

A Bill for an Act Relating to the Reproductive Rights Protection Committee.

Be It Enacted by the Legislature of the State of Hawaii:

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

The RRP committee is currently placed for administrative purposes in the department of health and has no budget or staff. A staff member of the department of health coordinates administrative matters and any budgetary needs come from the disability and communication access board. There have been no expenditures in the past eight years because, from 1995 through 2004, only one case was reviewed. It is unknown why no cases were referred to the committee. The legislature finds that the RRP committee has not served its intended purpose by virtue of being inactive for nearly eight years.

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

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

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

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

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

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

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

“~~[(§560:5-612)]~~ **No liability arising from sterilization; exception.** No physician[,] or hospital, ~~[members of the reproductive rights [protection] committee,]~~ nor the State or its agents, ~~[nor]~~ or any other person acting in accordance with this ~~[Part]~~ part shall be liable to anyone, either civilly or criminally, for having performed or authorized the performance of the individual sterilization, except for liability of the hospital or physician caused by the negligent performance of the sterilization, in accordance with laws covering such negligence.”

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

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

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

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

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Approved April 25, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.