

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No.

2

**Session of
1969**

INTRODUCED BY MESSRS. MEBUS, GROSS, GELFAND, MARTINO,
SAVITT, KAUFMAN, ZORD, HOLMAN, O'PAKE,
ECKENSBERGER, HEPFORD, McCURDY, KISTLER AND
DAGER, JANUARY 8, 1969

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 29, 1969

AN ACT

Authorizing the gift of all or part of a human body after death for specified purposes.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

- 1 Section 1. Definitions.—As used in this act:
- 2 (a) "Bank or storage facility" means a facility licensed, accredited, or
- 3 approved under the laws of any state for storage of human bodies or parts
- 4 thereof.

1 (b) "Decedent" means a deceased individual and includes a stillborn
2 infant or fetus.

3 (c) "Donor" means an individual who makes a gift of all or part of his
4 body.

5 (d) "Hospital" means a hospital licensed, accredited, or approved
6 under the laws of any state; includes a hospital operated by the United
7 States Government, a state, or a subdivision thereof, although not re-
8 quired to be licensed under state laws.

9 (e) "Part" means organs, tissues, eyes, bones, arteries, blood, other
10 fluids and any other portions of a human body.

11 (f) "Person" means an individual, corporation, government or gov-
12 ernmental subdivision or agency, business trust, estate, trust, partner-
13 ship or association, or any other legal entity.

14 (g) "Physician" or "surgeon" means a physician or surgeon licensed
15 or authorized to practice under the laws of any state.

16 (h) "State" includes any state, district, commonwealth, territory, in-
17 sular possession, and any other area subject to the legislative authority
18 of the United States of America.

19 (I) "BOARD" MEANS THE ANATOMICAL BOARD OF THE
20 STATE OF PENNSYLVANIA CREATED BY THE ACT OF JUNE
21 13, 1883 (P. L. 119), ENTITLED "AN ACT FOR THE PROMOTION
22 OF MEDICAL SCIENCE BY THE DISTRIBUTION AND USE OF
23 UNCLAIMED HUMAN BODIES FOR SCIENTIFIC PURPOSES
24 THROUGH A BOARD CREATED FOR THAT PURPOSE AND TO
25 PREVENT UNAUTHORIZED USES AND TRAFFIC IN HUMAN
26 BODIES."

27 Section 2. Persons Who May Execute an Anatomical Gift.—(a) Any
28 individual of sound mind and ~~eighteen~~ TWENTY-ONE years of age or
29 more may give all or any part of his body for any purpose specified in sec-

1 tion 3, the gift to take effect upon death.

2 (b) Any of the following persons, in order of priority stated, when per-
3 sons in prior classes are not available at the time of death, and in the
4 absence of actual notice of contrary indications by the decedent or ac-
5 tual notice of opposition by a member of the same or a prior class, may
6 give all or any part of the decedent's body for any purpose specified in
7 section 3:

8 (1) the spouse,

9 (2) an adult son or daughter,

10 (3) either parent,

11 (4) an adult brother or sister,

12 (5) a guardian of the person of the decedent at the time of his death,

13 (6) any other person authorized or under obligation to dispose of the
14 body.

15 (c) If the donee has actual notice of contrary indications by the de-
16 cedent or that a gift by a member of a class is opposed by a member of
17 the same or a prior class, the donee shall not accept the gift. The persons
18 authorized by subsection (b) may make the gift after or immediately
19 before death.

20 (d) A gift of all or part of a body authorizes any examination neces-
21 sary to assure medical acceptability of the gift for the purposes intended.

22 (e) The rights of the donee created by the gift are paramount to the
23 rights of others except as provided by section 7(d).

24 Section 3. Persons Why May Become Donees; Purposes for Which
25 Anatomical Gifts May Be Made.—The following persons may become
26 donees of gifts of bodies or parts thereof for the purposes stated:

27 (1) any hospital, surgeon, or physician, for medical or dental education,
28 research, advancement of medical or dental science, therapy, or trans-
29 plantation; or

1 (2) any accredited medical or dental school, college or university for
2 education, research, advancement of medical or dental science, or ther-
3 apy; or

4 (3) any bank or storage facility, for medical or dental education, re-
5 search, advancement of medical or dental science, therapy, or transplanta-
6 tion; or

7 (4) any specified individual for therapy or transplantation needed by
8 him; OR

9 (5) THE BOARD.

10 Section 4. Manner of Executing Anatomical Gifts.—(a) A gift of all
11 or part of the body under section 2(a) of this act may be made by will.
12 The gift becomes effective upon the death of the testator without waiting
13 for probate. If the will is not probated, or if it is declared invalid for
14 testamentary purposes, the gift, to the extent that it has been acted upon
15 in good faith, is nevertheless valid and effective.

