WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1970

ENROLLED

HOUSE BILL No. 37

(By Mr. Speaker, Mr. Barstow, and Mr. Buck)

PASSED January 30, 1970

In Effect Ninety days from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-10-70
ENROLLED

House Bill No. 537
(By Mr. Speaker, Mr. Boiarsky, and Mr. Buck)

[Passed January 30, 1970; in effect ninety days from passage.]

AN ACT to amend and reenact article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the uniform anatomical gift act, definitions of terms, persons who may execute an anatomical gift, persons who may become donees, purposes for which anatomical gifts may be made, manner of executing anatomical gifts, delivery of document of gift, amendment or revocation of gift, rights and duties at death, uniformity of interpretation, short title of article.

Be it enacted by the Legislature of West Virginia:

That 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. UNIFORM ANATOMICAL GIFT ACT.

§16-19-1. Definitions.

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

2 (b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

3 (c) "Donor" means an individual who makes a gift of all or part of his body.

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

5 (e) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

6 (f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate trust, partnership or association, or any other legal entity.
(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.


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

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

(1) The spouse;

(2) An adult son or daughter;
(3) Either parent;
(4) An adult brother or sister;
(5) A guardian of the person of the decedent at the time of his death;
(6) Any other person authorized or under obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) of this section may make the gift after or immediately before death.

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

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

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

The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:
Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by him.


(a) A gift of all or part of the body under section two, subsection (a) of this article may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.
(b) A gift of all or part of the body under section two, subsection (a) of this article may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor
desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part, except that this prohibition shall not apply to the removing or transplanting of an eye or eyes.

(d) Notwithstanding section seven, subsection (b) of this article, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in section two, subsection (b) of this article shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

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

Print or type name of donor

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

I give:  (a) ___ any needed organs or parts  
(b) ___ only the following organs or parts

Specify the organ(s) or part(s)

for the purposes of transplantation, therapy, medical research or education;

(c) ___ my body for anatomical study if needed.

Limitations or special wishes, if any: ___________________

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

_________________________  __________________________
Signature of Donor        Date of Birth of Donor

1 If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

§16-19-6. Amendment or revocation of the gift.

1 (a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee,
the donor may amend or revoke the gift by:

(1) The execution and delivery to the donee of a signed statement; or

(2) An oral statement made in the presence of two persons and communicated to the donee; or

(3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or

(4) A signed card or document found on his person or in his effects.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) of this section or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a) of this section.


(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject
to the terms of the gift, authorize embalming and the
use of the body in funeral services. If the gift is of a
part of the body, the donee, upon the death of the donor
and prior to embalming, shall cause the part to be
removed without unnecessary mutilation. After removal
of the part, custody of the remainder of the body vests
in the surviving spouse, next of kin, or other persons
under obligation to dispose of the body.

(b) The time of death shall be determined by a phy-
sician who tends the donor at his death, or, if none, the
physician who certifies the death. Such physician shall
not participate in the procedures for removing or trans-
planting a part.

(c) A person who acts in good faith in accord with
the terms of this article or with the anatomical gift laws
of another state or a foreign country is not liable for
damages in any civil action or subject to prosecution in
any criminal proceeding for his act.

(d) The provisions of this article are subject to the
laws of this state prescribing powers and duties with
respect to autopsies.

1 This article shall be so construed as to effectuate its
2 general purpose to make uniform the law of those states
3 which enact it.


1 This article may be cited as the "Uniform Anatomical
2 Gift Act."
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompo
Chairman Senate Committee

Clement C. Davidson
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Haye
Clerk of the Senate

C A Blanchenship
Clerk of the House of Delegates

Herbert M. Givner
President of the Senate

T J Brown
Speaker House of Delegates

The within approved this the 9th day of
February, 1970.

Archae. Kane, J.
Governor
PRESENTED TO THE GOVERNOR

Date  2/3/70

Time  2:02 p.m.