

Introduced: 4/27/70
Referred: Health, Welfare &
Education, Judiciary and
Finance

BY THE JUDICIARY COMMITTEE
BY REQUEST

1 IN THE HOUSE

2 HOUSE BILL NO. 854

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sterilization of certain
7 persons."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 47.30 is amended by adding a new section to read:

10 Sec. 47.30.135. STERILIZATION OF PATIENTS AFFLICTED WITH INHERI-
11 TED MENTAL DISEASE, MENTAL RETARDATION, OR MARKED DEPARTURES FROM
12 NORMAL MENTALITY. (a) The provisions of this section apply to any
13 person who has been lawfully committed or admitted to any state hospital
14 for the mentally ill and who is afflicted with, or suffers from, any of
15 the following conditions:

16 (1) mental disease which may have been inherited and is
17 likely to be transmitted to descendants;

18 (2) mental retardation, in any of its various grades;

19 (3) marked departures from normal mentality.

20 (b) The department, upon compliance with the provisions of this
21 section, may require a patient who is afflicted with or suffers from
22 any of the conditions specified in (a) of this section to be sterilized
23 by an operation or treatment that will permanently sterilize but not
24 unsex the patient. When the head of a state hospital for the mentally
25 ill is of the opinion that a patient who is afflicted with or suffers
26 from any of the conditions specified in (a) of this section should be
27 sterilized, he shall certify that opinion to the department and shall
28 at the same time give written notice of the certification to the patient
29 and by registered mail to one of the following persons: his spouse,

1 guardian, either parent or oldest adult child. If the patient has no
2 known relatives or guardian, the notice shall be given to the person
3 who petitioned for the patient's commitment. The notice shall further
4 state that written objection or written consent to the proposed
5 sterilization should be filed with the department within 30 days by the
6 patient, spouse, guardian or next of kin.

9 (c) When a written consent is filed, or if no objection is filed
10 within the 30 days, the commissioner of health and welfare or his
11 designee, if satisfied that the sterilization will not unduly endanger
12 the patient's health and that it is a proper case for sterilization,
13 may authorize the head of a state hospital for the mentally ill to
14 proceed with the sterilization of the patient. The commissioner or his
15 designee may require an examination of the patient and other inquiry
16 to be made as he determines advisable before issuing the authorization
17 to the head of the hospital.

18 (d) If a written objection is filed within the 30 days by the
19 patient, his spouse, guardian or next of kin, and in those cases where
20 the patient has no known relatives or guardian, the proposed steriliza-
21 tion shall not be authorized or performed until the commissioner of
22 health and welfare or his designee has determined the matter. The
23 commissioner or his designee shall make full inquiry into the case, and
24 may hold a hearing at the hospital at which hearing the patient shall
25 be present, and the objecting party and others interested on behalf
26 of the patient may be heard. If the decision of the commissioner or
27 his designee is that the patient shall not be sterilized, he shall so
28 order and notify the head of the state hospital for the mentally ill,
29 the patient and the objecting party. If the decision of the commis-
sioner or his designee is that the patient should be sterilized, he
shall send notice of his decision to the patient, his spouse, guardian,

1 parents, and adult children, if any, and the objecting party, by
2 registered mail. The notice shall further state that any of the parties
3 receiving notice has the right within 30 days to petition the court for
4 a review of the decision.

5 (e) If a petition is filed in court within 30 days, and a true
6 copy of it is served on the commissioner of health and welfare or his
7 designee, the patient may not be sterilized unless and until the court,
8 after hearing, issues an order authorizing the sterilization of the
9 patient in accordance with the provisions of this section. If the
10 petition is not filed in court within 30 days, the commissioner or
11 his designee may authorize the head of a state hospital for the mentally
12 ill to proceed with the sterilization.

13 (f) The sterilization of a patient in accordance with the provi-
14 sions of this section, whether performed with or without the consent
15 of the patient, is lawful and does not render the department, its offi-
16 cers or employees, or any person participating in the operation liable
17 either civilly or criminally.

18 * Sec. 2. AS 12.55 is amended by adding a new section to read:

19 Sec. 12.55.055. STERILIZATION AS PART OF SENTENCE FOR CONVICTION
20 OF CERTAIN FELONS. When a person is adjudged an habitual criminal or
21 upon the second conviction of a person for rape, assault with intent
22 to commit rape or incest, the court may, in addition to any other punish-
23 ment or confinement that may be imposed, direct that the person be
24 sterilized by an operation or treatment that will permanently sterilize
25 but not unsex him.
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