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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 committee was created in 1986 to assist the  
3 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 reproductive rights protection committee is currently  
13 placed for administrative purposes in the department of health  
14 and has no budget or staff. A staff member of the department of  
15 health coordinates administrative matters and any budgetary  
16 needs come from the disability and communication access board.  
17 There have been no expenditures in the past eight years because,  
18 from 1995 through 2004, only one case was reviewed. It is



1 unknown why no cases were referred to the committee. The  
 2 legislature finds that the reproductive rights protection  
 3 committee has not served its intended purpose by virtue of being  
 4 inactive for nearly eight years.

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

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

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

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

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

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

18 SECTION 4. Section 560:5-606, Hawaii Revised Statutes, is  
19 repealed.

20 "~~["§560:5-606] Referral to reproductive rights~~  
21 ~~[protection] committee.~~ The court shall refer the petition to



1 ~~the reproductive rights [protection] committee for review and~~  
2 ~~recommendation."~~]

3 SECTION 5. Section 560:5-610, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§560:5-610 Reproductive rights protection committee.~~

6 ~~(a) There is established the reproductive rights protection~~  
7 ~~committee within the department of health for administrative~~  
8 ~~purposes. The committee shall consist of not fewer than five~~  
9 ~~nor more than seven persons appointed, with the consent of the~~  
10 ~~senate, by the governor for staggered terms as provided in~~  
11 ~~section 26-34. The state council on developmental disabilities~~  
12 ~~shall provide the governor with a list of nominees. The~~  
13 ~~governor shall not be limited to the nominees provided in~~  
14 ~~appointing the members of the committee. The committee shall~~  
15 ~~include a person with a disability or the parent or guardian of~~  
16 ~~such a person and persons from at least the following~~  
17 ~~disciplines:~~

18 ~~(1) Law;~~

19 ~~(2) Medicine;~~

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

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

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



1       ~~(b) The committee shall review and make recommendations to~~  
2 ~~the court on all petitions for sterilization. In making its~~  
3 ~~recommendation to the court, the committee shall investigate and~~  
4 ~~determine whether the ward is capable of giving informed assent~~  
5 ~~and, if not, whether sterilization is in the best interests of~~  
6 ~~the ward. The committee shall consider the criteria set forth~~  
7 ~~in section 560:5-608, in determining whether the ward is capable~~  
8 ~~of providing informed assent or whether sterilization is in the~~  
9 ~~best interest of the ward.~~

10       ~~(c) The committee or designated members of the committee~~  
11 ~~may interview or request written statements from the ward,~~  
12 ~~physicians, relatives, concerned individuals, and others who, in~~  
13 ~~the committee members' judgment, possess relevant information~~  
14 ~~concerning the petition for sterilization. Conversely, the~~  
15 ~~ward, the guardian ad litem, the petitioner, or any other person~~  
16 ~~may request to speak to the committee or submit a written~~  
17 ~~statement to the committee concerning the proposed~~  
18 ~~sterilization.~~

19       ~~(d) The committee shall submit a report in writing to the~~  
20 ~~court containing its recommendation together with supporting~~  
21 ~~documentation. Committee members who do not concur with the~~



1 ~~majority recommendation also shall submit a report in writing to~~  
2 ~~the court detailing the basis for their dissent.~~

3 ~~(c) The members of the committee shall serve without pay~~  
4 ~~but shall be reimbursed for their actual and necessary expenses,~~  
5 ~~including travel expenses incurred in carrying out their~~  
6 ~~duties."]~~

7 SECTION 6. All appropriations, records, equipment,  
8 machines, files, supplies, contracts, books, papers, documents,  
9 maps, and other personal property heretofore made, used,  
10 acquired, or held by the reproductive rights protection  
11 committee or the department of health relating to the functions  
12 of the reproductive rights protection committee shall be  
13 transferred to the judiciary with the functions to which they  
14 relate.

15 SECTION 7. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect upon its approval.

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HB 2058

**Report Title:**

Reproductive Rights Protection; Persons with Disabilities

**Description:**

Repeals the reproductive rights protection committee for not having served its intended purpose by being inactive for the last 8 years.

