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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

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ENROLLED

SENATE BILL NO. 387

(By Mr. Parby)

—•—
PASSED March 5, 1976

In Effect ninety days from Passage

FILED IN THE OFFICE
JAMES R. MCCARTNEY
SECRETARY OF STATE

THIS DATE 3/11/76

ENROLLED
Senate Bill No. 387
(By MR. DARBY)

[Passed March 5, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three and four, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections twelve, fourteen, fifteen, sixteen and seventeen, article eleven, chapter eighteen of said code, all relating to anatomical gifts; definitions; persons who may execute anatomical gift; certification of death; the West Virginia anatomical board and its powers, authority, duties, notices and requisition of unclaimed bodies, and bond; expense of delivery of body; rules and regulations governing the use, disposition and control of donated bodies and parts thereof; manner of executing anatomical gifts.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three and four, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections twelve, fourteen, fifteen, sixteen and seventeen, article eleven, chapter eighteen of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 19. UNIFORM ANATOMICAL GIFT ACT.

§16-19-1. Definitions.

- 1 (a) "Bank or storage facility" means a facility licensed,
- 2 accredited, or approved under the laws of any state
- 3 for storage or distribution of human bodies or parts
- 4 thereof.

5 (b) "Certification of death" means a written pro-
6 nouncement of death by the attending physician. Such
7 certification shall be required before the attending phy-
8 sician shall allow removal of any bodily organs of the
9 decedent for transplant purposes.

10 (c) "Death" means that a person will be considered
11 dead if in the announced opinion of the attending phy-
12 sician, based on ordinary standards of medical practice,
13 the patient has experienced an irreversible cessation of
14 spontaneous respiratory and circulatory functions; or,
15 in the event that artificial means of support preclude
16 a determination that these functions have ceased, a
17 person will be considered dead if in the announced
18 opinion of a physician, based on ordinary standards of
19 medical practice, the patient has experienced an irrever-
20 sible cessation of spontaneous brain functions.

21 Death will have occurred at the time when the relevant
22 functions ceased.

23 (d) "Decedent" means a deceased individual and in-
24 cludes a stillborn infant or fetus.

25 (e) "Donor" means an individual who makes a gift
26 of all or part of his body.

27 (f) "Hospital" means a hospital licensed, accredited,
28 or approved under the laws of any state; includes a
29 hospital operated by the United States government, a
30 state, or a subdivision thereof, although not required
31 to be licensed under state laws.

32 (g) "Part" means organs, tissues, eyes, bones, arteries,
33 blood, other fluids and any other portions of a human
34 body.

35 (h) "Person" means an individual, corporation, gov-
36 ernment or governmental subdivision or agency, busi-
37 ness trust, estate trust, partnership or association, or any
38 other legal entity.

39 (i) "Physician" or "surgeon" means a physician or
40 surgeon licensed or authorized to practice under the laws
41 of any state.

42 (j) "State" includes any state, district, common-

43 wealth, territory, insular possession, and any other area
44 subject to the legislative authority of the United States
45 of America.

§16-19-2. Persons who may execute an anatomical gift.

1 (a) Any individual of sound mind and eighteen years
2 of age or more may give all or any part of his body for
3 any purpose specified in section three of this article,
4 the gift to take effect upon certification of death.

5 (b) Any of the following persons, in order of priority
6 stated, when persons in prior classes are not available
7 at the time of certification of death, and in the absence
8 of actual notice of contrary indications by the decedent
9 or actual notice of opposition by a member of the same
10 or a prior class, may give all or any part of the
11 decedent's body for any purpose specified in section
12 three of this article:

13 (1) The spouse;

14 (2) An adult son or daughter;

15 (3) Either parent;

16 (4) An adult brother or sister;

17 (5) A guardian of the person of the decedent at the
18 time of the certification of his death;

19 (6) Any other person authorized or under obligation
20 to dispose of the body.

21 (c) If the donee has actual notice of contrary indi-
22 cations by the decedent or that a gift by a member of a
23 class is opposed by a member of the same or a prior
24 class, the donee shall not accept the gift. The persons
25 authorized by subsection (b) of this section may make
26 the gift after or immediately before certification of
27 death.

28 (d) A gift of all or part of a body authorizes any
29 examination necessary to assure medical acceptability
30 of the gift for the purposes intended.

31 (e) The rights of the donee created by the gift are
32 paramount to the rights of others except as provided
33 by section seven, subsection (d) of this article.

§16-19-3. Persons who may become donees; purposes for which anatomical gifts may be made.

