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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 4370

(By Delegates Compton, Fleischauer,
Susman, C. White and Boggs)



Passed March 8, 2002

In Effect Ninety Days from Passage

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E N R O L L E D

H. B. 4370

(BY DELEGATES COMPTON, FLEISCHAUER,
SUSMAN, C. WHITE AND BOGGS)

[Passed March 8, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revocation of an anatomical gift by persons other than the donor.

Be it enacted by the Legislature of West Virginia:

That section two, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 19. ANATOMICAL GIFT ACT.

§16-19-2. Making, amending, revoking, and refusing to make anatomical gifts by individual.

- 1 (a) An individual who is at least eighteen years of age may:
- 2 (1) Make an anatomical gift for any of the purposes stated
- 3 in subsection (a), section six of this article;

4 (2) Limit an anatomical gift to one or more of those
5 purposes; or

6 (3) Refuse to make an anatomical gift.

7 (b) An anatomical gift may be made only by a document of
8 gift signed by the donor. If the donor is unable to sign a
9 document of gift and intends to make an anatomical gift, the
10 document of gift must be signed by another individual and by
11 two witnesses, all of whom have signed at the direction and in
12 the presence of the donor and of each other, and state that it has
13 been so signed.

14 (c) If a document of gift is attached to a donor's motor
15 vehicle operator's or chauffeur's license, the document of gift
16 must comply with subsection (b) of this section. If a donor's
17 intent to make an anatomical gift is imprinted on the donor's
18 motor vehicle operator's or chauffeur's license, it is a valid
19 indication of the donor's intent to make an anatomical gift.
20 Revocation, suspension, expiration, or cancellation of the
21 license does not invalidate the anatomical gift.

22 (d) A document of gift may designate a particular physician
23 or surgeon to carry out the appropriate procedures. In the
24 absence of a designation or if the designee is not available, the
25 donee or other person authorized to accept the anatomical gift
26 may employ or authorize any physician, surgeon or technician
27 to carry out the appropriate procedures.

28 (e) An anatomical gift by will takes effect upon certifica-
29 tion of death of the testator, whether or not the will is probated.
30 If, after certification of death, the will is declared invalid for
31 testamentary purposes, the validity of the anatomical gift is
32 unaffected.

33 (f) A donor may amend or revoke an anatomical gift, not
34 made by will, only by:

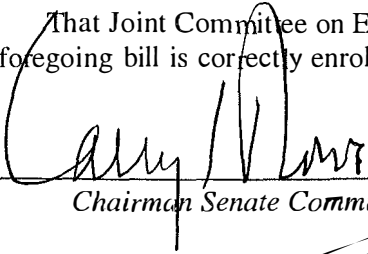
- 35 (1) A signed statement;
- 36 (2) An oral statement made in the presence of two individu-
37 als;
- 38 (3) Any form of communication during a terminal illness or
39 injury addressed to a physician, surgeon or physician assistant;
40 or
- 41 (4) The delivery of a signed statement to a specified donee
42 to whom a document of gift had been delivered.
- 43 (g) The donor of an anatomical gift made by will may
44 amend or revoke the gift in the manner provided for amendment
45 or revocation of wills, or as provided in subsection (f) of this
46 section.
- 47 (h) An anatomical gift that is not revoked by the donor
48 before death is irrevocable and does not require the consent or
49 concurrence of any person after the donor's death. An anatomi-
50 cal gift may not be revoked by the donor's next-of-kin or other
51 persons identified in subsection (a), section three of this article,
52 nor shall the consent of any of these persons, at the time of the
53 donor's death or immediately thereafter, be necessary to render
54 the gift valid and effective.
- 55 (i) An individual may refuse to make an anatomical gift of
56 the individual's body or part by:
- 57 (1) A writing signed in the same manner as a document of
58 gift;
- 59 (2) Any other writing used to identify the individual as
60 refusing to make an anatomical gift; or

61 (3) If the individual is suffering from a terminal illness or
62 injury, the refusal may be an oral statement or other form of
63 communication.

64 (j) In the absence of contrary indications by the donor, an
65 anatomical gift of a part is neither a refusal to give other parts
66 nor a limitation on an anatomical gift under section three of this
67 article or on a removal or release of other parts under section
68 four of this article.

69 (k) In the absence of contrary indications by the donor, a
70 revocation or amendment of an anatomical gift is not a refusal
71 to make another anatomical gift. If the donor intends a revoca-
72 tion to be a refusal to make an anatomical gift, the donor shall
73 make the refusal pursuant to subsection (i) of this section.

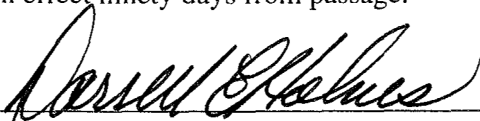
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

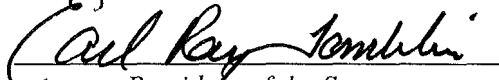

Chairman House Committee

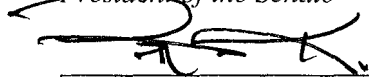
Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2002.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/02

Time 4:00 pm