

## The Legal Rights of Handicapped Persons With Regard to Procreation

Nancy Stungen, M.A.

**ABSTRACT.** I shall develop a new view of the legal rights of handicapped persons with regard to procreation. First, I shall discuss the concept of informed consent because it is relevant in determining when one gives or denies lawful permission for medical treatment or services. Then I shall turn to sterilization, abortion, and contraception: three specific aspects of procreation where the law has developed significantly. In the context of informed consent, I shall discuss access to these medical procedures and services and the varying ethical/historical institutions in society. Like the previous speakers, I shall stress competing considerations that must be weighed during decision-making in this sensitive area. In addition, nightmares are harbored on the present and legal analysis regarding procreation is the same for handicapped people as it is for people without handicaps and the legal analysis for people with mental handicaps is the same as it is for people with other kinds of handicaps. No particular body of law treats people with one handicap any way and people with other handicaps another way, and people without handicaps in altogether different fashion.

### THE CONCEPT OF INFORMED CONSENT

Let us begin with informed consent.<sup>1</sup> This is a legal requirement that all of us have confronted at various times. Informed consent is required before a physician may administer any non-emergency medical treatment or procedure. Thus, it is important to examine the three elements that constitute it: the consent must be knowing, competent, and voluntary.

Let us take these elements apart. Knowing means the consent must be based on information. Unfortunately, the concept is not as simple as it may

<sup>1</sup> Nancy Stungen is a staff attorney with the Developmental Disabilities Law Project, University of Maryland School of Law from 1976 to 1978. Since then, she has been Consulting Attorney of the Office of Attorney General of Evergreen Legal Services, Port Angeles, Washington. This article is based upon a lecture she authored delivered in January 24, 1978 at a Problem-Solving Workshop for Teachers, Parents, and Administrators on Sex Education for Deaf-Blind Students sponsored by the South Central Regional Center of the University of Texas, Dallas. There is considerable controversy in the law that have occurred after that date.

# The Legal Rights Of Handicapped Persons

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*A handbook on the legal rights of handicapped people* United States. President's Committee on Employment of the Handicapped, 1976     *The White House Conference on Handicapped Individuals* , 1977     *A Guide to Legal Rights for People with Disabilities* Marc D. Stolman, 1994 This book deals comprehensively with the legal problems most often encountered by people with disabilities as well as issues such as Social Security wills and durable powers of attorney It is primarily written for non lawyers but lawyers may benefit from it as well It answers the most common questions about the laws involved in insurance government benefits wills trusts durable powers of attorney bankruptcy debt collection credit reports and how to enforce your rights Forms for a will and a durable power of attorney are attached in the appendices

**The Legal Rights of Students with Disabilities** Charles J. Russo, 2011-06-16 Since 1948 when the United Nations adopted the Universal Declaration of Human Rights all students have been declared the right to education The rights of disabled students have not been explicitly addressed however and each country has developed their own rules and regulations Although similarities exist among the different countries differences are evident especially in both the extent and acknowledgment of these rights The Legal Rights of Students with Disabilities International Perspectives examines the rights of disabled students in ten diverse countries on six continents Written by leading experts in education law this volume provides comparative insights to help meet the educational needs of disabled students The book also offers strategies to manage the legal and educational complexities associated with special education     *The White House Conference on Handicapped Individuals, Washington, D.C., May 23-27, 1977: Awareness papers* , 1977     *Law, Rights and Disability* Jeremy Cooper, 2000-12-01 This comprehensive volume assesses the relationship between legal rights and disability and the effect of law legal process and third party professional intervention on the lives of people with disabilities The contributors who are all either academics or other professional experts in their field write in a jargon free accessible style     **Compendium of Law Suits Establishing the Legal Rights of Mentally Retarded Citizens** U.S. President's Committee on Mental Retardation, 1974     *Rights of the Mentally Disabled* American Psychiatric Association, American Psychiatric Association Staff, Kernberg, 1984-03-01 The rights of the mental disabled are highlighted in the book     *Disabled USA.* , 1987

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