

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0563.01 Chelsea Princell x4335

HOUSE BILL 26-1040

HOUSE SPONSORSHIP

Froelich,

SENATE SPONSORSHIP

(None),

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE STERILIZATION RIGHTS OF A PERSON WITH**
102 **INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a person with an intellectual and developmental disability (person) to receive counseling on the long-term impacts of sterilization and the less intrusive means available to prevent pregnancy before the person consents to sterilization. The counseling must take place regardless of whether the person is deemed competent to give consent.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The bill prohibits sterilization against the person's will, regardless of whether the person is deemed competent to consent, unless maintaining fertility or a pregnancy would pose an imminent threat to the life or health of the person.

The bill requires a petition for court-ordered sterilization to include a statement that the person has received counseling on the long-term impacts of sterilization and the less intrusive means available to prevent pregnancy.

If a person expresses a desire to the court to maintain fertility and does not want to undergo sterilization, the bill prohibits a court from ordering sterilization unless sterilization is necessary to preserve the life or health of the person.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-10-231, **amend**

3 (1) and (2); and **repeal** (3), (4), and (5) as follows:

4 **25.5-10-231. Sterilization rights - legislative intent.**

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

12 (2) Any person with an intellectual and developmental disability
13 ~~over eighteen years of age who has given informed consent has the right~~
14 ~~to be sterilized, subject to the following:~~ A PERSON WITH AN
15 INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO HAS
16 DECISION-MAKING CAPACITY SHALL NOT BE STERILIZED AGAINST THE
17 PERSON'S WILL. A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
18 DISABILITY WHO LACKS DECISION-MAKING CAPACITY SHALL NOT BE
19 STERILIZED AGAINST THE PERSON'S WILL EXCEPT IN CIRCUMSTANCES

1 WHERE THERE IS AN IMMINENT THREAT TO THE LIFE OR HEALTH OF THE
2 PERSON AND THE DECISION IS MADE IN ACCORDANCE WITH A PROCESS,
3 REQUIREMENTS, OR LIMITATIONS SET FORTH IN ARTICLE 14 OF TITLE 15 OR
4 ANY OTHER APPLICABLE LAW OR COURT ORDER.

5 (a) Prior to the procedure, competency to give informed consent
6 and assurance that such consent is voluntarily and freely given shall be
7 evaluated by the following:

8 (I) A psychiatrist, psychologist, or physician who does not provide
9 services or supports to the person and who has consulted with and
10 interviewed the person with an intellectual and developmental disability,
11 and

12 (II) An intellectual and developmental disabilities professional
13 who does not provide services or supports in which said person
14 participates, and who has consulted with and interviewed the person with
15 an intellectual and developmental disability.

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

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

25 (4) No person with an intellectual and developmental disability
26 who is over eighteen years of age and has the capacity to participate in the
27 decision-making process regarding sterilization shall be sterilized in the

1 absence of the person's informed consent. No minor may be sterilized
2 without a court order pursuant to section 25.5-10-233.

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

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

9 **25.5-10-220. Right to medical care and treatment.**

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

25 **SECTION 3.** In Colorado Revised Statutes, ~~repeal~~ 25.5-10-232,
26 25.5-10-233, and 25.5-10-234.

27 **SECTION 4. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.