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EUGENIC PROTECTION LAW IN JAPAN

(Latest Revised Edition)

Institute of Population Problems  
Ministry of Health and Welfare  
Tokyo, Japan

## FOREWORD

The English translation of the Eugenic Protection Law of Japan in this English Pamphlet Series was first published in 1960 (No. 52) and has been widely utilized. It has been found, however, that the translation includes some inadequate expressions, particularly, in medical and genetical terms.

This time we were offered kind co-operation in correcting translations by Dr. Ei Matsunaga, Head of the Department of Human Genetics, National Institute of Genetics, and have come to republish the English text of the Law. This includes also some revisions which were made in accordance with amendments of the Law since 1960.

Our sincere appreciation is due to Dr. Matsunaga for his efforts in correcting the translation.

March 1, 1969

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Tokyo, Japan

Eugenic Protection Law

(Law No. 156 of July 13, 1948)

(Signed by the Attorney-General and  
the Minister of Health and Welfare)

Amendments:

Law No. 154 of May 31, 1949.

(Amendment under Article 1 of the Law relating to the  
Readjustment of the Relevant Laws and Ordinances in  
Consequence of the Enforcement of the Law for Establish-  
ment of the Ministry of Health and Welfare); Law No. 216  
of June 24, 1949.

(First amendment);

Law No. 174 of June 1, 1951.

(Amendment under Article 2 of the Law for Partial  
Amendment to the Law for Establishment of the Ministry  
of Welfare for Readjustment etc. of the Commission, etc.);

Law No. 141 of May 17, 1952.

(Second amendment);

Law No. 213 of August 15, 1953.

(Amendment under Article 24 of the Law relating to the  
Readjustment of the Relevant Laws and Ordinances in  
Consequence of the Enforcement of the Law for Partial  
Amendment to the Local Autonomy Law);

Law No. 127 of August 5, 1955.

(Third amendment);

Law No. 55 of April 21, 1960

The Eugenic Protection Law shall be established as follows:

Contents of the Eugenic Protection Law

- Chapter I General Provisions (Articles 1 and 2)
- Chapter II Eugenic Operation (Articles 3 to 13)
- Chapter III Protection of the Mother's Life and Health  
(Articles 14 and 15)
- Chapter IV Eugenic Protection Commission  
(Articles 16 to 19)
- Chapter V Eugenic Protection Consultation Office  
(Articles 20 to 24)
- Chapter VI Notification, Prohibition and Others  
(Articles 25 to 28)
- Chapter VII Penal Provisions (Articles 29 to 34)
- Supplementary Provisions (Articles 35 to 39)

Eugenic Protection Law

Chapter I    General Provisions

(Object of this Law)

Article 1. The object of this Law is to prevent the increase of the inferior descendants from the eugenic point of view and to protect the life and health of the mother as well.

(Definition)

Article 2. The term "eugenic operation" as used in this Law shall be defined to mean the surgical operation to be prescribed by order which shall incapacitate a person from reproduction without removing the reproductive glands.

2 The term "artificial interruption of pregnancy" as used in this Law shall be defined to mean the artificial discharge of a fetus and its appendages from the mother at the period that a fetus is unable to keep its life outside of the mother's body.

Chapter II    Eugenic Operation

(Eugenic operation at physician's discretion)

Article 3. The physician may exercise eugenic operation,

at his discretion, on a person who falls under any of the following items, with the consent of the person in question and the spouse (including a person who, though not registered, is actually under marital status. The same hereinafter). Minors, mental patients and those with mental retardation shall be exceptions.

- (1) If the person in question or the spouse has hereditary psychopathia, hereditary physical disease or hereditary malformation or if the spouse has a mental illness or is mentally retarded;
- (2) If the person or the spouse has a relative in blood within the 4th degree of consanguinity who has the hereditary mental illness, hereditary mental retardation, hereditary psychopathia, hereditary physical disease or hereditary malformation;
- (3) If the person in question or the spouse is suffering from leprosy, which is liable to carry infection to the descendants;
- (4) If the life of the mother is endangered by pregnancy or by delivery;
- (5) If the mother has several children and her health condition seems to be seriously affected by each occasion of delivery.

2 In the cases mentioned in items 4 and 5 of the preceding paragraph, the eugenic operation under the same paragraph may be performed upon the spouse as well.

3 With respect to the consent mentioned in paragraph 1, the sole consent of the person in question shall suffice, if the spouse is unknown or can not express his or her intention.

