

Office of the Speaker Pro Tem
North Carolina
House of Representatives

300 N. Salisbury St., Room 612, Raleigh, NC 27603
(919) 733-2962 – Paul.Stam@ncleg.net

Representative
Paul Stam



Eugenics in North Carolina
By: Rep. Paul Stam and Amy O'Neal¹
August 13, 2014

The Roots of the Eugenics Movement

Today the thought of sterilizing someone against his or her will seems preposterous. However, such a practice was endorsed in the early 20th century by many well-known and well-respected philanthropists like the Rockefellers, the Carnegies, the Kelloggs, and the Harrimans.² How was this possible?

The answer: the eugenics movement. In the 1880s Sir Francis Galton, a British polymath, coined the term "eugenics" which literally means "well-born." Eugenics became a "science" that cited genetics as the main reason for promiscuity, criminal behavior, destitution, feeble-mindedness, and more. Two solutions became popular for ridding society of such behaviors: positive and negative eugenics.³ Positive eugenics encouraged the healthiest, ablest, and fit to have more children. Negative eugenics discouraged the weakest, least able, and unfit of the population from having children—even if discouraging was accomplished through coercion or manipulation.

Negative eugenics was the catalyst behind the forced sterilization laws in the United States. One of its main proponents was Margaret Sanger, who said:

"On its [eugenics'] negative side it shows us that we are paying for and even submitting to the dictates of an ever increasing, unceasingly spawning class of human beings who never should have been born at all -- that the wealth of individuals and of the state is

¹ Representative Paul "Skip" Stam is the Speaker Pro Tempore of the North Carolina House of Representatives. Representative Stam holds the BS with High Honor from Michigan State University School of Criminal Justice (1972) and the JD from UNC-Chapel Hill School of Law (1975). He practices law with the Apex firm of Stam and Danchi, PLLC. Amy O'Neal holds the BA in Government from Campbell University (2011) where she graduated summa cum laude. She is currently working as Representative Stam's Research Assistant while completing coursework to earn a dual degree (JD and Master of Public Administration) at UNC-Chapel Hill.

² Mary Summa, "Poisonous Fruit: Abortion's Dark Beginnings in Eugenics," *Family North Carolina* (Winter 2012): 8.

³ Elof Carlson, "Scientific Origins of Eugenics," *Dolan DNA Learning Center*, http://eugenicsarchive.org/html/eugenics/essay_2_fs.html.

being diverted from the development and the progress of human expression and civilization.”⁴

Margaret Sanger believed and promoted the idea that the poor, feeble-minded, physically disabled, and “unfit” were multiplying in such a way that, if allowed to continue, would destroy civilization.

In *Woman and the New Race*, Sanger responded to a letter complaining about a woman in town who would go “insane” after giving birth—she had six children. According to the writer, the woman admitted if she never gave birth again, she could be “free from these insane spells.” But the doctors would not do anything for her. Sanger responds:

“Not even the blindest of all dogmatists can ignore the danger to the community of to-day and the race of to-morrow in permitting an insane woman to go on bearing children. Here is a letter which tells a two-sided story—how mother instinct, even when clouded by periodic insanity, seeks to protect itself and society, and how society prevents her from attaining that end.”⁵

While Sanger emphasized the harm done to the community, she does not believe in charities to help them. Sanger actually believed that charities only perpetuated the “constantly increasing numbers of defectives, delinquents, and dependents.”⁶ Thus, something needed to be done—a “process of weeding out the unfit”⁷ through birth control and sterilization.⁸

The United States Supreme Court also endorsed the main premises of the eugenics movement in *Buck v. Bell*.⁹ The Court agreed that if feebleminded Cary Buck, who had a feebleminded daughter and was the daughter of a feebleminded woman, was allowed to continue reproducing she would become a menace to society. The Court said:

“It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes.”¹⁰

Once the Supreme Court made this decision, forced sterilizations laws popped up all around the country. Thirty-one states enacted such laws, many of which remained in effect until the 1960s or later.¹¹ Over 60,000 people in the United States were mutilated at the hands of their state governments—all in an effort to rid society of those deemed unfit by others.

