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January 26, 2022

Representative Clay Schexnayder  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**RE: HOUSE RESOLUTION NO. 109 OF THE 2021 REGULAR SESSION**

Dear Mr. Speaker:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to forced abortion or sterilization of an interdict.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Holdridge".

Guy Holdridge  
Director

cc: Representative Charles Owen

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)

Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
MARRIAGE-PERSONS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HR NO. 109 OF THE 2021 REGULAR SESSION**

**Relative to forced abortion or sterilization of an interdict**

Prepared for the  
Louisiana Legislature on

**January 26, 2022**

Baton Rouge, Louisiana

# **LOUISIANA STATE LAW INSTITUTE MARRIAGE-PERSONS COMMITTEE**

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Katherine S. Spaht, Chair

Andrea B. Carroll, Reporter

Jessica G. Braun, Attorney

2021 Regular Session

HOUSE RESOLUTION NO. 109

BY REPRESENTATIVE CHARLES OWEN

A RESOLUTION

To urge and request the Louisiana State Law Institute to study provisions of law relative to consent of a curator to an abortion or sterilization of an interdict, and to report its findings to the House of Representatives of the Legislature of Louisiana no later than February 1, 2022.

WHEREAS, persons with disabilities have equal personal dignity and human rights as all other individuals; and

WHEREAS, any invasion of the autonomy of a person with a disability must have a strong legal justification; and

WHEREAS, the practice of sterilizing individuals with disabilities and aborting pregnancies of persons with disabilities without their consent began based on flawed eugenic principles of hereditary inferiority; and

WHEREAS, the legislature rejects forced sterilization and forced abortion based on negative stereotypes about persons with disabilities, as such stereotypes are immoral and inconsistent with the values of the citizens of this state; and

WHEREAS, Code of Civil Procedure Article 4566 allows a person with a disability who has been interdicted or placed under a continuing tutorship to be forcibly sterilized or receive a forced abortion with the approval of a judge; and

WHEREAS, the current law in Louisiana establishes no process, legal standard, or burden of proof and provides inadequate legal protections for the person with a disability who is faced with the possibility of a forced sterilization or forced abortion; and

WHEREAS, in the absence of a governing legal standard, the judicial authorization of a forced sterilization or forced abortion may be based on stigma, personal bias, or negative stereotypes about persons with disabilities; and

WHEREAS, the current law allowing forced sterilization and forced abortion is inconsistent with fundamental principles of human rights and equal dignity for all individuals; and

WHEREAS, the law should include a set of robust procedural protections for persons with disabilities who have been interdicted or placed under a continuing tutorship; and

WHEREAS, procedural protections should include specific requirements to assess the consent and wishes of the individual with a disability; and

WHEREAS, the procedural protections should include notice, the appointment of a curator or supported decision-maker, and appointed counsel; and

WHEREAS, the law should require specific timelines in the case of a legal proceeding seeking authorization for abortion; and

WHEREAS, the law should enumerate specific requirements of proof, allocate the burden of proof, and set the standard to which each fact must be proven; and

WHEREAS, the law should be written so as not to interfere with necessary medical care.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana urges and requests the Louisiana State Law Institute to study provisions of law relative to the consent of a curator to an abortion or sterilization of an interdict, and to report its findings to the House of Representatives no later than February 1, 2022.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to include representatives of Disability Rights Louisiana and Louisiana Right to Life, to the extent not already included in the study group.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

January 26, 2022

To: Representative Clay Schexnayder  
Speaker of the House  
P.O. Box 94062  
Baton Rouge, Louisiana 70804-9062

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO HR NO. 109 OF THE 2021 REGULAR SESSION**

House Resolution No. 109 of the 2021 Regular Session urges and requests the Louisiana State Law Institute to study provisions of law relative to consent of a curator to an abortion or sterilization of an interdict. Specifically, the resolution noted that current law in Louisiana establishes no process, legal standard, or burden of proof and provides inadequate legal protections for persons with disabilities who are faced with the possibility of a forced sterilization or forced abortion. The resolution also asked the Law Institute to include in this study representatives of Disability Rights Louisiana and Louisiana Right to Life. In fulfillment of this request, the Law Institute assigned the project to its Marriage-Persons Committee, which operates under the direction of Professor Andrea B. Carroll as Reporter.

The Committee received background information from Louisiana Right to Life and heard client testimonies from representatives of Disability Rights Louisiana and was surprised that Louisiana law does not provide more safeguards. The Committee has conducted research and is reviewing model language provided by Disability Rights Louisiana that is based on Michigan law and was drafted in consultation with medical professionals. The Committee is carefully balancing considerations concerning preserving interdicts' health with protecting their individual rights and freedoms and has begun drafting new laws with the purpose of adding due process protections.

A final report will be submitted to the Legislature once the Committee receives approval of its recommendations from the Law Institute's Council.