

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 992

S. P. 590

In Senate, March 25, 1931.

Reported by Majority from Committee on Judiciary and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Sect.

New Draft of S. P. 277, L. D. 250.

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. Whenever it appears to the medical staff or institution physician of any institution in this state which has the care or custody of insane or feebleminded persons 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 medical staff or institution physician shall submit to the governing board of such institution a recommendation that a surgical operation be performed upon said patient for the prevention of parenthood.

Sec. 2. 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 it bears upon the recommendation for sterilization and setting forth the reasons why sterilization is recommended.

Sec. 3. If, in the judgment of the governing 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 deficiency it shall be the duty of the board to approve said recommendation within thirty days and send to the superintendent of such institution a written order, signed by at least two members of such board directing him to proceed with the sterilization not earlier than forty days after the receipt of said order; provided, however, that no order of sterilization shall be carried into effect until the same shall have been further approved by two of the following persons, the superintendent of the Bangor State Hospital, the Superintendent of the Augusta State Hospital and the superintendent of the Pownal State School for the feeble-minded.

Sec. 4. Such board shall also send one copy of the order for sterilization to the inmate and another copy to the father or mother, husband or wife or legal guardian of the inmate, accompanying it in each case by a certified copy of the recommendation aforesaid and notification that the inmate or his or her representative has a right of appeal to the courts. If none of the foregoing relatives are 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.

Sec. 5. 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 inmate was domiciled when committed. The proceedings in such appeals shall be governed by the rules provided for probate appeals.

Sec. 6. In this appeal the person for whom an order of sterilization has been issued shall be designated as the plaintiff and the superintendent 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. Such finding may affirm, revise or reverse the order of the board appealed from.

Sec. 7. The pendency of any appeal shall stay proceedings under the order of such governing board until the appeal is

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.

Sec. 8. The completed original documents in every case not originated and completed at the Pownal State School shall be forwarded to said school for permanent record and a duplicate thereof shall be retained by the institution where the inmate is confined. Such records or documents shall not be open to public inspection except for such purposes as may be approved by the superintendent of the Pownal State School, with the assurance that the names of the persons sterilized shall not be made public.

Sec. 9. 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.