North Carolina’s Experience

⁴ Margaret Sanger, *The Pivot of Civilization* (New York: Brentano’s Publishing Company, 1922), 187.

⁵ Margaret Sanger, *Woman and the New Race* (New York: Truth Publishing Company, 1922), 80.

⁶ Margaret Sanger, *Woman and the New Race*, 108.

⁷ Margaret Sanger, *Woman and the New Race*, 299.

⁸ Angela Franks, *Margaret Sanger*, June 30, 2006, <http://angelafranks.com/margaret/index.htm>.

⁹ *Buck v. Bell*, 274 U.S. 200 (1927).

¹⁰ *Buck v. Bell*, 274 U.S. 200 at 207.

¹¹ Lutz Kaelber, “Eugenics: Compulsory Sterilization in 50 American States,” <http://www.uvm.edu/~lkaelber/eugenics/>.

North Carolina's eugenics program was unlike most in the nation, sterilizing approximately 7,600 people over 45 years. Eighty-five percent (85%) of those sterilized were women,¹² 2,000 individuals sterilized were under 18,¹³ and 65 men were castrated.¹⁴ North Carolina ranked third overall in the United States for the total number of those sterilized, trailing only California (21,000) and Virginia (8,000).¹⁵

The first sterilization law in North Carolina passed in 1919, but there were no documented sterilizations under that law. Scholars suggest that the State hesitated to put it into practice because there was uncertainty concerning the law's constitutionality.¹⁶ The State tried again in 1929 and passed its second sterilization law. Forty-nine people were sterilized under this law. However, the North Carolina Supreme Court struck down the 1929 law because it lacked notice of hearing and the right to appeal. Then, in 1933, North Carolina passed its third sterilization law which included notice of hearing, right to appeal, and the creation of the Eugenics Board. The courts could review the cases, but new evidence could not be admitted. In the end, the decisions were really made by the Executive Branch.

The North Carolina Eugenics Board was comprised of five members: the Commissioner of the Board of Charities and Public Welfare, the Secretary of the State Board of Health, the chief medical officer of a state institution for the "feebleminded or insane," the chief medical officer of the State Hospital at Raleigh, and the Attorney General.¹⁷ These members determined the outcome of all sterilization cases of those who were claimed to be mentally diseased, feebleminded, or epileptic. During hearings on each case, the board was to consider factors including, "whether the operation seemed to be in the best interest of the individual's mental, moral, or physical health; whether it would be for the public good; and whether it was likely that the individual might produce children with serious mental or physical problems."¹⁸

While the Board was only to order sterilizations for the reasons listed above, its interpretation of those factors later expanded to include homosexuality, promiscuity, and pauperism. In some cases, the board approved sterilizations using these words, "She seems lazy and unconcerned," or "while in school attempted to write love letters to boys she imagined were interested in her."¹⁹ Nonetheless, board members continued to justify their decisions, even against the pleas of parents and relatives. It is estimated that the Eugenics Board ordered

¹² Lutz Kaelber, "Eugenics/Sexual Sterilizations in North Carolina," December 28, 2011, <http://www.uvm.edu/~lkaelber/eugenics/NC/NC.html>.

¹³ Kevin Begos, "Lifting the Curtain on a Shameful Era," *Against Their Will: North Carolina's Sterilization Program*, <http://againsttheirwill.journalnow.com/>.

¹⁴ Kevin Begos, "Castration: Files suggest that punishment was often the aim," *Against Their Will: North Carolina's Sterilization Program*, <http://againsttheirwill.journalnow.com/>.

¹⁵ Kevin Begos, "Lifting the Curtain on a Shameful Era."

¹⁶ Kaelber, "Eugenics/Sexual Sterilizations in North Carolina."

¹⁷ "Eugenics in North Carolina," *North Carolina Division of Archives and History*, 2005, <http://www.learnnc.org/lp/editions/nchist-worldwar/6164>.

