

CHAPTER 66

EUGENICS

AN ACT to repeal sections thirty-three hundred sixty-one (3361) to thirty-three hundred sixty-five (3365), inclusive, code, 1927, and to enact a substitute therefor, relating to the sterilization of certain persons, to create a state board of eugenics, to define the powers and duties of said board, to fix the procedure in the sexual sterilization of persons, to provide for the expense attending such procedure and to make an appropriation therefor.

Be it enacted by the General Assembly of the State of Iowa:

Sections thirty-three hundred sixty-one (3361) to thirty-three hundred sixty-five (3365), inclusive, code, 1927, are hereby repealed and the following enacted as a substitute therefor:

1 SECTION 1. **State board of eugenics.** A state board of eugenics is
2 hereby created. Said board shall consist of the medical director of
3 the state psychopathic hospital connected with the college of medicine
4 of the state university at Iowa City, of the commissioner of public
5 health, and of the superintendents of the following state institutions,
6 to wit:

- 7 1. The Cherokee state hospital.
- 8 2. The Clarinda state hospital.
- 9 3. The Independence state hospital.
- 10 4. The Mount Pleasant state hospital.
- 11 5. The institution for feeble-minded children at Gleenwood.
- 12 6. The hospital for epileptics and school for feeble-minded at
13 Woodward.
- 14 7. The women's reformatory at Rockwell City.

1 SEC. 2. **Quarterly reports of defective.** Each member of said
2 board, and the warden of the penitentiary and the warden of the men's
3 reformatory, shall, annually, on the first day of January, April, July
4 and October, report to the state board of eugenics the names of all
5 persons, male or female, living in this state, of whom he or she may
6 have knowledge, who are feeble-minded, insane, syphilitic, habitual
7 criminals, moral degenerates, or sexual perverts and who are a men-
8 ace to society.

1 SEC. 2-a. **Notice.** Any person reported to the state board of
2 eugenics, under the provisions of section two (2) of this act, must be
3 served with a notice in writing of such report and fixing a time and
4 place not less than ten (10) days subsequent to such report for the
5 time and place of examination and hearing before said board. Said
6 notice shall be served as provided in section nine (9) of this act.

1 SEC. 2-b. **Hearing.** Any person reported to the state board of
2 eugenics, as provided in section two (2) of this act, and who has been
3 notified thereof, shall have the right to appear personally before said
4 board and to be represented by counsel at such hearing. He shall have
5 the right to have witnesses subpoenaed and to introduce such evidence
6 in regard to the matter at issue as the board shall deem relevant,
7 material and proper.

1 SEC. 3. **Examination and hearing.** It shall be the duty of said

2 board at the time and place named in the notice to the person reported
3 upon, with such reasonable continuances from time to time and from
4 place to place as the board may determine, to proceed to hear and
5 consider the evidence offered and to examine into the innate traits,
6 the mental and physical conditions, the personal records and family
7 traits and history of the person reported upon and notified as in this
8 act provided, in so far as the same can be ascertained. If the person
9 reported upon is an inmate of any institution, the said board shall
10 see to it that the inmate shall have opportunity and leave to attend
11 the said examination and hearing in person, if desired by him or if
12 requested by his guardian or person served with the notice as afore-
13 said.

1 **SEC. 4. Witnesses.** To enable the board to discharge said duty,
2 said board, or the chairman thereof, on the order of the board, shall
3 have power and authority to issue subpoenas and to cause the same
4 to be served.

1 **SEC. 5. Contempt.** Should a witness be duly served with a sub-
2 poena and refuse to appear, or should a witness refuse to answer,
3 the board shall report such refusal to the district court or judge
4 thereof, of the county in which the refusal occurs, and the court, or
5 judge thereof, shall proceed as though such refusal had occurred in
6 a proceeding before said court or judge.

1 **SEC. 6. Oaths.** Any member of said board shall have power to
2 administer an oath to witnesses before it.

1 **SEC. 7. Order for sterilization.** If in the judgment of a majority
2 of said board procreation by such persons would produce a child or
3 children having an inherited tendency to feeble-mindedness, syphilis,
4 insanity, epilepsy, criminality, or degeneracy, or who would probably
5 become a social menace or ward of the state, and there is no prob-
6 ability that the condition of such person so investigated and examined
7 will improve to such an extent as to avoid such consequences, then
8 it shall be the duty of such board to make an order embodying its
9 conclusions with reference to such person in said respects and specify-
10 ing such a type of sterilization as may be deemed by said board best
11 suited to the condition of said person and most likely to produce the
12 beneficial results in the respects specified in this section, but nothing
13 contained in this act shall be construed to authorize castration nor
14 removal of sound organs from the body.

