WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

ENROLLED

HOUSE BILL No. 1119

(By Mr. Starcher)

Passed March 10, 1979

In Effect Ninety Days From Passage
AN ACT to amend and reenact section four, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the uniform anatomical gift act; the manner of completing and executing such gifts; permitting licensed embalmers and funeral directors to enucleate an eye or eyes in certain cases, immunity from civil or criminal liability.

Be it enacted by the Legislature of West Virginia:

That section 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.


(a) A gift of all or part of the body under subsection (a), section two of this article may be made by will. The gift becomes effective upon certification of 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 subsection (a), section two of this article may also be made by document
other than a will. The gift becomes effective upon certification of 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 West Virginia anatomical board will be considered to be the donee unless it declines to accept the gift, or unless there is urgent immediate need for a part of the body for transplant or other purposes in which case the gift may be accepted by the attending physician as donee upon or following certification of death. In case the anatomical board is considered the donee it shall be the duty of the person who has charge or control of the body, if he or she has knowledge of the gift, to give notice thereof to the anatomical board within twenty-four hours after such body comes under his or her control. Thereafter, he or she shall hold the body subject to the order of the anatomical board for at least twenty-four hours after the sending of such notice. If the anatomical board makes a requisition for the body within the twenty-four-hour period, it shall be delivered, pursuant to the order of the board, to the board or its authorized agent for transportation to West Virginia University or any other educational institution which the board deems to be in bona fide need thereof and able to adequately control, use and dispose of the body. If the anatomical board shall not so act within the twenty-four-hour period, the gift may be accepted by the attending physician as donee upon or following certification of 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 certification of 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 subsection (b), section seven 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, or in the case of a gift of an eye or eyes, the surgeon or physician or the technician properly trained in the surgical removal of eyes to carry out the appropriate procedures. In the event of the nonavailability of such designee, or in the absence of a designation, the donee or other person authorized to accept the gift may employ or authorize for the purpose any surgeon or physician or in the case of a gift of an eye or eyes, any surgeon or physician or technician properly trained in the surgical removal of eyes or also in case of a gift of an eye or eyes, the donee or other person authorized to accept the gift may employ or authorize a licensed funeral director or embalmer licensed pursuant to article six, chapter thirty of this code who has successfully completed a course in enucleation approved by the medical licensing board of West Virginia to enucleate the eye or eyes for the gift after certification of death by a physician. The qualified funeral director or embalmer shall properly care for the enucleated eye or eyes and promptly deliver the eye or eyes to the donee or other person authorized to accept the gift. A qualified funeral director or embalmer acting in accordance with the terms of this subsection shall not be liable, civilly or criminally for the eye enucleation.

(e) Any gift by a person designated in subsection (b), section two 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 certification of 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.

Limitation 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

Date Signed City and State

Witness

This is a legal document under the Uniform Anatomical Gift Act or similar laws."
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence C. Chastain  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

John R. Dickey  
Clerk of the Senate

O. Bland Lawton  
Clerk of the House of Delegates

DAIRYBERG  
President of the Senate

Clyde M. Fee  
Speaker House of Delegates

The within is approved this the 25th day of March, 1979.

John D. Rainey  
Governor