¹⁸ "Agency History," *Human Resources, Department of Eugenics Commission*. http://www.sterilizationvictims.nc.gov/documents/DCR_Presentation_Handout_A_%20Finding_Aid.pdf.

¹⁹ Excerpts from Eugenics Board's minutes in 1960 and 1962 respectively. Kevin Begos, "Lifting the Curtain on a Shameful Era."

sterilization in 90% of all cases.²⁰ One scholar found only 468 cases where the patient clearly wanted the operation—barely 6% of all cases.²¹

North Carolina's experience is unique because most states stopped performing involuntary sterilizations after World War II. North Carolina expanded its effort. Seventy-nine percent (79%) of sterilizations performed in North Carolina occurred after 1945.²² At the beginning, sterilization numbers were racially balanced, but during the 1950s the program became more racially oriented. By the late 1960s, sixty percent (60%) of those sterilized were black, even though they only made up a quarter of the population.²³ Around this time, the Human Betterment League, formed in 1947, launched a large media campaign promoting sterilization as a way to save taxpayers' dollars.²⁴ The case was made that sterilization would reduce the amount of welfare the State would provide. No matter what the reasons for North Carolina expanding sterilizations after WWII, it was an anomaly.

The Eugenics Board was not officially abolished by the North Carolina General Assembly until 1977, even though the General Assembly handed over the responsibility of presiding over sterilization hearings to the judicial system in 1974. A formal apology to the victims was not issued for another 25 years (December, 2002). In 2003, the General Assembly repealed the involuntary sterilization laws.²⁵

North Carolina's Journey to Compensation

North Carolina leaders realized that, through its Eugenics Board, the State invaded the lives and bodies of thousands of its citizens and forcibly took away their ability to choose whether to have children. Commissions and task forces debated whether to compensate the victims. Many in the General Assembly, including Speaker of the House Thom Tillis and House Majority Leader Paul Stam, hoped to accomplish this through the Eugenics Compensation Program ([HB 947](#)) during the 2012 Short Session. They wished "to make restitution for injustices suffered and unreasonable hardships endured by the asexualization or sterilizations of individuals at the direction of the State between 1933 and 1974." The bill would have offered \$50,000 in compensation to those who were sterilized under the N.C. Eugenics Board, but not to the families of victims who died before May 16, 2012. While HB 947 passed the House by a vote of 86 to 31 and funds were appropriated in the budgets of the House and Governor, the bill never made it to the Senate floor.

Even though the General Assembly did not pass the Eugenics Compensation Program (HB 947) in 2012, legislators made considerable progress in their efforts to compensate sterilization victims. While Democrats had talked about compensating victims for almost 10

²⁰ John Railey and Kevin Begos, "Board did its duty, quietly," *Against Their Will: North Carolina's Sterilization Program*, <http://againsttheirwill.journalnow.com/>.

²¹ Johanna Schoen, "A Great Thing for Poor Folks: Birth Control, Sterilization and Abortion in Public Health and Welfare in the 20th Century," *Ph.D. Dissertations, University of North Carolina*, (1996).

²² "Sterilizations in North Carolina," *Against Their Will: North Carolina's Sterilization Program*, http://extras.journalnow.com/againsttheirwill/graphics/partone_astateapart.html.

²³ Kaelber, "Eugenics/Sexual Sterilizations in North Carolina."

²⁴ Kevin Begos, "Lifting the Curtain on a Shameful Era."

²⁵ "Repeal Involuntary Sterilization," Session Law 2003-13. <http://www.ncleg.net/Sessions/2003/Bills/House/PDF/H36v4.pdf>.

years, it was during the first Republican majority in over 100 years that such a bill made it to the House or Senate floor. Compensation gained widespread bipartisan support. When HB 947 was before the House, a majority of Republicans and all Democrats voted to pass the bill.

Still, some question why compensation is necessary. Some worry that it will set a precedent for reparations for slavery. Others have said that it is not our problem to fix—it happened in the past, taxpayers of today should not have to pay for it, and compensation would not change what happened to sterilized victims. Let's address some of the opponents' concerns.

