



House of Representatives

General Assembly

File No. 180

February Session, 2004

Substitute House Bill No. 5219

House of Representatives, March 23, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT STERILIZATION ORDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-690 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 For the purposes of sections 45a-690 to 45a-700, inclusive, and
4 section 2 of this act:

5 [(a)] (1) "Sterilization" means a surgical or other medical procedure,
6 the purpose of which is to render an individual permanently incapable
7 of procreating;

8 [(b)] (2) "Informed consent" means consent that is [(1)] (A) based
9 upon an understanding of the nature and consequences of sterilization,
10 [; (2)] (B) given by a person competent to make such a decision, and
11 [(3)] (C) wholly voluntary and free from coercion, express or implied;

12 [(c)] (3) "Institution" means a state school or hospital or other

13 residential facility operated or leased by the state of Connecticut; and

14 [(d)] (4) "Best interest" shall include all of the following factors: [(1)]
 15 (A) Less drastic alternative contraceptive methods have proved
 16 unworkable or inapplicable, [(2)] (B) the individual is physiologically
 17 sexually mature, [(3)] (C) there is no evidence of infertility, [(4)] (D) the
 18 individual has the capability and a reasonable opportunity for sexual
 19 activity, [(5)] (E) the individual is unable to understand reproduction
 20 or contraception and there exists the likely permanence of that
 21 inability, [(6)] (F) the physical or emotional inability to care for the
 22 child, [(7)] (G) the proponents of the sterilization are seeking
 23 sterilization in good faith and their primary concern is for the best
 24 interests of the respondent rather than their own convenience or the
 25 convenience of the public, and [(8)] (H) in the case of females,
 26 procreation would endanger the life or severely impair the health of
 27 the individual.

28 Sec. 2. (NEW) (*Effective from passage*) Except as otherwise provided
 29 in this section, an order or decree of a court of probate permitting
 30 sterilization pursuant to sections 45a-690 to 45a-700, inclusive, of the
 31 general statutes shall be stayed, for a period of not less than ten days
 32 from the date of such order or decree, to afford the respondent an
 33 opportunity to file an appeal pursuant to part VII of chapter 801b of
 34 the general statutes. If no such appeal is filed within such time period,
 35 the stay shall be lifted. If such appeal is filed within such time period,
 36 the stay shall remain in effect pending the outcome of the appeal. The
 37 provisions of this section shall not stay any such order or decree if the
 38 court finds that the respondent (1) has attained the age of eighteen
 39 years, (2) is able to give informed consent to a sterilization procedure,
 40 and (3) has given informed consent, in writing, to such sterilization.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Probate Court; Judicial Dept.	PCAF - None	None	None

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill, which would not result in the need for additional resources, mandates a 10-day stay on involuntary sterilization procedures involving probate court wards.

OLR Bill Analysis

sHB 5219

AN ACT CONCERNING PROBATE COURT STERILIZATION ORDERS**SUMMARY:**

This bill mandates at least a 10-day stay on involuntary sterilization procedures involving probate court wards (i.e., people a probate judge has found to be incapable of caring for themselves or managing their affairs and for whom he has appointed a conservator). If the ward files a Superior Court appeal during that period, the stay remains in effect until the appeal is resolved. The stay is automatically lifted when no appeal is filed.

The bill exempts from the stay cases involving wards age 18 or older who have given informed consent in writing.

EFFECTIVE DATE: Upon passage

BACKGROUND***Grounds for Involuntary Sterilization***

By law, probate judges can order involuntary sterilization if they find by clear and convincing evidence that the procedure is in the person's best interest. They must take into account whether:

1. less drastic alternative contraceptive methods have proved unworkable or inapplicable,
2. the individual is physiologically sexually mature,
3. there is no evidence of infertility,
4. the individual has the capability and a reasonable opportunity for sexual activity,
5. the individual is unable to understand reproduction or contraception and there exists the likely permanence of that inability,
6. the individual is physically or emotionally unable to care for a child,

7. the proponents of the sterilization are seeking sterilization in good faith and their primary concern is for the best interests of the affected person rather than their own or the public's convenience, and
8. in the case of females, procreation would endanger the life or severely impair the health of the affected person.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0