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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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**ENROLLED**

SENATE BILL NO. 15

(By Mr. Spears)

—•—  
PASSED March 2, 1983

In Effect ninety days from Passage



**ENROLLED**  
**Senate Bill No. 15**  
(BY MRS. SPEARS)

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[Passed March 2, 1983; in effect ninety days from passage.]

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AN ACT to repeal sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three and four, article nineteen, chapter sixteen of said code; and to amend article twenty-six of said chapter eighteen by adding thereto a new section, designated section eight-d, all relating to transferring the powers and duties of the West Virginia anatomical board to the board of regents; authorizing the appointment of a board by the board of regents to perform the duties formerly performed by the West Virginia anatomical board; and specifying offenses and civil and criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

That sections twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three and four, article nineteen, chapter sixteen of said code be amended and reenacted; and that said article twenty-six of said chapter eighteen be amended by adding thereto a new section, designated section eight-d, all to read as follows:

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 19. UNIFORM ANATOMICAL GIFT ACT.**

**§16-19-3. Persons who may become donees; purposes for which anatomical gifts may be made; compliance with rules and regulations of board.**

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

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

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

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

12 (4) Any person operating a bank or storage facility  
13 for 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 trans-  
18 plantation 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 board of regents.

**§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  
13 person, must be signed by the donor in the presence of  
14 two witnesses who must sign the document in his pres-  
15 ence. If the donor cannot sign, the document may be  
16 signed for him at his direction and in his presence in the  
17 presence of two witnesses who must sign the document  
18 in his presence. Delivery of the document of gift during

19 the donor's lifetime is not necessary to make the gift  
20 valid.

21 (c) The gift may be made to a specified donee or with-  
22 out specifying a donee. If the latter, the West Virginia  
23 board of regents will be considered to be the donee unless  
24 it declines to accept the gift, or unless there is urgent  
25 immediate need for a part of the body for transplant or  
26 other purposes in which case the gift may be accepted  
27 by the attending physician as donee upon or following  
28 certification of death. In case the board of regents is  
29 considered the donee it shall be the duty of the person  
30 who has charge or control of the body, if he or she has  
31 knowledge of the gift, to give notice thereof to the board  
32 of regents within twenty-four hours after such body  
33 comes under his or her control. Thereafter, he or  
34 she shall hold the body subject to the order of the  
35 board of regents for at least twenty-four hours after  
36 the sending of such notice. If the board of regents  
37 makes a requisition for the body within the twenty-  
38 four-hour period, it shall be delivered, pursuant to the  
39 order of the board, to the board or its authorized  
40 agent for transportation to an educational institu-  
41 tion which the board deems to be in bona fide need  
42 thereof and able to adequately control, use and dispose of  
43 the body. If the board of regents shall not so act within  
44 the twenty-four-hour period, the gift may be accepted by  
45 the attending physician as donee upon or following cer-  
46 tification of death. If the gift is made to a specified donee  
47 who is not available at the time and place of death, the  
48 attending physician upon or following certification of  
49 death, in the absence of any expressed indication that the  
50 donor desired otherwise, may accept the gift as donee.  
51 The physician who becomes a donee under this subsec-  
52 tion shall not participate in the procedures for removing  
53 or transplanting a part, except that this prohibition shall  
54 not apply to the removing or transplanting of an eye or  
55 eyes.

56 (d) Notwithstanding subsection (b), section seven of  
57 this article, the donor may designate in his will, card or  
58 other document of gift, the surgeon or physician to carry  
59 out the appropriate procedures, or in the case of a gift of

60 an eye or eyes, the surgeon or physician or the technician  
61 properly trained in the surgical removal of eyes to carry  
62 out the appropriate procedures. In the event of the non-  
63 availability of such designee, or in the absence of a  
64 designation, the donee or other person authorized to ac-  
65 cept the gift may employ or authorize for the purpose  
66 any surgeon or physician or in the case of a gift of an eye  
67 or eyes, any surgeon or physician or technician properly  
68 trained in the surgical removal of eyes or also in case of  
69 a gift of an eye or eyes, the donee or other person au-  
70 thorized to accept the gift may employ or authorize a  
71 licensed funeral director or embalmer licensed pursuant  
72 to article six, chapter thirty of this code who has suc-  
73 cessfully completed a course in enucleation approved by  
74 the medical licensing board of West Virginia to enucleate  
75 the eye or eyes for the gift after certification of death by  
76 a physician. The qualified funeral director or embalmer  
77 shall properly care for the enucleated eye or eyes and  
78 promptly deliver the eye or eyes to the donee or other  
79 person authorized to accept the gift. A qualified funeral  
80 director or embalmer acting in accordance with the terms  
81 of this subsection shall not be liable, civilly or criminally  
82 for the eye enucleation.

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

87 (f) No particular words shall be necessary for donation  
88 of all or part of a body, but the following words, in  
89 substance, properly signed and witnessed, shall be legally  
90 valid for donations made pursuant to subsection (b) of  
91 this section:

92 "UNIFORM DONOR CARD  
93 of

94 \_\_\_\_\_  
95 Print or type name of donor

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

100 I give: (a) .....any needed organs or parts;  
 101 (b) .....only the following organs or parts  
 102 .....  
 103 Specify the organ(s) or part(s)  
 104 for the purposes of transplantation, therapy, medical  
 105 research or education;  
 106 (c) .....my body for anatomical study if needed.  
 107 Limitation or special wishes, if any: .....  
 108 Signed by the donor and the following two witnesses in  
 109 the presence of each other:  
 110 .....  
 111 Signature of Donor Date of Birth of Donor  
 112 .....  
 113 Date Signed City and State  
 114 .....  
 115 Witness Witness  
 116 This is a legal document under the Uniform Anatomical  
 117 Gift Act or similar laws."