(Application for eugenic operation for which examination is required)

Article 4. The physician shall apply to the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission for examination as to the propriety of exercising the eugenic operation, if he finds that the eugenic operation is necessary for the sake of public interests in order to prevent hereditary transmission of the disease, in a case where the result of his examination evidently shows that the person in question is affected with one of the diseases enumerated in the Annexed List.

(Examination for eugenic operation)

Article 5. When the Metropolitan, Hokkaido, or Prefectural Eugenic Protection Commission has received an application under the provisions of the preceding Article, the Commission shall notify a person who shall undergo the

eugenic operation to that effect and, upon examining whether the case under application meets the requirements provided for in the said Article, shall notify the applicant and the person who shall undergo the operation of the decision reached by judging whether eugenic operation shall be exercised or not.

2 When the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission has decided that eugenic operation should be exercised, the Commission shall, upon hearing the opinions of the applicant and others concerned, designate the physician who shall carry out the operation and notify the applicant, the person to be operated on, and the physician concerned of such designation.

(Application for review)

Article 6. In cases where a person in respect of whom it has been decided to exercise eugenic operation in accordance with the provisions of paragraph 1 of the preceding Article, has an objection to such decision, he may apply to the Central Eugenic Protection Commission for review of his case within two weeks from the date that he received the notification under the same paragraph.

2 The spouse, the person in parental right, the guardian or the assistant of the person in respect of whom it has



been decided to exercise eugenic operation under the preceding paragraph, may apply for review.

3 The application under the preceding two paragraphs shall be made through the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission which has decided that the eugenic operation should be performed.

In this case, the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission shall transmit the application accompanied by the statement of its opinion which may be deemed pertinent.

(Review for eugenic operation)

Article 7. When the Central Eugenic Protection Commission has accepted an application for review under the preceding Article, the Commission shall notify the physician who takes charge of operation to that effect and, on the other hand, shall judge afresh whether the exercise of eugenic operation is reasonable or not, and communicate the result to the applicant for review, the person who shall undergo eugenic operation, the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission, and the physician concerned.

(Presentation of opinion concerning examination)

Article 8. The applicant mentioned in the provisions of

Article 4, the person to undergo eugenic operation, and the spouse, the person in parental right, the guardian or the assistant may present to the Prefectural Eugenic Protection Commission the fact or opinion by means of the written or verbal statement concerning the examination provided for in Article 5, paragraph 1, or review provided for in the preceding Article.

(Institution of suit)

Article 9. A person who does not consent to the decision made by the Central Eugenic Protection Commission may institute a suit against it.

(Process of suit)

2 A person who does not consent to the decision to undergo eugenic operation provided for in Article 5, paragraph 1, may bring a suit only by the process under the provisions of Article 6 and the preceding Article.

(Carrying out of eugenic operation)

Article 10. When no objection has been raised to the decision that the eugenic operation should properly be carried out, or when the decision or the court judgement thereon has become final and conclusive, the physician under the provision of Article 5, paragraph 2, shall carry out the eugenic operation.

(Defrayment of operation expenses out of national treasury)

Article 11. The expenses to be incurred by carrying out the eugenic operation in accordance with the provisions of the preceding Article shall be provided by the Metropolis, Hokkaido or the Prefecture, as prescribed by Cabinet Order.

The expenses under the preceding paragraph shall be defrayed out of the national treasury.

(Eugenic operation to mental patients, etc.)

Article 12. In case there has been obtained the consent of the person under obligation to protect another under Article 20 (where the guardian, the spouse, the person having parental power or the person under obligation to sustain another has become the person to protect) or Article 21 (where the mayor of city or headman of town or village has become the person under obligation to protect) of the Mental Health Law (Law No. 123 of 1950), with respect to a person suffering from psychosis or mental retardation other than the hereditary ones enumerated in item 1 or 2 in the Annexed List, the physician may apply to the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission for investigation as to the reasonableness of exercising eugenic operation.

Article 13. The Metropolitan, Hokkaido or Prefectural

Eugenic Protection Commission shall, in case an application has been made under the preceding Article, upon investigating whether the person in question is suffering from mental illness or mental retardation under the same Article and whether the exercise of eugenic protection shall be necessary for his protection, determine whether the exercise of eugenic operation is reasonable or not, and inform the applicant and the consentor under the preceding Article of the decision.

2 The physician may, in case a decision has been taken that it is proper to perform eugenic operation under the preceding paragraph, perform the eugenic operation.

