

MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 250

S. P. 277

In Senate, Feb. 3, 1931.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Weeks of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT to regulate the sterilization of inmates of institutions.

Be it enacted by the People of the State of Maine, as follows:

Section 1. A State Board of Sterilization is hereby created, to be composed of the secretary of the Department (or director) of Public Welfare, the commissioner (or director) of Health and the superintendent of the Pownal State School, any two of whom may act as such board. These members shall serve without additional compensation.

Sect. 2. It shall be the duty of this board to pass on applications for sterilization made in accordance with the provisions of law and to keep a record of such sterilization. This record shall be kept in the office of the Department of Public Welfare and shall not be open to public inspection, except for such purposes as the board may approve with the assurance that the names of the persons sterilized shall not be made public.

Sect. 3. Whenever it appears to the governing board of any state institution that any inmate under the care or custody of such institution would be likely, if released without sterilization, to produce a child or children who by reason of inheritance would have a tendency to serious mental disease or mental deficiency, said governing board after con-

sultation with its medical staff or institution physician, shall submit to the State Board of Sterilization recommendation that a surgical operation be performed upon said patient for the prevention of parenthood.

Sect. 4. This recommendation shall be in writing and accompanied by the sworn statement of the superintendent of such institution containing the history of the inmate as shown by the records of the institution, so far as it bears upon the recommendation for sterilization and setting forth the reasons why sterilization is recommended.

Sect. 5. If, in the judgment of the board, procreation by said inmate would be likely to produce a child or children who by reason of inheritance would have a tendency to serious mental disease or mental deficiency it shall be the duty of the board to approve said recommendation within thirty days, and to send to the superintendent of such institution a written order, signed by at least two members of the board directing him to proceed with the sterilization not earlier than forty days after the receipt of said order. If the board disapproves of the governing board's recommendation, the case may not be brought up again, except on the request of the inmate or of his or her family, within one year of the date of the disapproval.

Sect. 6. The board shall also send one copy of the order for sterilization to the inmate and another copy to the next of kin or legal guardian of the inmate, accompanying it in each case by a certified copy of the governing board's recommendation aforesaid and notification that the inmate or his or her representative has a right of appeal to the courts. If no near relative is known and no legal guardian has been appointed, the board shall request a judge of the Superior Court to appoint some attorney to protect the rights of the inmate and such notices and copies shall be sent to such attorney.

Sect. 7. Within twenty days of the issuance of any order of sterilization an appeal may be taken therefrom to the Superior Court by the inmate or his or her representative. Such appeal shall be entered and heard at the next term of said court held at least fourteen days after the date of such appeal in the county where the institution in which the in-

mate is confined is located. The proceedings in such appeals shall be governed by the rules provided for probate appeals.

Sect. 8. In this appeal the person for whom an order of sterilization has been issued shall be designated as the plaintiff and the governing board of the institution in which said inmate is under care or custody shall be designated as defendant. The finding of the court shall be certified to the governing board of the institution in which the plaintiff is an inmate and to the State Board of Sterilization. Such finding may affirm, revise or reverse the order of the board appealed from.

Sect. 9. The pendency of any appeal shall stay proceedings under the order of the State Board of Sterilization until the appeal be determined. Should the decision of the court uphold the plaintiff's objection, the order for sterilization shall be vacated automatically and the case may not be initiated again within one year of the date of the final decision of the court. Should the court find against the plaintiff said order shall be put into effect by the superintendent of the institution in which the inmate is under care or custody and the inmate shall be sterilized by vasectomy, if a male; by fallocotomy, if a female.

Sect. 10. Neither any of said superintendents or any other person legally participating in the execution of the provisions of this act shall be liable either civilly or criminally on account of said participation, except in the case of negligence in the performance of the operation.