1 The following persons may become donees of gifts
2 of bodies or parts thereof for the purposes stated:

3 (1) The West Virginia anatomical board for the scien-
4 tific purposes of educational institutions for which it
5 may receive or requisition dead bodies; or

6 (2) Any hospital, surgeon, or physician, for medical
7 or dental education, research, advancement of medical or
8 dental science, therapy, or transplantation; or

9 (3) Any accredited medical or dental school, college or
10 university for education, research, advancement of medi-
11 cal or dental science, or therapy; or

12 (4) Any person operating a bank or storage facility for
13 blood, arteries, eyes, pituitaries, or other human parts,
14 for use in medical or dental education, advancement of
15 medical or dental science, research, therapy or trans-
16 plantation to individuals; or

17 (5) Any specified individual for therapy or transplan-
18 tation needed by him.

19 The use, disposition and control of any such donated
20 bodies or parts thereof by any such donee shall be in
21 accordance with rules and regulations prescribed by the
22 West Virginia anatomical board.

§16-19-4. Manner of executing anatomical gifts.

1 (a) A gift of all or part of the body under subsection
2 (a), section two of this article may be made by will. The
3 gift becomes effective upon certification of death of the
4 testator without waiting for probate. If the will is not
5 probated, or if it is declared invalid for testamentary
6 purposes, the gift, to the extent that it has been acted
7 upon in good faith, is nevertheless valid and effective.

8 (b) A gift of all or part of the body under subsection
9 (a), section two of this article may also be made by
10 document other than a will. The gift becomes effective
11 upon certification of death of the donor. The document,
12 which may be a card designed to be carried on the person,
13 must be signed by the donor in the presence of two wit-
14 nesses who must sign the document in his presence. If the

15 donor cannot sign, the document may be signed for him
16 at his direction and in his presence in the presence of
17 two witnesses who must sign the document in his
18 presence. Delivery of the document of gift during the
19 donor's lifetime is not necessary to make the gift valid.

20 (c) The gift may be made to a specified donee or
21 without specifying a donee. If the latter, the West Vir-
22 ginia anatomical board will be considered to be the
23 donee unless it declines to accept the gift, or unless there
24 is urgent immediate need for a part of the body for
25 transplant or other purposes in which case the gift may
26 be accepted by the attending physician as donee upon
27 or following certification of death. In case the anatomical
28 board is considered the donee it shall be the duty of the
29 person who has charge or control of the body, if he or she
30 has knowledge of the gift, to give notice thereof to the
31 anatomical board within twenty-four hours after such
32 body comes under his or her control. Thereafter, he or she
33 shall hold the body subject to the order of the anatomical
34 board for at least twenty-four hours after the sending
35 of such notice. If the anatomical board makes a requis-
36 ition for the body within the twenty-four hour period,
37 it shall be delivered, pursuant to the order of the board,
38 to the board or its authorized agent for transportation
39 to West Virginia University or any other educational
40 institution which the board deems to be in bona fide
41 need thereof and able to adequately control, use and
42 dispose of the body. If the anatomical board shall not
43 so act within the twenty-four hour period, the gift may
44 be accepted by the attending physician as donee upon
45 or following certification of death. If the gift is made to a
46 specified donee who is not available at the time and place
47 of death, the attending physician upon or following cer-
48 tification of death, in the absence of any expressed indi-
49 cation that the donor desired otherwise, may accept the
50 gift as donee. The physician who becomes a donee under
51 this subsection shall not participate in the procedures for
52 removing or transplanting a part, except that this prohi-
53 bition shall not apply to the removing or transplanting of
54 an eye or eyes.

55 (d) Notwithstanding subsection (b), section seven of

56 this article, the donor may designate in his will, card
57 or other document of gift the surgeon or physician to
58 carry out the appropriate procedures, or in the case of
59 a gift of an eye or eyes, the surgeon or physician or
60 the technician properly trained in the surgical removal
61 of eyes to carry out the appropriate procedures. In the
62 event of the nonavailability of such designee, or in the
63 absence of a designation, the donee or other person
64 authorized to accept the gift may employ or authorize
65 for the purpose any surgeon or physician or in the case
66 of a gift of an eye or eyes, any surgeon or physician or
67 technician properly trained in the surgical removal of
68 eyes.

69 (e) Any gift by a person designated in subsection (b),
70 section two of this article shall be made by a document
71 signed by him or made by his telegraphic, recorded tele-
72 phonic, or other recorded message.

