
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 146 Engrossed

2022 Regular Session

Charles Owen

Abstract: Provides relative to civil proceedings authorizing a sterilization or abortion of an interdict or person under continuing tutorship.

Present law (C.C. Art. 354) provides that certain children with intellectual disabilities or mental deficiencies may be placed under continuing or permanent tutorship without formal or complete interdiction.

Present law (C.C. Art. 358) provides for the authority, privileges, and duties of a tutor or undertutor regarding a person placed under continuing tutorship.

Present law (C.C. Art. 358) provides that tutors and undertutors may give consent for any medical treatment or procedure.

Proposed law changes present law (C.C. Art. 358) and requires the tutor to obtain court authorization for abortion or sterilization for a person under continuing tutorship.

Present law (C.C.P. Art. 4561) provides that the court shall appoint a qualified person to serve as curator of an interdict.

Present law (C.C.P. Art. 4566) provides for management of the affairs of an interdict. Present law provides that a curator may not consent to an abortion or sterilization of the interdict without prior court authorization.

Proposed law retains present law and provides for procedures to petition the court for authorization for an interdict or person under continuing tutorship's abortion or sterilization.

Proposed law requires a curator or tutor to petition the court to allow for a procedure that is to be performed for the primary purpose of sterilization or abortion.

Proposed law provides that the court shall appoint an independent attorney to act on behalf of the interdict or person under continuing tutorship. The attorney shall be appointed at no cost if the interdict or person under continuing tutorship is receiving financial assistance or is otherwise unable to afford counsel.

Proposed law provides that notice of the petition for consent to a medical procedure for sterilization or abortion shall be submitted to the entity designated by the state to act as the state's Protection and

Advocacy agency for people with disabilities under 45 CFR 1326.20. 45 CFR 1326.20 provides that an official must designate a state official or public or private agency to be accountable for the proper use of funds and conduct of the Protection and Advocacy System.

Proposed law provides that the court shall hold a contradictory hearing and the physical presence of the interdict or person under continuing tutorship is required. If the person is unable to attend safely, the person may participate via video link.

Proposed law provides that the interdict or person under continuing tutorship shall be given the opportunity to fully express their preferences.

Proposed law provides that the court shall issue an order authorizing the procedure after a finding by clear and convincing evidence that the procedure is required to preserve the health and safety of the interdict or person under continuing tutorship after consideration of the person's preference and all relevant evidence.

Proposed law provides that the abortion petition hearing shall be expedited and a final judgment shall be issued within 48 hours of the hearing.

Proposed law provides that proposed law shall not be construed as creating or recognizing a right to abortion and shall not be interpreted to supersede any law prohibiting an abortion.

(Amends C.C. Art. 358; Adds C.C.P. Art. 4566.1)