

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-17-80

Time 3:20 a.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980



ENROLLED
Committee Substitute for
SENATE BILL NO. 376

(By Mr. *Stepae, original sponsor*)



PASSED *March 7* 1980

In Effect *ninety days from* Passage

No. 376

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 376

(MR. STEPTOE, *original sponsor*)

[Passed March 7, 1980; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten; and to amend section one, article nineteen of said chapter sixteen, all relating generally to the Uniform Brain Death Act; the definition of the term "death" as used in the code with respect thereto; providing that for legal and medical purposes in the state an individual who has sustained irreversible cessation of all functioning of the brain is dead; and civil and criminal immunity.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten; and that section one, article nineteen of said chapter, be amended and reenacted, all to read as follows:

ARTICLE 10. UNIFORM BRAIN DEATH ACT.

§16-10-1. Title.

- 1 This article shall be known and may be cited as the
- 2 "Uniform Brain Death Act."

§16-10-2. Brain death.

- 1 For legal and medical purposes, an individual who has
- 2 sustained irreversible cessation of all functioning of the

3 brain is dead. A determination under this section must
4 be made in accordance with reasonable medical standards.

§16-10-3. Civil and criminal immunity.

1 A physician or any other person authorized by law to
2 determine death who makes such determination in ac-
3 cordance with section two of this article is not liable for
4 damages in any civil action or subject to prosecution in
5 any criminal proceeding for his acts or the acts of others
6 based on that determination. Any person who acts in good
7 faith in reliance on a determination of death is not liable
8 for damages in any civil action or subject to prosecution in
9 any criminal proceeding for such act.

§16-19-1. Definitions.

1 (a) "Bank or storage facility" means a facility
2 licensed, accredited, or approved under the laws of any
3 state 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
8 physician 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
12 physician, made in accordance with reasonable medical
13 standards, the patient has sustained irreversible cessation
14 of all functioning of the brain.

15 (d) "Decedent" means a deceased individual and in-
16 cludes a stillborn infant or fetus.

17 (e) "Donor" means an individual who makes a gift
18 of all or part of his body.

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

24 (g) "Part" means organs, tissues, eyes, bones, arteries,
25 blood, other fluids and any other portions of a human
26 body.

27 (h) "Person" means an individual, corporation,
28 government or governmental subdivision or agency,
29 business trust, estate trust, partnership or association,
30 or any other legal entity.

31 (i) "Physician" or "surgeon" means a physician or
32 surgeon licensed or authorized to practice under the laws
33 of any state.

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

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

James L. Davis
Chairman Senate Committee

Clarence C. Chestnut Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Judd C. Wells
Clerk of the Senate

Ed Blankenship
Clerk of the House of Delegates

H. G. Spalderson
President of the Senate

Clayton M. Lee Jr.
Speaker House of Delegates

The within *is approved* this the *17*
day of *March*, 1980.

Bill Royall
Governor

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OFFICE OF THE GOVERNOR

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