1 **SEC. 8. Findings—record.** After fully inquiring into the condition
2 of each of such persons, said board shall make separate written find-
3 ings and conclusions for each of the persons into whose condition it
4 has examined, including its findings, conclusions, and order thereon
5 as herein provided, and the same shall be preserved in the records of
6 said board and a copy thereof shall be furnished to the official who
7 reported the case.

1 **SEC. 9. Service of order.** If an operation is deemed necessary by
2 said board for such person so investigated, then a copy of the order
3 of said board recommending such operation shall be served forthwith
4 on said person, or, in the case of an insane or feeble-minded person,

5 upon his legal guardian, and if such person has no legal guardian,
6 then upon his nearest known kin, or personal friend, within the state
7 of Iowa, and if such person has no known kin or personal friend within
8 the state of Iowa, then the board shall cause application to be made
9 to the district court of the county in which such person resided or may
10 be found for the appointment of some suitable person to act as guard-
11 ian of the person reported upon during and for the purposes of the
12 proceedings under this act, to defend the rights and interests of the
13 said person, and the court shall, by proper order, appoint some suit-
14 able person to act as guardian for said purposes who shall be paid
15 from any funds in the state treasury not otherwise appropriated, a
16 fee, but not exceeding twenty-five dollars (\$25.00), as may be deter-
17 mined by the judge of said court, for his services under said appoint-
18 ment. Such guardian may be removed or discharged at any time by
19 said court, or the judge thereof in vacation, and a new guardian
20 appointed and substituted in his place.

1 **SEC. 10. Purpose and objects sought.** Said investigation, findings,
2 and orders of said board shall be made with the purpose in view of
3 securing a betterment of the physical, mental, neural or physical con-
4 dition of the person, to protect society from the acts of such person,
5 or from the menace of procreation by such person, and not in any
6 manner as a punitive measure.

1 **SEC. 11. Consent to operation.** If any person whose condition has
2 been examined and reported upon by said board, as hereinbefore pro-
3 vided, shall consent in writing to have the operation specified in the
4 order of said board performed, such operation shall thereupon be per-
5 formed upon said person by or under the direction of the superin-
6 tendent of the institution in which he is confined, if such person be
7 an inmate of any of the state institutions herein mentioned, or if he
8 is not an inmate of any of said institutions, such operation shall be
9 performed by or under the direction of the state board of eugenics.
10 All such operations shall be performed with due regard for the physi-
11 cal condition of the person upon whom it is performed and in a safe
12 and humane manner.

1 **SEC. 12. Consent defined.** In case the person to be operated upon
2 be feeble-minded or insane, the consent hereinbefore mentioned in the
3 preceding section shall be construed to mean the written consent of
4 such person's legal guardian, or if such person has no legal guardian,
5 then the written consent of such person's nearest known kin or per-
6 sonal friend within the state of Iowa, or if such person be insane, or
7 feeble-minded, and has neither legal guardian nor known kin or per-
8 sonal friend within the state of Iowa, then the written consent of the
9 guardian appointed by the court for such person as provided in this
10 act.

1 **SEC. 13. Absence of consent—trial.** If any such person shall not
2 consent, within twenty (20) days from the service of such order upon
3 him, to the performance of such operation, said board of eugenics,
4 through its secretary, or other officer having charge of its records
5 and files, within fifteen (15) days thereafter, or such further time as
6 the court or judge thereof may allow, shall file a transcript of its pro-
7 ceedings and of its said findings, conclusions, and order with reference

8 to said person with the clerk of the district court of the county in
9 which such person resides or may be found.

1 SEC. 14. Upon the filing of such findings, conclusions, and order,
2 the clerk of the district court shall issue a summons directed to such
3 person and deliver the same to the sheriff, together with a copy of
4 such order prepared and certified by him and it shall be the duty of
5 said sheriff to forthwith serve said summons and copy of order upon
6 said person therein named, who shall be required, within twenty (20)
7 days after such service upon him, to enter his appearance in writing
8 with the clerk of the district court in such case or by appearing in
9 person before said clerk, who shall thereupon enter the appearance
10 of such person in such proceeding. If he be an insane or feeble-
11 minded person such appearance may be made by his guardian, if he
12 have one; if not, then by his nearest of kin or near friend. If he be
13 confined in an institution, facility shall be furnished him for making
14 such appearance.