### Chapter III Protection of the Mother's Life and Health

(Artificial interruption of pregnancy at physician's  
discretion)

Article 14. The physician designated by the Medical Association which is a corporate juridical body established in the prefectural district as a unit (hereinafter called the "designated physician"), may exercise artificial interruption of pregnancy, at his discretion, to the person who falls under any of the

following items, with the consent of the person in question and of the spouse.

- (1) If the person in question or the spouse has mental illness, mental retardation, psychopathia, hereditary physical disease or hereditary malformation;
- (2) If the person or the spouse has a relative in blood within the 4th degree of consanguinity who has hereditary mental illness, hereditary mental retardation, hereditary psychopathia, hereditary physical disease or hereditary malformation;
- (3) If the person in question or the spouse is suffering from leprosy;
- (4) If the health of the mother may be affected seriously by continuation of pregnancy or by delivery from the physical or economic viewpoint;
- (5) If the person in question has conceived by being fornicated by violence or threat or while incapacitated to resist or refuse.

2 With reference to the consent under the preceding paragraph, the sole consent of the person in question shall suffice if the spouse is unascertainable, or if the spouse fails to declare his intention, or if no spouse remains after conception.

3 If the person who shall undergo the operation for artificial interruption of pregnancy is mentally ill or mentally retarded, the consent of the person under obligation to protect another under Article 20 of the Mental Health Law (where the guardian, the spouse, the person having parental power or the person under obligation to sustain another becomes the person under obligation to protect another) or under Article 21 of the same law (where the mayor of city, town or village becomes the person under obligation to protect another) may be regarded as that of the person in question.

(Practical guidance in contraception)

Article 15.\* Practical guidance in contraception by means of contraceptive instruments designated by the Minister of Health and Welfare for the use of women shall not be given as vocation by a person other than a physician, unless he is designated by the Metropolitan, Hokkaido or Prefectural governor.

However, the act of inserting a contraceptive instrument in the cavity of the uterus shall not be performed by any person other than a physician.

2 The person who may gain designation of the Metropolitan, Hokkaido or Prefectural governor under the preceding

paragraph shall be a midwife, a public health nurse or a nurse who has completed the course sanctioned by the Metropolitan, Hokkaido or Prefectural governor in accordance with the standards prescribed by the Minister of Health and Welfare.

3 In addition to matters provided for in the preceding two paragraphs, necessary matters in connection with the designation or sanction by the Metropolitan, Hokkaido or Prefectural governor, shall be prescribed by Cabinet Order.

#### Chapter IV Eugenic Protection Commission

(The Eugenic Protection Commission)

Article 16. The Eugenic Protection Commission shall be established in order to investigate reasonableness as to eugenic operation and to handle other matters required for eugenic protection provided by this Law.

(Organization and powers)

Article 17. The Eugenic Protection Commission shall be composed of the Central Eugenic Protection Commission and the Prefectural Eugenic Protection Commission.

2 The Central Eugenic Protection Commission shall principally deal with the business of review as to reasonableness of eugenic operation and other necessary

matters on eugenic protection provided by this Law, under the supervision of the Minister of Health and Welfare.

3 The Prefectural Eugenic Protection Commission to be established respectively for the Metropolis, Hokkaido, and each Prefecture, under the supervision of the Metropolis, Hokkaido or Prefectural governor, shall investigate reasonableness of eugenic operation.

(Composition)

Article 18. The Central Eugenic Protection Commission shall consist of not more than twenty-five members, and the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission of not more than ten members.

2 Each Eugenic Protection Commission may, in case of special necessity, have extraordinary members.

3 The members and the extraordinary members of the Eugenic Protection Commission shall be appointed from among physicians, volunteer workers in welfare services, judges, prosecutors, officials of the government and municipal office concerned or those of learning and experience, by the Minister of Health and Welfare in the case of the Central Eugenic Protection Commission, and by the Governor concerned in the case of the Metropolitan, Hokkaido or Prefectural Eugenic Protection Commission



respectively.

4 Each Eugenic Protection Commission shall have a chairman selected from among its own members.

5 The provisions of Article 203 (Remuneration and reimbursement of expenses) of the Local Autonomy Law (Law No. 67 of 1947) shall apply with the necessary modifications to the remuneration of the members of the Prefectural Eugenic Protection Commission and reimbursement of expenses.  
(Delegated business)

Article 19. The term of office of the Commission members, the duties of the chairman and other necessary matters concerning the management of the Eugenic Protection Commission, except those provided for in this Law, shall be prescribed by order.

