WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

House Bill No. 4370

(By Delegates Compton, Fleischauer, Susman, C. White and Boggs)

Passed March 8, 2002

In Effect Ninety Days from Passage
AN ACT to amend and reenact section two, article nineteen, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revocation of an anatomical gift by persons other than the donor.

Be it enacted by the Legislature of West Virginia:

That section two, 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. ANATOMICAL GIFT ACT.


1 (a) An individual who is at least eighteen years of age may:

2 (1) Make an anatomical gift for any of the purposes stated in subsection (a), section six of this article;
(2) Limit an anatomical gift to one or more of those purposes; or

(3) Refuse to make an anatomical gift.

(b) An anatomical gift may be made only by a document of gift signed by the donor. If the donor is unable to sign a document of gift and intends to make an anatomical gift, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to a donor’s motor vehicle operator’s or chauffeur’s license, the document of gift must comply with subsection (b) of this section. If a donor’s intent to make an anatomical gift is imprinted on the donor’s motor vehicle operator’s or chauffeur’s license, it is a valid indication of the donor’s intent to make an anatomical gift. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon or technician to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon certification of death of the testator, whether or not the will is probated. If, after certification of death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by:
(1) A signed statement;

(2) An oral statement made in the presence of two individuals;

(3) Any form of communication during a terminal illness or injury addressed to a physician, surgeon or physician assistant; or

(4) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection (f) of this section.

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor’s death. An anatomical gift may not be revoked by the donor’s next-of-kin or other persons identified in subsection (a), section three of this article, nor shall the consent of any of these persons, at the time of the donor’s death or immediately thereafter, be necessary to render the gift valid and effective.

(i) An individual may refuse to make an anatomical gift of the individual’s body or part by:

(1) A writing signed in the same manner as a document of gift;

(2) Any other writing used to identify the individual as refusing to make an anatomical gift; or
(3) If the individual is suffering from a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section three of this article or on a removal or release of other parts under section four of this article.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection (i) of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd day of April, 2002.

Governor