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OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1976**



**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

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

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

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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 requisition  
36 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.

*[The following text is extremely faint and largely illegible, appearing to be a continuation of a legal document or bill.]*

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

*James L. Davis*  
Chairman Senate Committee

*Glenn C. Claitor*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*J. Willoughby*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*H. B. Brantley*  
President of the Senate

*Lewis T. McQueen*  
Speaker House of Delegates

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

*Arka. Moore, Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/9/76

Time 4:15 p.m.