Chapter V Eugenic Protection  
Consultation Office

(The Eugenic Protection Consultation Office)

Article 20. There shall be set up an Eugenic Protection Consultation Office in order to give advice in response to consultation on marriage affairs from the viewpoint of eugenic protection, ensure the dissemination and improvement of the essential knowledge of heredity and other

aspects of eugenic protection, and simultaneously popularize and give guidance in the adequate method of contraception.

(Establishment)

Article 21. The Metropolis, Hokkaido and Prefectures as well as cities having a health center shall set up their respective Eugenic Protection Consultation Offices.

2 The Eugenic Protection Consultation Office under the preceding paragraph may be attached to the health center.

3 The Metropolis, Hokkaido and Prefectures as well as cities having a health center shall, when they seek to set up their respective Eugenic Protection Consultation Offices, obtain the prior approval of the Minister of Health and Welfare.

4 The State may grant subsidies for part of the expenses for establishment and operation of the Eugenic Protection Consultation Office under paragraph 1 above, as prescribed by Cabinet Order.

(Approval of Establishment)

Article 22. A person other than the State, the Metropolis, Hokkaido or Prefectures as well as cities with a health center shall, in seeking to establish the Eugenic Protection Consultation Office, obtain the approval of the Minister of Health and Welfare.

2 The Eugenic Protection Consultation Office mentioned in the preceding paragraph shall have a physician in accordance with the standard set by the Minister of Health and Welfare and have equipments necessary for examination and other matters.

3 The Minister of Health and Welfare may, in case the Eugenic Protection Consultation Office under paragraph 1 has ceased to conform with the standard under the preceding paragraph, cancel his approval.

In such case, the Minister must, for affording the founder of Eugenic Protection Consultation Office an opportunity for explanation of his case, cause a competent official to make inquiry and hearing in respect of the founder.

(Exclusive use of its name)

Article 23. No office other than the one established by this Law shall use in its name any letters representing the Eugenic Protection Consultation Office or similar letters.

(Delegated business)

Article 24. Necessary matters concerning the Eugenic Protection Consultation Offices, excepting those provided by this Law, shall be prescribed by order.

Chapter V Notification, Prohibition and Others

(Notification)

Article 25. The physician or the designated physician who has carried out the eugenic operation or artificial interruption of pregnancy in accordance with the provisions of Article 3 paragraph 1, Article 10, Article 13 paragraph 2 or Article 14 paragraph 1, shall send until not later than the 10th day of the following month, to the Metropolitan, Hokkaido or Prefectural governor the duly arranged records of such operation for the month accompanied by the statement of reasons.

(Notice)

Article 26. In cases where a person who has undergone an eugenic operation, intends to get married, shall notify the partner to that effect.

(Secrecy of the operation)

Article 27. Any member and any extraordinary member of the Eugenic Protection Commission; or any official who has engaged in examination or actual business of eugenic operation or artificial interruption of pregnancy, or any personnel of the Eugenic Protection Consultation Office shall not break any secret that he has learned

in the performance of his duties. The same shall also apply in cases where he has retired from his office.

(Prohibition)

Article 28. The operation or the X ray irradiation in order to incapacitate a person from reproduction shall not be conducted without appropriate reason, except in the cases falling under the provisions of this Law.

#### Chapter VII Contravention

(Contravention of Article 15, paragraph 1)

Article 29. A person who has contravened the provisions of Article 15, paragraph 1, shall be punished with a fine not exceeding a hundred yen.

(Contravention of Article 22)

Article 30. A person who, in contravention of the provisions of Article 22, has established the Eugenic Protection Consultation Office without the approval of the Minister of Health and Welfare, shall be punished with a fine of not more than fifty thousand yen.

(Contravention of Article 23)

Article 31. A person who, in contravention of the provisions of Article 23, has used the letters representing the Eugenic Protection Consultation Office or similar

letters as appellation, shall be punished with a non-penal fine not more than ten thousand yen.

(Contravention of Article 25)

Article 32. A person who, in contravention of the provisions of Article 25, has failed to present report to the competent authorities or has made a false report, shall be punished with a fine not more than ten thousand yen.

(Contravention of Article 27)

Article 33. A person who, in contravention of the provisions of Article 27, has failed to keep another's secrets without appropriate reasons, shall be punished with penal servitude for not more than six months or a fine not more than fifty thousand yen.

(Contravention of Article 28)

Article 34. A person who, in contravention of the provisions of Article 28, has exercised the eugenic operation, shall be punished with penal servitude for not more than one year or a fine not more than one hundred thousand yen. If the person has thereby caused death to another, he shall be liable to penal servitude for not more than three years.