The argument that eugenics compensation will pave the way for slavery reparations fails to recognize a key difference between the two situations. If the government were to provide reparations for slavery, none of the compensation would go to living victims. Instead, the compensation would go to those “who were not the subject of any clear and direct harm . . . any harm suffered would be vague and not individual in nature, but instead a generalized societal harm.”²⁶ In contrast, thousands of forced sterilizations victims are still living.

Some legislators claimed they could not support compensation when the bill was debated because of the poor economy. But, as Representative Carolyn Justice said on the House Floor:

“We all know that this should have been done in a year where we were flush with money. We're not flush with money right now, and this is a bad time to be spending \$50,000 on each of these [claims]. We also know that there is a time when you just have to do what is right. And this is one of those times.”²⁷

Opportunities to rectify wrongs do not always come when it is convenient. In total, the cost of compensating 1,500 victims at \$50,000 per victim would be \$75 million.²⁸ However, this cost would have been spread over several years. To put this in perspective, HB 947 proposed \$11 million in funding for the first year—only 1/20 of one percent of the entire 2012-2013 General Fund. Each year the General Assembly would have had to appropriate money for the program to continue, and the State would not have accepted compensation claims indefinitely. Under HB 947, the last day to file a claim would have been December 31, 2015. Making the decision to have .05 percent of the budget dedicated to righting past wrongs is not financially irresponsible. And as conservatives, my view is that the government should protect “God-given inherent right” and “treat all citizens impartially.”²⁹

If you were to scour the comment sections of online news articles concerning North Carolina's attempt at eugenics compensation, you would find many citizens employing the final argument: it was past legislators and past taxpayers, not current ones, who were responsible for

²⁶ Daren Baskt, “North Carolina's Forced-Sterilization Program: A Case for Compensating Living Victims,” *John Locke Foundation* (2011): 12.

²⁷ Representative Carolyn Justice, *Second Reading of HB 947 “Eugenics Compensation Program,”* June 5, 2012. Audio for June 5, 2012 is available at <http://ncleg.net/DocumentSites/HouseDocuments/2011-2012%20Session/Audio%20Archives/06-05-2012.mp3>.

²⁸ Mark Bondo, Chloe Gossage, Rodney Bizzell, and Kristin Walker, “Legislative Fiscal Note: House Bill 947,” *NCGA Fiscal Research Division*, May 29, 2012, <http://www.ncleg.net/Sessions/2011/FiscalNotes/House/PDF/HFN0947v2.pdf>. (The cost would be \$100 million to compensate 2,000 victims).

²⁹ “Article III: Individual Liberty.” *Report of the Platform Committee: North Carolina Republican Party 2012*.

what happened; we should not have to pay for their mistakes. However, sterilizations occurred into the 1970s. According to the 2010 U.S. Census, forty-six percent (46%) of North Carolinians were born before 1970.³⁰ Speaker Tillis said on the House floor:

“As a conservative, as somebody who has sat in this chamber and actually heard people talk about the wrongness of annexations, the wrongness of other government takings, the wrongness of eminent domain and how bad that is, how we need to correct it, and how sometimes we even need to go back and reverse past decisions of other elected officials, I look at this and I think this is probably the most egregious example of that.”³¹

Ronald Reagan did this when he signed the Civil Liberties Act of 1988. The Civil Liberties Act provided \$20,000 in compensation to living people who were detained in Japanese internment camps during WWII. He was not President when internment camps were authorized. The legislators who passed the Civil Liberties Act were not in office at the time either, but they still wanted to “discourage the occurrence of similar injustices and violations of civil liberties in the future.”³² North Carolina’s forced sterilization program is another example of such an injustice and violation of civil liberties. It is now our responsibility to look on the past, say “that was wrong,” and make restitution for it. An apology without restitution is empty.³³

North Carolina’s forced sterilizations were not voluntary. There was no practical means of appeal once the Eugenics Board made its decision. The State irrevocably changed lives by abusing its power in an effort to eliminate a class of people.

