

and state officers, and the expenses thereof shall be defrayed by said district, and the judges, clerks and inspectors of said election shall each receive as compensation for the services rendered at such election the sum of two dollars per day: *Provided*, That at least thirty days' notice immediately preceding any such general election shall be given thereof by the board of commissioners of such drainage district, by posting the same in four public places within said district. Said notice shall contain the names of two electors of said district as judges of said election and the name of one elector of said district as inspector thereof, the same to be chosen by said board of commissioners. Said board of commissioners shall be a canvassing board to canvass the vote of each election, and they shall meet the day following such election and canvass said votes and declare the result thereof and issue certificates of election.

Passed the House February 9, 1921.

Passed the Senate March 2, 1921.

Approved by the Governor March 8, 1921.

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## CHAPTER 53.

[H. B. 190.]

### PREVENTION OF PROCREATION.

AN ACT to prevent the procreation of feeble minded, insane, epileptic, habitual criminals, moral degenerates and sexual perverts, who may be inmates of institutions maintained by the State, authorizing and providing for the sterilization of persons with inferior hereditary potentialities and providing for appeals to the Superior Courts in certain cases.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. It shall be and is hereby declared the duty of the superintendents of all state institutions having the care of individuals held in restraint to re-

Superintendents of institutions to make reports.

port quarterly to the institutional Board of Health, all feeble minded, insane, epileptic, habitual criminals, moral degenerates and sexual perverts, who are persons potential to producing offspring who, because of inheritance of inferior or anti-social traits, would probably become a social menace or wards of the State.

SEC. 2. It shall be the duty of the Institutional Board of Health to examine into the innate traits, the mental and physical conditions, the personal records, and the family traits and histories of all persons so reported so far as the same can be ascertained, and for this purpose said board shall have the power to summon witnesses, and any member of said Board may administer an oath to any witness whom it is desired to examine; and if in the judgment of a majority of the said Board procreation by any such person would produce children with an inherited tendency to feeble mindedness, insanity, epilepsy, criminality or degeneracy, and there is no probability that the condition of such person so examined will improve to such an extent as to render procreation by any such person advisable, or if the physical or mental condition of any such person will be substantially improved thereby, then it shall be the duty of said Board to make an order directing the superintendent of the institution in which such inmate is confined to perform or cause to be performed upon such inmate such a type of sterilization as may be deemed best by said Board.

Sterilization  
authorized.

SEC. 3. The purpose of said investigation, findings and orders of said board shall be for the betterment of the physical, mental, neural, or psychic condition of the inmate, or to protect society from the menace of procreation by said inmate, and not in any manner as a punitive measure; and no person shall be emasculated under the authority of this act except

Purpose.

that such operation shall be found to be necessary to improve the physical, mental, neural or psychic condition of the inmate.

Notice of  
order.

SEC. 4. After fully inquiring into the condition of each of such inmates said board shall make separate written findings for each of the inmates whose condition has been examined into, and the same shall be preserved in the records of said board, and a copy thereof shall be furnished to the superintendent of the institution in which the inmate is confined, and if an operation is deemed necessary by said board, then a copy of the order of said board shall forthwith be served on said inmate, or in the case of an insane person, upon his legal guardian, and if such insane person have no legal guardian then upon his nearest known kin within the State of Washington, and if such insane person have no known kin within the State of Washington, then upon the custodial guardian of such insane person.

Appeal.

SEC. 5. Any such inmate desiring to appeal from the decision of said board, or in the case the person is under guardianship or disability, then the guardian of said inmate may take an appeal into the superior court of the county in which the institution in which the inmate is confined, is located. An informal notice of appeal filed with the secretary of said board, either by the inmate or someone in his behalf, shall be all that is necessary to make the appeal: *Provided*, Said notice shall be filed within fifteen days of the date when notice of the board's decision is served on the inmate or his guardian, and said notice of appeal shall stay all proceedings of said board on said matter until the same is heard and determined on said appeal: *Provided, further*, That no operation shall be performed, upon any inmate until the time for appeal from the decision of the board has expired.

SEC. 6. Upon an appeal being taken, the secretary of said board where the notice of appeal is filed, must within fifteen days thereafter, or such further time as the court or the judge thereof may allow, transmit a certified copy of the notice of appeal and transcript of the proceedings, findings and order of the board, to the clerk of the court appealed to. The trial shall be a trial *de novo* at law as provided by the statutes of the state, for the trial of actions at law. Upon such appeal, if the inmate be without sufficient financial means to employ an attorney, then the court shall appoint an attorney to represent the said inmate, and such attorney shall be compensated by the state upon order of the court; and it shall be the duty of the district attorney of the county wherein such trial is had to represent the said board.

Procedure  
on appeal.

SEC. 7. If the court or jury shall affirm the findings of said board, said court shall enter a judgment, adjudging that the order of said board shall be carried out as herein provided; if the court fail to affirm the decision of said board appealed from, then said order shall be null and void and of no further effect.

Entry of  
judgment.

SEC. 8. Upon the receipt of the order from the Institutional Board of Health, the superintendent of the institution to which it is directed shall, after the time for appeal has expired, or in case of appeal upon the entering of a judgment affirming the order of the board, and it is hereby made his lawful duty, to perform, or cause to [be] performed such surgical operation as may be specified in the order of the Institutional Board of Health. All such operations shall be performed with a due regard for the physical condition of the inmate and in a safe and humane manner.

Operations

SEC. 9. No surgeon performing the operation provided for in the preceding section under the direction of the superintendent, or other officer in charge

Surgeon's  
liability.

of such institution, shall be held criminally liable therefor or civilly liable for any loss or damage on account thereof, except in case of negligence in the performance of such operation.

Persons  
affected.

SEC. 10. The criminals who shall come within the operation of this law shall be those who have been convicted three or more times of a felony and sentenced to serve in the penitentiary therefor.

Moral degenerates and sexual perverts are those who are addicted to the practice of sodomy or the crime against nature, or to other gross, bestial and perverted sexual habits and practices prohibited by statute.

Sex.

SEC. 11. The provisions of this act shall apply to both male and female inmates of any of the institutions designated herein.

Expense.

SEC. 12. The state shall be liable, under this act, only for the actual traveling expenses of the members of the board incurred in the performance of their duties, and the actual and necessary expense incident to the investigations of said board and an appeal therefrom, which shall be paid upon vouchers signed by the person receiving such compensation and expense from the moneys appropriated for the maintenance of the institution where such examination is held.

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Approved by the Governor March 8, 1921.