## Supplementary Provisions

(The effective date)

Article 35. This Law shall come into force as from the date when the period of 60 days shall have elapsed counting from the date of its promulgation.

(Abrogation of relevant laws)

Article 36. The National Eugenic Law (Law No. 107 of 1940) shall be abrogated.

(Continuance of force of penal provisions)

Article 37. With regard to application of penal provisions to the offence prior to the enforcement of this Law, the Law mentioned in the preceding paragraph shall remain in force even after the enforcement of this Law.

(Exception to notification)

Article 38. The provisions of Article 25 shall not apply in its scope to the cases where report has been made under Ministry of Health and Welfare Ordinance No. 42 of 1946 (Regulations concerning notification of stillbirth).

(Medicines necessary for giving guidance in contraception)

Article 39. A person who has been designated by the Metropolitan, Hokkaido or Prefectural governor under the provisions of Article 15, paragraph 1 may sell to

a person who shall receive practical guidance of same solely such medicines as may be required for contraception and designated by the Minister of Health and Welfare, until not later than the 31st of July, 1965, regardless of the provisions of Article 29, paragraph 1 and Article 44, item 8 of the Pharmaceutical Affairs Law (Law No. 197 of 1948).

2 In case a person designated by the Metropolitan, Hokkaido or Prefectural governor under Article 15, paragraph 1 comes under one of the following items, the same governor may cancel such designation.

- (1) In case the provisions of Article 33 of the Pharmaceutical Affairs Law apply to the medicines designated by the Minister of Health and Welfare under the provisions of the preceding paragraph, the same medicines which have failed to stand a test under the same Article have been sold;
- (2) Medicines other than those designated by the Minister of Health and Welfare have been sold on business;
- (3) In addition to the cases under the preceding items, medicines have been sold on business to a person other than those given practical guidance in contraception.

3 The Metropolitan, Hokkaido or Prefectural governor



seeking to take the action provided for in the preceding paragraph shall notify the person subject to such action of the grounds of action as well as of the time and place of hearing at least one week in advance of the date set for the hearing and shall make hearing by requesting the presence of the person or his representative.

However, the same governor may, in case the person subject to such action or his representative has failed to attend the hearing, take the action under the preceding paragraph without holding a hearing.

Annexed List.

1. Hereditary mental illness
  - Schizophrenia
  - Manic-depressive psychosis
  - Epilepsy
2. Hereditary mental retardation
3. Remarkable hereditary psychopathia
  - Remarkable sexual abnormality
  - Remarkable criminal inclination
4. Remarkable hereditary physical disability
  - Huntington's chorea
  - Hereditary spinal ataxia

Hereditary cerebellar ataxia  
Neural progressive muscular atrophy  
Progressive muscular dystrophy  
Congenital myotonia  
Congenital myasthenia  
Achondroplasia  
Albinism  
Congenital ichthyosis  
Neurofibromatosis  
Epiloia  
Epidermolysis bullosa hereditaria  
Congenital porphyrinuria  
Karatoma palmare et plantare hereditarium  
Hereditary atrophy of the optic nerve  
Pigmentary degeneration of the retina  
Total color blindness  
Congenital nystagmus  
Blue sclera  
Hereditary hardness of hearing or deafness  
Hemophilia

5. Severe hereditary malformation

Split-hand, split-foot  
Congenital defects of the bone

Law for Partial Amendment to the Eugenic  
Protection Law (Amendment of April 21, 1960)

The Eugenic Protection Law (Law No. 156 of 1948) shall  
be partially amended as follows:

Article 11 shall be amended as follows:

Article 11. (Defrayment of the expense)

The expense to be incurred by carrying out the eugenic  
operation under the provisions of the preceding paragraph  
shall be borne by the Metropolis, Hokkaido or the Prefecture,  
as prescribed by Cabinet Order.

2 The expense under the preceding paragraph shall be  
provided by the national treasury.

In Article 39, paragraph 1, "the 31st of July, 1960"  
shall be amended as "the 31st of July, 1965."

Supplementary Provisions:

This Law shall come into force as from the date of its  
promulgation.

However, the provisions of Article 11 of the Eugenic  
Protection Law after amendment shall apply to the expense  
for the eugenic operation which shall be performed, after  
the 1st of April, 1960, in accordance with Article 10 of  
the same Law, whereas, in the case of the expense for the

eugenic operation which shall be performed, prior to the same date, in accordance with the same Article, the former examples shall be followed.

Yoshio Watanabe,  
Minister of Health and Welfare.

Nobusuke Kishi,  
Prime Minister.