16 (b) A gift of all or part of the body under section 2(a) may also be
17 made by document other than a will. The gift becomes effective upon
18 the death of the donor. The document, which may be a card designed
19 to be carried on the person, must be signed by the donor in the presence
20 of two witnesses who must sign the document in his presence. If the
21 donor cannot sign, the document may be signed for him at his direction
22 and in his presence in the presence of two witnesses who must sign the
23 document in his presence. Delivery of the document of gift during the
24 donor's life-time is not necessary to make the gift valid.

25 (c) The gift may be made to a specified donee or without specifying a
26 donee. If the latter, the gift may be accepted by the attending physician
27 as donee upon or following death. If the gift is made to a specified do-
28 nee who is not available at the time and place of death, the attending
29 physician upon or following death, in the absence of any expressed indi-

1 cation that the donor desired otherwise, may accept the gift as donee.
2 The physician who becomes a donee under this subsection shall not partici-
3 pate in the procedures for removing or transplanting a part.

4 (d) Notwithstanding section 7(b), the donor may designate in his will,
5 card, or other document of gift the surgeon or physician to carry out the
6 appropriate procedures. In the absence of a designation or if the desig-
7 nee is not available, the donee or other person authorized to accept the
8 gift may employ or authorize any surgeon or physician for the purpose.

9 (e) Any gift by a person designated in section 2(b) shall be made by a
10 document signed by him or made by his telegraphic, recorded telephonic,
11 or other recorded message.

12 Section 5. Delivery of Document of Gift.—If the gift is made by the
13 donor to a specified donee, the will, card, or other document, or an ex-
14 ecuted copy thereof, may be delivered to the donee to expedite the appro-
15 priate procedures immediately after death. Delivery is not necessary to
16 the validity of the gift. The will, card, or other document, or an executed
17 copy thereof, may be deposited in any hospital, bank or storage facility
18 or registry office that accepts it for safekeeping or for facilitation of
19 procedures after death. On request of any interested party upon or after
20 the donor's death, the person in possession shall produce the document
21 for examination.

22 Section 6. Amendment or Revocation of the Gift.—(a) If the will,
23 card, or other document or executed copy thereof, has been delivered
24 to a specified donee, the donor may amend or revoke the gift by:

25 (1) the execution and delivery to the donee of a signed statement, or

26 (2) an oral statement made in the presence of two persons and com-
27 municated to the donee, or

28 (3) a statement during a terminal illness or injury addressed to an at-
29 tending physician and communicated to the donee, or

1 (4) a signed card or document found on his person or in his effects.

2 (b) Any document of gift which has not been delivered to the donee
3 may be revoked by the donor in the manner set out in subsection (a), or
4 by destruction, cancellation, or mutilation of the document and all ex-
5 ecuted copies thereof.

6 (c) Any gift made by a will may also be amended or revoked in the
7 manner provided for amendment or revocation of wills, or as provided
8 in subsection (a).

9 Section 7. Rights and Duties at Death.—(a) The donee may accept
10 or reject the gift. If the donee accepts a gift of the entire body, he may,
11 subject to the terms of the gift, authorize embalming and the use of the
12 body in funeral services IF THE SURVIVING SPOUSE OR NEXT OF
13 KIN AS DETERMINED IN SECTION 2(B) REQUESTS EMBALM-
14 ING AND USE OF THE BODY FOR FUNERAL SERVICES. If
15 the gift is of a part of the body, the donee, upon the death of the donor
16 and prior to embalming, shall cause the part to be removed without un-
17 necessary mutilation. After removal of the part, custody of the remaind-
18 er of the body vests in the surviving spouse, next of kin, or other persons
19 under obligation to dispose of the body.

20 (b) The time of death shall be determined by a physician who tends
21 the donor at his death, or, if none, the physician who certifies the death.
22 The physician WHO CERTIFIES DEATH OR ANY OF HIS PRO-
23 FESSIONAL PARTNERS OR ASSOCIATES shall not participate in
24 the procedures for removing or transplanting a part.

25 (c) A person who acts in good faith in accord with the terms of this
26 act or with the anatomical gift laws of another state or a foreign country
27 is not liable for damages in any civil action or subject to prosecution in
28 any criminal proceeding for his act.

29 (d) The provisions of this act are subject to the laws of this state
30 prescribing powers and duties with respect to autopsies.

1 Section 8. Uniformity of Interpretation.—This act shall be so con-
2 strued as to effectuate its general purpose to make uniform the law of
3 those states which enact it.

4 Section 9. Short Title.—This act shall be known and may be cited as
5 the “Uniform Anatomical Gift Act.”

6 Section 10. Repeal.—The act of November 30, 1959 (P. L. 1617),
7 entitled “An act providing for the carrying out of the directions of any
8 person with respect to the disposition of any part of his remains to an
9 eye bank or body part bank,” is hereby repealed. All other acts or parts
10 of acts are repealed in so far as they are inconsistent herewith.

11 Section 11. Effective Date.—This act shall take effect January 1,
12 1970.