1 SEC. 15. **Court procedure.** The issue thereby raised shall be
2 whether the findings and conclusions of said board shall be affirmed
3 by the court, and shall be tried in the district court of such county,
4 as a special proceeding, in the same manner as a civil action at law
5 in which the state shall be the plaintiff and the person so summoned
6 shall be the defendant. Each party shall have the same rights as to
7 production of evidence and the case shall be tried in the same manner
8 as any other civil action. In all such cases the county attorney of
9 the county where such proceedings are tried shall appear and prose-
10 cute such action on behalf of the state. If the defendant has no
11 attorney and he is unable to secure one, the court shall appoint an
12 attorney from the membership of the bar of said county to conduct
13 his defense, and appeal, if any be taken as hereinafter provided, and
14 such attorney shall be compensated by the state, upon order of the
15 court. Upon the request of either party to such proceeding all ques-
16 tions of fact shall be tried by a jury and the court in every instance
17 shall have the testimony fully reported at the expense of the state.

1 SEC. 16. **Judgment—enforcement.** If the findings and conclusions
2 of the state board of eugenics shall be affirmed by the court, the de-
3 fendant shall be immediately placed in custody by the sheriff of said
4 county, and may be admitted to bail by the court, who shall fix the
5 amount of such bail, and if not so admitted to bail, shall be held until
6 the operation provided in such findings be performed.

1 SEC. 17. **Appeal.** Either party to said proceedings may take an
2 appeal from the district court to the supreme court of this state in the
3 same manner and within the same time and with like effect as appeals
4 in other civil actions are taken, and such case shall be tried in the
5 supreme court in the same manner as other appeals in actions at law.
6 If the defendant be represented by an attorney appointed by the court,
7 and, in the opinion of the court, is financially unable to meet his part
8 of the expense of an appeal, the defendant's actual and necessary
9 expense of such appeal and prosecution thereof to final decree by the
10 supreme court shall be paid by the state upon order of said district
11 court, same to be paid out of the general funds of the state not other-
12 wise appropriated.

1 **SEC. 18. Expenses—liability of state.** The state shall be liable
 2 under this act, except as hereinabove provided for, only for the actual
 3 traveling expenses of the members of the board incurred in the per-
 4 formance of their duties, and the actual and necessary expense inci-
 5 dent to the investigations of said board either on original case or an
 6 appeal therefrom.

1 **SEC. 19. Selection of physician.** Nothing in this act shall be con-
 2 strued to empower or authorize the state board of eugenics or its
 3 representatives, or the state health officer, or his representatives, or
 4 the superintendent of any of the institutions mentioned, or his repre-
 5 sentatives, to interfere in any manner with the individual's right to
 6 select the physician of his choice; provided, that such physician is
 7 in the judgment of the state board of eugenics competent to perform
 8 such operation; nor to interfere with the practice of any person whose
 9 religion treats or administers to the sick or suffering by purely
 10 spiritual means; provided that such practice, treatment or administra-
 11 tion shall not in any way interfere with the operation of this act, and
 12 the carrying out of its purposes.

1 **SEC. 20. Fee.** A physician or surgeon, who is not in the employ
 2 of the state, shall receive a reasonable compensation for an operation
 3 performed hereunder, which compensation shall be paid from any
 4 funds in the state treasury not otherwise appropriated.

House File No. 243. Approved April 13, A. D. 1929.

CHAPTER 67

REGISTRAR OF VITAL STATISTICS

AN ACT to amend section twenty-three hundred eighty-nine (2389), code, 1927, relating to the appointment of the local registrar of vital statistics.

Be it enacted by the General Assembly of the State of Iowa:

1 **SECTION 1.** Section twenty-three hundred eighty-nine (2389), code
 2 1927, is amended by adding in line three (3) and immediately after
 3 the word "county" the following words, to wit:
 4 ", except that such appointment shall be made by the local board
 5 of health in cities having a population of thirty-five thousand (35,000)
 6 or more."

Senate File No. 277. Approved April 5, A. D. 1929.