

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

HB26-1040 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3       **"SECTION 1.** In Colorado Revised Statutes, 25.5-10-231, **amend**  
4 (1) and (2); and **repeal** (3), (4), and (5) as follows:

5       **25.5-10-231. Sterilization rights - legislative intent.**

6       (1) It is the intent of the general assembly that the procedures set  
7 forth in the following subsections be utilized when sterilization is being  
8 considered for the primary purpose of rendering the person incapable of  
9 reproduction. CONSENT REQUIRED IN SUBSECTION (2) OF THIS SECTION  
10 APPLIES TO ANY PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL  
11 DISABILITY WHEN STERILIZATION IS BEING CONSIDERED FOR THE PRIMARY  
12 PURPOSE OF RENDERING THE PERSON INCAPABLE OF REPRODUCTION.

13       (2) ~~Any person with an intellectual and developmental disability~~  
14 ~~over eighteen years of age who has given informed consent has the right~~  
15 ~~to be sterilized, subject to the following:~~ A PERSON WITH AN  
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, REGARDLESS OF THE  
17 PERSON'S CAPACITY, SHALL NOT BE STERILIZED AGAINST THE PERSON'S  
18 WILL, UNLESS MAINTAINING FERTILITY OR A PREGNANCY WOULD POSE AN  
19 IMMINENT THREAT TO THE LIFE OR HEALTH OF THE PERSON. IF THE PERSON  
20 IS NOT COMPETENT TO GIVE CONSENT BECAUSE OF THE INTELLECTUAL AND  
21 DEVELOPMENTAL DISABILITY, ANOTHER PERSON WITH THE LEGAL  
22 AUTHORITY TO MAKE MEDICAL DECISIONS FOR THE PERSON MAY CONSENT  
23 ON THE PERSON'S BEHALF IN ACCORDANCE WITH ANY PROCESS,  
24 REQUIREMENTS, OR LIMITATIONS SET FORTH IN ARTICLE 14 OF TITLE 15 OR  
25 ANY OTHER LAW OR COURT ORDER.

26       (a) ~~Prior to the procedure, competency to give informed consent~~  
27 ~~and assurance that such consent is voluntarily and freely given shall be~~  
28 ~~evaluated by the following:~~

29       (I) ~~A psychiatrist, psychologist, or physician who does not provide~~  
30 ~~services or supports to the person and who has consulted with and~~  
31 ~~interviewed the person with an intellectual and developmental disability;~~  
32 ~~and~~

33       (II) ~~An intellectual and developmental disabilities professional~~  
34 ~~who does not provide services or supports in which said person~~  
35 ~~participates, and who has consulted with and interviewed the person with~~  
36 ~~an intellectual and developmental disability.~~

37       (b) ~~The professionals who conducted the evaluation pursuant to~~  
38 ~~paragraph (a) of this subsection (2) shall consult with the physician who~~  
39 ~~is to perform the operation concerning each professional's opinion in~~  
40 ~~regard to the informed consent of the person requesting the sterilization.~~

(3) Any person with an intellectual and developmental disability whose capacity to give an informed consent is challenged by the intellectual and developmental disabilities professional or the physician may file a petition with the court to declare competency to give consent pursuant to the procedures set forth in section 25.5-10-232.

(4) No person with an intellectual and developmental disability who is over eighteen years of age and has the capacity to participate in the decision-making process regarding sterilization shall be sterilized in the absence of the person's informed consent. No minor may be sterilized without a court order pursuant to section 25.5-10-233.

(5) Sterilization conducted pursuant to this section shall be legal. Consent given by any person pursuant to subsection (2) of this section is not revocable after sterilization, and no person shall be liable for acting pursuant to such consent.

**SECTION 2.** In Colorado Revised Statutes, 25.5-10-220, amend (9) as follows:

## **25.5-10-220. Right to medical care and treatment.**

(9) ~~No~~ A person receiving services ~~may~~ MUST NOT have any organs removed for the purpose of transplantation without the PERSON'S consent of such person; if the person is over eighteen years of age OLD and is able to give such consent. If the person's ability to give consent to the medical procedure is challenged by the physician, the same procedures as those set forth in section 25.5-10-232 shall be followed. Consent for the removal of organs for transplantation may be given by the parents of a person receiving services, if the person is under eighteen years of age OLD, or by the person's legal guardian. ~~Such~~ A PARENT'S OR LEGAL GUARDIAN'S consent may be given only after consultation with the interdisciplinary team and an intellectual and developmental disabilities professional not affiliated with the facility or community residential home in which the person receiving services resides. However, ~~no~~ A person receiving services of any age ~~may~~ SHALL NOT be a donor of an organ if the person implicitly or expressly objects to ~~such~~ THE procedure.

**SECTION 3.** In Colorado Revised Statutes, **repeal** 25.5-10-232, 25.5-10-233, and 25.5-10-234.

**SECTION 4. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.".

\*\*\* \* \*\*\* \* \*\*\*