

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 79

(By Mr. Brotherton, Mr. President)

PASSED April 5 1973

In Effect Ninety days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 4-13-73

79

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Senate Bill No. 79

(By Mr. Brotherton, Mr. President)

[Passed April 5, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and four, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public health; relating to the uniform anatomical gift act; relating to the persons who may become donees of gifts under the act; relating to the purposes for which anatomical gifts may be made; relating to the manner of making and executing anatomical gifts; and relating to the carrying out of procedures to effect the gift.

Be it enacted by the Legislature of West Virginia:

That sections 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 to read as follows:

ARTICLE 19. UNIFORM ANATOMICAL GIFT ACT.

§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 of
2 bodies or parts thereof for the purposes stated:

3 (1) Any hospital, surgeon, or physician, for medical or
4 dental education, research, advancement of medical or dental
5 science, therapy, or transplantation; or

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

9 (3) Any person operating a bank or storage facility for
10 blood, arteries, eyes, pituitaries, or other human parts, for

11 use in medical or dental education, advancement of medical
12 or dental science, research, therapy or transplantation to
13 individuals; or

14 (4) Any specified individual for therapy or transplanta-
15 tion needed by him.

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

1 (a) A gift of all or part of the body under subsection (a),
2 section two of this article may be made by will. The gift be-
3 comes effective upon the death of the testator without
4 waiting for probate. If the will is not probated, or if it is
5 declared invalid for testamentary purposes, the gift, to the
6 extent that it has been acted upon in good faith, is never-
7 theless valid and effective.

8 (b) A gift of all or part of the body under subsection (a),
9 section two of this article may also be made by document
10 other than a will. The gift becomes effective upon the death
11 of the donor. The document, which may be a card designed
12 to be carried on the person, must be signed by the donor in
13 the presence of two witnesses who must sign the document
14 in his presence. If the donor cannot sign, the document may
15 be signed for him at his direction and in his presence in the
16 presence of two witnesses who must sign the document in
17 his presence. Delivery of the document of gift during the
18 donor's lifetime is not necessary to make the gift valid.

19 (c) The gift may be made to a specified donee or without
20 specifying a donee. If the latter, the gift may be accepted
21 by the attending physician as donee upon or following death.
22 If the gift is made to a specified donee who is not avail-
23 able at the time and place of death, the attending physician
24 upon or following death, in the absence of any expressed
25 indication that the donor desired otherwise, may accept the
26 gift as donee. The physician who becomes a donee under
27 this subsection shall not participate in the procedures for
28 removing or transplanting a part, except that this prohibi-
29 tion shall not apply to the removing or transplanting of an
30 eye or eyes.

31 (d) Notwithstanding subsection (b), section seven of this
32 article, the donor may designate in his will, card or other
33 document of gift the surgeon or physician to carry out the
34 appropriate procedures, or in the case of a gift of an eye or

35 eyes, the surgeon or physician or the technician properly
 36 trained in the surgical removal of eyes to carry out the ap-
 37 propriate procedures. In the event of the nonavailability of
 38 such designee, or in the absence of a designation, the donee
 39 or other person authorized to accept the gift may employ or
 40 authorize for the purpose any surgeon or physician or in the
 41 case of a gift of an eye or eyes, any surgeon or physician or
 42 technician properly trained in the surgical removal of eyes.

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

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

51 "UNIFORM DONOR CARD

52 of

53 _____
 54 Print or type name of donor

55 In the hope that I may help others, I hereby make this
 56 anatomical gift, if medically acceptable, to take effect upon
 57 my death. The words and marks below indicate my de-
 58 sires.

59 I give: (a) _____ any needed organs or parts
 60 (b) _____ only the following organs or parts

61 _____
 62 Specify the organ (s) or part (s)
 63 for the purposes of transplantation, therapy, medical re-
 64 search or education;

65 (c) _____ my body for anatomical study if needed.
 66 Limitations or special wishes, if any: _____

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

69 _____	_____
70 Signature of Donor	Date of Birth of Donor
71 _____	_____
72 Date Signed	City and State
73 _____	_____
74 Witness	Witness

75 This is a legal document under the Uniform Anatomical
 76 Gift Act or similar laws."

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

H. Marshall Derby

Chairman Senate Committee

Lawrence B. Christensen Jr

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard W. Cavan

Clerk of the Senate

W. A. Blankenship

Clerk of the House of Delegates

H. B. Robertson Jr

President of the Senate

Lewis J. McNamee

Speaker House of Delegates

The within *approved* this the *13th*
day of *April*, 1973.

Arch A. Moore Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 4/10/73

Time 10:35 a.m.