The Creation of the Eugenics Compensation Program

Things changed in 2013. While bills creating the Eugenics Compensation Program were introduced in the House and Senate Floor,³⁴ the program was ultimately included in the budget.³⁵ The General Assembly appropriated \$10 million to be divided between the total number of qualified claimants. To qualify for compensation, sterilization victims must have been alive on June 30, 2013, provide adequate documentation of being involuntarily sterilized, and submit the appropriate form by June 30, 2014. The 2013 budget required the Industrial Commission to make the final eligibility determinations and distribute the funds in a lump-sum payment by June 30, 2015. In addition, as a part of the recent tax reforms a new deduction was added for private contributions to the Eugenics Sterilization Compensation Fund.

³⁰ “Age Groups and Sex: 2010,” *2010 Census Summary File 1: North Carolina*, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_QTP1&prodType=table.

³¹ House Speaker Thom Tillis, *Second Reading of HB 947 “Eugenics Compensation Program,”* June 5, 2012. Audio for June 5, 2012 is available at <http://ncleg.net/DocumentSites/HouseDocuments/2011-2012%20Session/Audio%20Archives/06-05-2012.mp3>.

³² Civil Liberties Act of 1988, Pub. L. No. 100-383 (1988).

³³ This Biblical principle of repentance and restitution is found in several passages. *See* Luke 19:1-10 and Numbers 5:7.

³⁴ H.B. 7 and S.B. 464, 2013 Gen. Assemb., Reg. Sess. (N.C. 2013), available at <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2013&BillID=h7&submitButton=Go>.

³⁵ Appropriations Act of 2013, North Carolina Session Law 2013-306, Section 6.18, available at <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S402v7.pdf>.

The General Assembly made several changes to the Eugenics Compensation Program in the 2014 budget.³⁶ The major change allows the Commission to disburse compensation in two payments instead of one. The first payment will be equal to the number of qualified and pending claimants divided by \$10 million. Those claimants who are determined to be qualified by October 1, 2014 will receive their first payment by October 31, 2014. Those determined to be qualified after that date will receive their initial payment within 60 days of determination. Assuming that some claimants will ultimately not be qualified for compensation, the second and final payment will be made after all claimants have exhausted the appeals process. This change was made in order to avoid further postponing compensation to the aging victims who were harmed at the hands of the State.

The 2014 budget also clarified that compensation payments to sterilization victims are not to be split or used to pay attorneys who helped victims file their claims, stating:

“The General Assembly finds that qualified recipients have suffered a unique harm that calls for a unique remedy and that there are sufficient sources of assistance and pro bono legal representation available to protect their interests. Therefore, any agreement for the acceptance of attorneys’ fees is null and void unless counsel has sought and received an opinion from the North Carolina State Bar that the fee arrangement is reasonable under the Rules of Professional Conduct.”³⁷

When the program passed in 2013, the Office of Justice for Sterilization Victims (the Office) updated its website (<http://www.sterilizationvictims.nc.gov/Default.aspx>) and began providing information to potential claimants. In November of 2013, the Office mailed claim packets to potential claimants sterilized under the eugenics program. Ultimately, 780 eugenics claims were submitted by the June 30, 2014 deadline. The 2014 budget required that claimants submit all missing forms to the Office by September 23, 2014 and that all remaining claim forms be sent to the Industrial Commission by September 30, 2014.

Although no apology or amount of money can truly make amends, compensation represents a commitment by North Carolina to respect human life and liberty. It also sends a clear message to future legislators who want to take liberties with the sanctity of life: wrongs eventually will be recognized, they will be viewed as unacceptable, and they must be paid for in some way.

³⁶ Appropriations Act of 2014, North Carolina Session Law 2014-100, Section 6.13, available at <http://www.ncleg.net/Sessions/2013/Bills/Senate/PDF/S744v9.pdf>.

³⁷ *Id.* at Section 6.13(d).