

ASSEMBLY BILL NO. 91—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

PREFILED JANUARY 24, 2019

Referred to Committee on Judiciary

SUMMARY—Establishes provisions concerning the sterilization of
protected persons. (BDR 13-173)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets *[omitted material]* is material to be omitted.

AN ACT relating to guardianships; establishing provisions
concerning the sterilization of protected persons; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that unless a guardian applies for and obtains the
requisite authority from a court, the guardian is prohibited from consenting to the:
(1) experimental medical, biomedical or behavioral treatment of a protected person;
(2) participation of a protected person in any biomedical or behavioral experiment;
or (3) sterilization of a protected person. Existing law also sets forth the
circumstances in which a court may authorize a guardian to consent to and
commence any such treatment or experiment. (NRS 159.0805)

Section 1 of this bill establishes additional provisions relating to a guardian's
application to a court for the authority to consent to the sterilization of a protected
person. **Section 1** requires the court to: (1) appoint an attorney, a guardian ad litem,
or an attorney and a guardian ad litem for the protected person; and (2) conduct a
full evidentiary hearing if the protected person has not provided his or her consent
to the sterilization. **Section 1** also provides that a court may authorize a guardian to
consent to the sterilization of a protected person only if the court finds by clear and
convincing evidence that the sterilization is in the best interest of the protected
person, but requires the court to consider whether any less irrevocable and intrusive
means of contraception would be suitable before granting such authority.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A guardian shall not consent to the sterilization of a protected person unless the guardian applies to the court for the authority to consent to the sterilization and obtains such authority from the court.

2. Unless an attorney or a guardian ad litem has already been appointed, after a guardian applies to the court for the authority to consent to the sterilization of a protected person, the court shall appoint:

(a) An attorney to represent the protected person;

(b) A guardian ad litem to make recommendations on behalf of the protected person; or

(c) An attorney to represent the protected person and a guardian ad litem to make recommendations on behalf of the protected person.

3. If a protected person has not provided his or her consent to the sterilization, the court must conduct a full evidentiary hearing before authorizing the guardian of the protected person to consent to the sterilization.

4. The court may authorize a guardian to consent to the sterilization of a protected person only if the court finds by clear and convincing evidence that the sterilization is in the best interest of the protected person. Before the court grants such authority to a guardian, the court must consider whether any less irrevocable and intrusive means of contraception would be suitable.

Sec. 2. NRS 159.0805 is hereby amended to read as follows:

159.0805 1. Except as otherwise provided in subsection 2, a guardian shall not consent to:

(a) The experimental medical, biomedical or behavioral treatment of a protected person; *or*

(b) ~~The sterilization of a protected person; or~~

~~—(c)—~~ The participation of a protected person in any biomedical or behavioral experiment.

2. The guardian may consent to and commence any treatment or experiment described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment or experiment.

3. The court may authorize the guardian to consent to and commence any treatment or experiment described in subsection 1 only if the treatment or experiment:



1 (a) Is of direct benefit to, and intended to preserve the life of or
2 prevent serious impairment to the mental or physical health of, the
3 protected person; or

4 (b) Is intended to assist the protected person to develop or regain
5 the abilities of the protected person.

6 **Sec. 3.** The amendatory provisions of this act apply to an
7 application by a guardian for the authority to consent to the
8 sterilization of a protected person that is submitted to a court on or
9 after January 1, 2020.

10 **Sec. 4.** This act becomes effective on January 1, 2020.