## CHAPTER 18. EDUCATION.

### ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-8d. Powers and duties relating to anatomical gifts;  
 requisition of body; autopsies; transportation of  
 bodies; expenses of preservation; bond required;  
 offenses and penalties.

1 (a) The board of regents may appoint one dean of a  
 2 school of medicine, one dean of a school of dentistry and  
 3 two chairmen of departments of anatomy of schools of  
 4 medicine, all of whom shall constitute a board for  
 5 the purpose of performing the duties of the board, which  
 6 is hereby abolished, formerly known as the "West Vir-  
 7 ginia Anatomical Board." This new board shall be known  
 8 as the "Board of Regents Anatomical Board," and shall  
 9 hereinafter be referred to as the "board" for the purposes  
 10 of this section. No more than one member of this board  
 11 shall be from the same school. The board shall be respon-  
 12 sible for making requisition for, receiving, and making  
 13 disposition of the dead human bodies for the scientific  
 14 uses and purposes of reputable educational institutions,

15 within the state and elsewhere, having medical, osteop-  
16 athy, dentistry or nursing schools. The board shall have  
17 full power to establish rules and regulations for its own  
18 government, and for the requisition, use disposition and  
19 control of such bodies as may come under its authority  
20 by way of gift, pursuant to this article or pursuant to  
21 section four, article nineteen, chapter sixteen of this code.  
22 The board shall have authority to appoint such officers,  
23 employees, and agents as may be necessary to carry out  
24 the purposes for which the board is organized. It shall  
25 keep a full and complete record of its transactions, show-  
26 ing, among other things, every dead human body coming  
27 under its authority, giving name, sex, age, date of death,  
28 place from which received, when and from whom re-  
29 ceived, which record shall be open at all times to the in-  
30 spection of the attorney general and any prosecuting  
31 attorney in the state.

32 If the board of regents does not appoint a "board  
33 of regents anatomical board" as herein authorized,  
34 then the board of regents itself shall perform  
35 the duties of the anatomical board as set forth  
36 herein.

37 (b) All dead human bodies which may come under the  
38 charge or control of any mortician, any officer or agent of  
39 the department of welfare or of any county commission  
40 or municipality, or any superintendent, officer or agent  
41 having the supervision of any prison, morgue, hospital,  
42 or other public institution in this state, and which may  
43 be required to be buried at public expense, shall be sub-  
44 ject to the requisition of the board as provided in this  
45 section. No such body shall be delivered to the board if  
46 any person related to the deceased by blood or marriage  
47 shall make a statement in writing to that effect, and shall  
48 claim such body for burial, or shall make affidavit that he  
49 is unable to bear the expense of burial and desires that  
50 the deceased be buried at public expense. This statement  
51 and affidavit may be filed by any such relative with the  
52 person having charge and control of the body of the  
53 person so claimed, either before or after the death of  
54 such person.

55 No autopsy shall be performed on any unclaimed body  
56 without the written permission of the board, except upon  
57 the proper order of a duly authorized law-enforcement  
58 officer.

59 (c) It shall be the duty of any person who has charge  
60 or control of any unclaimed body, subject to requisition  
61 by the board, to give notice to the board of that fact by  
62 telephone or telegraph within twenty-four hours after such  
63 body comes under his control. Thereafter he shall hold the  
64 body subject to the order of the board for at least twenty-  
65 four hours after the sending of such notice. If  
66 the board makes requisition for the body within  
67 the twenty-four-hour period, it shall be delivered,  
68 pursuant to the order of the board, to the board  
69 or its authorized agent for transportation to any  
70 educational institution described in section twelve  
71 of this article which the board deems to be in bona fide  
72 need thereof and able to adequately control, use and dis-  
73 pose of the body.

74 (d) The board shall make suitable arrangements  
75 for the transportation of any body, or part or  
76 parts thereof, which may come under its authority  
77 to any educational institution as described in sub-  
78 section (c).

79 (e) All expenses incurred in connection with the  
80 preservation, delivery and transportation of any such  
81 body delivered pursuant to the order of the board shall be  
82 paid by the educational institution receiving the body.

83 (f) No dead body shall be received or requisitioned by  
84 the board until the members of the board have filed a  
85 bond with the clerk of the circuit court of Kanawha  
86 County in a penalty of one thousand dollars, with good  
87 security, signed by a responsible person or persons, or by  
88 some surety company authorized to do business in this  
89 state, or have proved to such clerk that they are covered  
90 by a suitable bond in at least that amount, conditioned  
91 for the faithful performance of their duties.

92 (g) Any person who shall neglect, refuse, or fail to  
93 perform any duty required of him by this section relating  
94 to the board shall be guilty of a misdemeanor, and, upon

95 conviction thereof, shall be punished by a fine of not more  
96 than one hundred dollars or by imprisonment in the  
97 county jail for not more than ten days, or by both such  
98 fine and imprisonment. Any person who fails to give the  
99 required notice that he has charge of an unclaimed body,  
100 subject to requisition by the board, shall also be person-  
101 ally liable for all burial expenses, if such body was  
102 buried at public expense, to the public agency that paid  
103 for the burial.

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

*James L. Davis*  
Chairman Senate Committee

*James L. Davis*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Todd C. Willis*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Walter L. McAnaw*  
President of the Senate

*W. M. Lee, Jr.*  
Speaker House of Delegates

The within is approved this the 17  
day of March, 1983.

*John R. Rayner*  
Governor

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SECY. OF STATE