73 (f) No particular words shall be necessary for dona-
74 tion of all or part of a body, but the following words,
75 in substance, properly signed and witnessed, shall be
76 legally valid for donations made pursuant to subsection

77 (b) of this section:

78 "UNIFORM DONOR CARD
79 of

80 -----
81 Print or type name of donor

82 In the hope that I may help others, I hereby make
83 this anatomical gift, if medically acceptable, to take effect
84 upon certification of my death. The words and marks
85 below indicate my desires.

86 I give: (a) _____ any needed organs or parts

87 (b) _____ only the following organs or
88 parts

89 -----
90 Specify the organ(s) or part(s)

91 for the purposes of transplantation, therapy, medical re-
92 search or education;

93 (c) _____ my body for anatomical study
94 if needed.

95 Limitations or special wishes, if any: _____

96 Signed by the donor and the following two witnesses in
97 the presence of each other:

98	-----	-----
99	Signature of Donor	Date of Birth of Donor
100	-----	-----
101	Date Signed	City and State
102	-----	-----
103	Witness	Witness
104	This is a legal document under the Uniform Anatomical	
105	Gift Act or similar laws."	

CHAPTER 18. EDUCATION.

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-12. Anatomical board.

1 The governor shall appoint one dean of a school of
2 medicine, one dean of a school of dentistry and two
3 chairmen of departments of anatomy of schools of medi-
4 cine, all of whom shall constitute a board to be known
5 as the "West Virginia Anatomical Board". No more
6 than one member of such board shall be from the same
7 school. The board shall be responsible for making requi-
8 sition for, receiving, and making disposition of the dead
9 human bodies for the scientific uses and purposes of
10 the West Virginia University schools of medicine,
11 dentistry, nursing and the similar uses and pur-
12 poses of other reputable educational institutions having
13 medical osteopathy, dentistry or nursing schools. The
14 board shall have full power to establish rules and reg-
15 ulations for its own government, and for the requisition,
16 use, disposition, and control of such bodies as may
17 come under its authority by way of gift, pursuant to
18 this article or pursuant to section four, article nineteen,
19 chapter sixteen of this code. The board shall have au-
20 thority to appoint such officers, employees, and agents
21 as may be necessary to carry out the purposes for which
22 the board is organized. It shall keep a full and com-
23 plete record of its transactions, showing among other
24 things, every dead human body coming under its au-
25 thority, giving name, sex, age, date of death, place from
26 which received, when and from whom received, which

27 record shall be open at all times to the inspection of
28 the attorney general and any prosecuting attorney in
29 the state.

§18-11-14. Notice of unclaimed body; requisition for body.

1 It shall be the duty of any person who has charge or
2 control of any unclaimed body, subject to requisition by
3 the anatomical board, to give notice to the board of
4 that fact by telephone or telegraph within twenty-four
5 hours after such body comes under his control. There-
6 after he shall hold the body subject to the order of the
7 anatomical board for at least twenty-four hours after
8 the sending of such notice. If the anatomical board makes
9 requisition for the body within the twenty-four hour
10 period, it shall be delivered, pursuant to the order of the
11 board, to the board or its authorized agent for trans-
12 portation to West Virginia University or to any other
13 educational institution described in section twelve of
14 this article which the board deems to be in bona fide
15 need thereof and able to adequately control, use and
16 dispose of the body.

§18-11-15. Transportation of dead bodies.

1 The anatomical board shall make suitable arrange-
2 ments for the transportation of any body, or part or
3 parts thereof, which may come under its authority to
4 West Virginia University or any other educational in-
5 stitution as described in the preceding section.

§18-11-16. Expense of delivery.

1 All expenses incurred in connection with the preser-
2 vation, delivery and transportation of any such body
3 delivered pursuant to the order of the anatomical board
4 shall be paid by the educational institution receiving
5 the body.

§18-11-17. Bond of anatomical board.

1 No dead body shall be received or requisitioned by
2 the anatomical board until the members of the board
3 have filed a bond with the clerk of the circuit court of
4 Monongalia County in a penalty of one thousand dollars,
5 with good security, signed by a responsible person or
6 persons, or by some surety company authorized to do

7 business in this state, or have proved to such clerk that
 8 they are covered by a suitable bond in at least that
 9 amount, conditioned for the faithful performance of their
 10 duties.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Glenn C. G. Smith
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. C. Sullivan Jr
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

H. T. Broddington
President of the Senate

Lewis T. McNamee
Speaker House of Delegates

The within *approved* this the *11th*
March
day of _____, 1976

Arka. Thane Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/9/76

Time 4:15 p.m.