights [protection] committee,~~] nor the State or  
21 its agents, [~~nor~~] or any other person acting in accordance with  
22 this [~~Part~~] part shall be liable to anyone, either civilly or



1 criminally, for having performed or authorized the performance  
2 of the individual sterilization, except for liability of the  
3 hospital or physician caused by the negligent performance of the  
4 sterilization, in accordance with laws covering such  
5 negligence."

6 SECTION 5. Section 560:5-606, Hawaii Revised Statutes, is  
7 repealed.

8 ~~["§560:5-606] Referral to reproductive rights~~  
9 ~~[protection] committee. The court shall refer the petition to~~  
10 ~~the reproductive rights [protection] committee for review and~~  
11 ~~recommendation."]~~

12 SECTION 6. Section 560:5-610, Hawaii Revised Statutes, is  
13 repealed.

14 ~~["§560:5-610 Reproductive rights protection committee.~~  
15 ~~(a) There is established the reproductive rights protection~~  
16 ~~committee within the department of health for administrative~~  
17 ~~purposes. The committee shall consist of not fewer than five~~  
18 ~~nor more than seven persons appointed, with the consent of the~~  
19 ~~senate, by the governor for staggered terms as provided in~~  
20 ~~section 26-34. The state council on developmental disabilities~~  
21 ~~shall provide the governor with a list of nominees. The~~  
22 ~~governor shall not be limited to the nominees provided in~~



1 ~~appointing the members of the committee. The committee shall~~  
2 ~~include a person with a disability or the parent or guardian of~~  
3 ~~such a person and persons from at least the following~~  
4 ~~disciplines:~~

5 ~~(1) Law;~~

6 ~~(2) Medicine;~~

7 ~~(3) Theological or philosophical ethics;~~

8 ~~(4) Social work; and~~

9 ~~(5) Psychology or psychiatry.~~

10 ~~(b) The committee shall review and make recommendations to~~  
11 ~~the court on all petitions for sterilization. In making its~~  
12 ~~recommendation to the court, the committee shall investigate and~~  
13 ~~determine whether the ward is capable of giving informed assent~~  
14 ~~and, if not, whether sterilization is in the best interests of~~  
15 ~~the ward. The committee shall consider the criteria set forth~~  
16 ~~in section 560:5-608, in determining whether the ward is capable~~  
17 ~~of providing informed assent or whether sterilization is in the~~  
18 ~~best interest of the ward.~~

19 ~~(c) The committee or designated members of the committee~~  
20 ~~may interview or request written statements from the ward,~~  
21 ~~physicians, relatives, concerned individuals, and others who, in~~  
22 ~~the committee members' judgment, possess relevant information~~



1 ~~concerning the petition for sterilization. Conversely, the~~  
2 ~~ward, the guardian ad litem, the petitioner, or any other person~~  
3 ~~may request to speak to the committee or submit a written~~  
4 ~~statement to the committee concerning the proposed~~  
5 ~~sterilization.~~

6 ~~(d) The committee shall submit a report in writing to the~~  
7 ~~court containing its recommendation together with supporting~~  
8 ~~documentation. Committee members who do not concur with the~~  
9 ~~majority recommendation also shall submit a report in writing to~~  
10 ~~the court detailing the basis for their dissent.~~

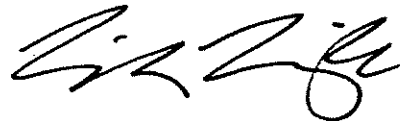
11 ~~(e) The members of the committee shall serve without pay~~  
12 ~~but shall be reimbursed for their actual and necessary expenses,~~  
13 ~~including travel expenses incurred in carrying out their~~  
14 ~~duties." ]~~

15 SECTION 7. All appropriations, records, equipment,  
16 machines, files, supplies, contracts, books, papers, documents,  
17 maps, and other personal property heretofore made, used,  
18 acquired, or held by the reproductive rights protection  
19 committee or the department of health relating to the functions  
20 of the reproductive rights protection committee shall be  
21 transferred to the judiciary with the functions to which they  
22 relate.

1 SECTION 8. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect upon its approval.



GOVERNOR OF THE STATE OF HAWAII

Approved this day: APR 25 2006



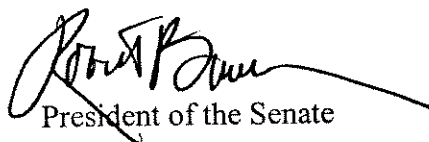


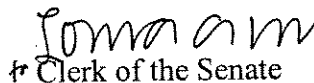
S.B. No. 2506, H.D. 1

**THE SENATE OF THE STATE OF HAWAII**

Date: April 5, 2006  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


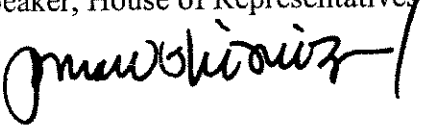
  
President of the Senate

  
Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF HAWAII**

Date: March 28, 2006  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.

  
Speaker, House of Representatives  
  
Clerk, House of Representatives