

710: 1323

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

ENROLLED

Committee Substitute FOR
HOUSE BILL No. 1323.

(By Delegate Hatfield + Delegate Flanigan)

— ● —

Passed March 8, 1986

In Effect Ninety days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1323
(By DELEGATE HATFIELD and DELEGATE FLANIGAN)

[Passed March 8, 1986; in effect ninety days from passage.]

AN ACT to amend article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections four-a and seven-a, relating to public health; uniform anatomical gift act; request for consent to an anatomical gift; prohibition of sales and purchases of human organs; penalties.

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 by adding thereto two new sections, designated sections four-a and seven-a to read as follows:

ARTICLE 19. UNIFORM ANATOMICAL GIFT ACT.

§16-19-4a. Request for consent to an anatomical gift.

1 (a) Where, based on accepted medical standards, a
2 patient is a suitable candidate for organ or tissue
3 donation, the person in charge of a hospital, or his or
4 her designated representative other than a person
5 connected with the determination of death, shall at the
6 time of death request persons listed in this section for
7 consent to an anatomical gift. In the order of priority

8 stated and in the absence of actual notice of contrary
9 indications by the decedent or actual notice of opposition
10 by a member of the same or a prior class, any of the
11 following persons may give all or any part of the
12 decedent's body for any purpose specified in this article:

13 (a) The spouse;

14 (b) An adult son or daughter;

15 (c) Either parent;

16 (d) An adult brother or sister;

17 (e) A guardian of the person of the decedent at the
18 time of his death.

19 Where the person in charge of a hospital or his or her
20 designee has received actual notice of opposition from
21 any of the persons named in this subsection or where
22 there is otherwise reason to believe that an anatomical
23 gift is contrary to the decedent's religious beliefs, such
24 gift of all or any part of the decedent's body shall not
25 be requested. Where a donation is requested, consent or
26 refusal need only be obtained from the person or persons
27 in the highest priority class available.

28 (b) Where a donation is requested, the person in
29 charge of a hospital or his designated representative
30 shall complete a certificate of request for an anatomical
31 gift, on a form supplied by the hospital. Said certificate
32 shall include a statement to the effect that a request for
33 consent to an anatomical gift has been made, and shall
34 further indicate thereupon whether or not consent was
35 granted, the name of the person granting or refusing the
36 consent, and his or her relationship to the decedent.
37 Upon completion of the certificate, said person shall
38 attach the certificate of request for an anatomical gift
39 to the death certificate.

40 (c) A gift made pursuant to the request required by
41 this section shall be executed pursuant to applicable
42 provisions of article nineteen of this chapter.

43 (d) The director of health shall establish regulations
44 concerning the training of hospital employees who may
45 be designated to perform the request, and the proce-

46 dures to be employed in making it.

47 (e) The director of health shall establish such addi-
48 tional regulations as are necessary for the implementa-
49 tion of this section.

50 (f) No hospital or person in charge of a hospital or
51 his or her designated representatives shall be liable for
52 damages for any action taken in good faith in the
53 administering of the provisions of the article.

**§16-19-7a. Prohibition of sales and purchases of human
organs; penalties.**

1 It shall be unlawful for any person to knowingly
2 acquire, receive, or otherwise transfer for valuable
3 consideration any human organ for use in human
4 transplantation. The term human organ means the
5 human kidney, liver, heart, lung, bone marrow, and any
6 other human organ or tissue as may be designated by
7 the director of health but shall exclude blood. The term
8 "valuable consideration" does not include the reasonable
9 payments associated with the removal, transportation,
10 implantation, processing, preservation, quality control,
11 and storage of a human organ or the expenses of travel,
12 housing, lost wages incurred by the donor of a human
13 organ in connection with the donation of the organ, or
14 expenses incurred by nonprofit agencies or corporations
15 to recover expenses incurred while offering services
16 related to the location, maintenance and distribution of
17 said human organs. Any person who violates this section
18 is guilty of a misdemeanor, and, upon conviction thereof,
19 shall be fined not less than five hundred nor more than
20 one thousand dollars.

Enr. Com. Sub. for H. B. 1323 4

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

Bruce O. Williams
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Mellis
.....
Clerk of the Senate

Donald L. Kepp
.....
Clerk of the House of Delegates

Dan Tomblin
.....
President of the Senate

Joseph P. Allright
.....
Speaker of the House of Delegates

The within *approved* this the *26th*
March
day of, 1986.

Arthur R. Massey, Jr.
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/86

Time 12:40 p.m.

RECEIVED

1969 MAR 23 PM 6:57

ATTORNEY GENERAL
SECRETARIAT OF STATE

FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86