ENROLLED
Committee Substitute for
HOUSE BILL No. 1323

(By Delegate Hatfield and 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 patient is a suitable candidate for organ or tissue donation, the person in charge of a hospital, or his or her designated representative other than a person connected with the determination of death, shall at the time of death request persons listed in this section for consent to an anatomical gift. In the order of priority
stated and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, any of the following persons may give all or any part of the decedent's body for any purpose specified in this article:

(a) The spouse;
(b) An adult son or daughter;
(c) Either parent;
(d) An adult brother or sister;
(e) A guardian of the person of the decedent at the time of his death.

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

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

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

(d) The director of health shall establish regulations concerning the training of hospital employees who may be designated to perform the request, and the proce-
(e) The director of health shall establish such additional regulations as are necessary for the implementation of this section.

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

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

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

Jotha C. Bellis
Clerk of the Senate

Donald J. Kopp
Clerk of the House of Delegates

Dan Tonsmé
President of the Senate

Joseph P. Almquist
Speaker of the House of Delegates

The within 25th day of March, 1986.
PRESENTED TO THE
GOVERNOR

Date 3/13/86
Time 12:40 p.m.