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STS.003 The Rise of Modern Science  
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ACTS  
AND  
JOINT RESOLUTIONS  
(Amending the Constitution)  
OF THE  
GENERAL ASSEMBLY  
OF THE  
STATE OF VIRGINIA

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Session Which Commenced at the State Capitol on  
Wednesday, January 9, 1924.

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RICHMOND:  
DAVIS BOTTOM, SUPERINTENDENT OF PUBLIC PRINTING  
1924.

2. An emergency existing, this act shall be enforced from its passage.

CHAP. 394.—An ACT to provide for the sexual sterilization of inmates of State institutions in certain cases. [S B 281]

Approved March 20, 1924.

Whereas, both the health of the individual patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives under careful safeguard and by competent and conscientious authority, and

Whereas, such sterilization may be effected in males by the operation of vasectomy and in females by the operation of salpingectomy, both of which said operations may be performed without serious pain or substantial danger to the life of the patient, and

Whereas, the Commonwealth has in custodial care and is supporting in various State institutions many defective persons who if now discharged or paroled would likely become by the propagation of their kind a menace to society but who if incapable of procreating might properly and safely be discharged or paroled and become self-supporting with benefit both to themselves and to society, and

Whereas, human experience has demonstrated that heredity plays an important part in the transmission of insanity, idiocy, imbecility, epilepsy and crime, now, therefore

1. Be it enacted by the general assembly of Virginia, That whenever the superintendent of the Western State Hospital, or of the Eastern State Hospital, or of the Southwestern State Hospital, or of the Central State Hospital, or of the State Colony for Epileptics and Feeble-Minded, shall be of opinion that it is for the best interests of the patients and of society that any inmate of the institution under his care should be sexually sterilized, such superintendent is hereby authorized to perform, or cause to be performed by some capable physician or surgeon, the operation of sterilization on any such patient confined in such institution afflicted with hereditary forms of insanity that are recurrent, idiocy, imbecility, feeble-mindedness or epilepsy; provided that such superintendent shall have first complied with the requirements of this act.

2. Such superintendent shall first present to the special board of directors of his hospital or colony a petition stating the facts of the case and the grounds of his opinion, verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by said board requiring him to perform or to have performed by some competent physician to be designated by him in his said petition or by said board in its order, upon the inmate of his institution named in such petition, the operation of vasectomy if upon a male and of salpingectomy if upon a female.

A copy of said petition must be served upon the inmate together with a notice in writing designating the time and place in the said institution, not less than thirty days before the presentation of such petition to said special board of directors when and where said board may hear and act upon such petition.

A copy of the said petition and notice shall also be so served upon the legal guardian or committee of the said inmate if such guardian or committee be known to the said superintendent, and if there be no such guardian or committee or none such be known to the said superintendent, then the said superintendent shall apply to the circuit court of the county or city in which his said institution is situated, or to the judge thereof in vacation, who by a proper order entered in the common law order book of the said court shall appoint some suitable person to act as guardian of the said inmate during and for the purposes of proceedings under this act, to defend the rights and interests of the said inmate, and the guardian so appointed shall be paid by the said institution a fee of not exceeding twenty-five dollars as may be determined by the judge of the said court for his services under said appointment and such guardian shall be served likewise with a copy of the aforesaid petition and notice. Such guardian may be removed or discharged at any time by the said court or the judge thereof in vacation and a new guardian appointed and substituted in his place.

If the said inmate be an infant having a living parent or parents whose names and addresses are known to the said superintendent, they or either of them as the case may be shall be served likewise with a copy of the said petition and notice.

After the notice required by this act shall have been so given, the said special board at the time and place named therein, with such reasonable continuances from time to time and from place to place as the said special board may determine, shall proceed to hear and consider the said petition and the evidence offered in support of and against the same, provided that the said special board shall see to it that the said inmate shall have opportunity and leave to attend the said hearings in person if desired by him or if requested by his committee, guardian or parent served with the notice and petition aforesaid.

The said special board may receive and consider as evidence at the said hearing the commitment papers and other records of the said inmate with or in any of the aforesaid named institutions as certified by the superintendent or superintendents thereof, together with such other legal evidence as may be offered by any party to the proceedings.

Any member of the said special board shall have power to administer oaths to any witnesses at such hearing.

Depositions may be taken by any party after due notice and read in evidence if otherwise pertinent.

The said special board shall preserve and keep all record evidence offered at such hearings and shall have reduced to writing in duplicate all oral evidence so heard to be kept with its records.

Any party to the said proceedings shall have the right to be represented by counsel at such hearings.

The said special board may deny the prayer of the said petition or if the said special board shall find that the said inmate is insane, idiotic, imbecile, feeble-minded or epileptic, and by the laws of heredity is the probable potential parent of socially inadequate offspring likewise afflicted, that the said inmate may be sexually sterilized without detriment to his or her general health, and that the welfare of the inmate and of society will be promoted by such sterilization, the said special board may order the said superintendent to perform or to have performed by

some competent physician to be named in such order upon the said inmate, after not less than thirty days from the date of such order, the operation of vasectomy if a male or of salpingectomy if a female; provided that nothing in this act shall be construed to authorize the operation of castration nor the removal of sound organs from the body.

3. From any order so entered by the said special board the said superintendent or the said inmate or his committee or guardian or parent or next friend shall within thirty days after the date of such order have an appeal of right to the circuit court of the county or city in which the said institution is situated, which appeal may be taken by giving notice thereof in writing to any member of the said special board and to the other parties to the said proceeding, whereupon the said superintendent shall forthwith cause a copy of the petition, notice, evidence and orders of the said special board certified by the chairman or in his absence by any other member thereof, to the clerk of the said circuit court, who shall file the same and docket the appeal to be heard and determined by the said court as soon thereafter as may be practicable.

The said circuit court in determining such appeal may consider the record of the proceedings before the said special board, including the evidence therein appearing together with such other legal evidence as the said court may consider pertinent and proper that may be offered to the said court by any party to the appeal.

Upon such appeal the said circuit court may affirm, revise or reverse the orders of the said special board appealed from and may enter such order as it deems just and right and which it shall certify to the said special board of directors.

The pendency of such appeal shall stay proceedings under the order of the special board until the appeal be determined.

4. Any party to such appeal in the circuit court may within ninety days after the date of the final order therein, apply for an appeal to the supreme court of appeals, which may grant or refuse such appeal and shall have jurisdiction to hear and determine the same upon the record of trial in the circuit court and to enter such order as it may find that the circuit court should have entered.

The pendency of an appeal in the supreme court of appeals shall operate as a stay of proceedings under any orders of the special board or of the circuit court until the appeal be determined by the said supreme court of appeals.

5. Neither any of said superintendents nor 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.

6. Nothing in this act shall be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person in this State, by a physician or surgeon licensed by this State, which treatment may incidentally involve the nullification or destruction of the reproductive functions.