

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

SENATOR DENGLER, PUBLIC HEALTH AND WELFARE, IN SENATE,
AS AMENDED, OCTOBER 7, 1969

AN ACT

- 1 Authorizing the gift of all or part of a human body after death
2 for specified purposes.
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- 16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:
- 18 Section 1. Definitions.--As used in this act:
- 19 (a) "Bank or storage facility" means a facility licensed,
20 accredited, or approved under the laws of any state for storage
21 of human bodies or parts thereof.
- 22 (b) "Decedent" means a deceased individual and includes a
23 stillborn infant or fetus.

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

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

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

10 (f) "Person" means an individual, corporation, government or
11 governmental subdivision or agency, business trust, estate,
12 trust, partnership or association, or any other legal entity.

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

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

18 (i) "Board" means the Anatomical Board of the State of
19 Pennsylvania created by the act of June 13, 1883 (P. L. 119),
20 entitled "An act for the promotion of medical science by the
21 distribution and use of unclaimed human bodies for scientific
22 purposes through a board created for that purpose and to prevent
23 unauthorized uses and traffic in human bodies."

24 Section 2. Persons Who May Execute an Anatomical Gift.--(a)
25 Any individual of sound mind and twenty-one years of age or more
26 may give all or any part of his body for any purpose specified
27 in section 3, the gift to take effect upon death. A GIFT OF THE <--
28 WHOLE BODY SHALL BE INVALID UNLESS MADE IN WRITING AT LEAST
29 FIFTEEN DAYS PRIOR TO THE DATE OF DEATH.

30 (b) Any of the following persons, in order of priority

1 stated, when persons in prior classes are not available at the
2 time of death, and in the absence of actual notice of contrary
3 indications by the decedent or actual notice of opposition by a
4 member of the same or a prior class, may give all or any part of
5 the decedent's body for any purpose specified in section 3:

- 6 (1) the spouse,
- 7 (2) an adult son or daughter,
- 8 (3) either parent,
- 9 (4) an adult brother or sister,
- 10 (5) a guardian of the person of the decedent at the time of
11 his death,
- 12 (6) any other person authorized or under obligation to
13 dispose of the body.

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

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

22 (e) The rights of the donee created by the gift are
23 paramount to the rights of others except as provided by section
24 7(d).

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

- 29 (1) any hospital, surgeon, or physician, for medical or
30 dental education, research, advancement of medical or dental

1 science, therapy, or transplantation; or

2 (2) any accredited medical or dental school, college or
3 university for education, research, advancement of medical or
4 dental science, or therapy; or

5 (3) any bank or storage facility, for medical or dental
6 education, research, advancement of medical or dental science,
7 therapy, or transplantation; or

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

10 (5) the board.

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

18 (b) A gift of all or part of the body under section 2(a) may
19 also be made by document other than a will. The gift becomes
20 effective upon the death of the donor. The document, which may
21 be a card designed to be carried on the person, must be signed
22 by the donor in the presence of two witnesses who must sign the
23 document in his presence. If the donor ~~cannot sign~~ IS MENTALLY <--
24 COMPETENT TO SIGNIFY HIS DESIRE TO SIGN THE DOCUMENT BUT IS
25 PHYSICALLY UNABLE TO DO SO, the document may be signed for him
26 BY ANOTHER at his direction and in his presence in the presence <--
27 of two witnesses who must sign the document in his presence.
28 Delivery of the document of gift during the donor's lifetime is
29 not necessary to make the gift valid.

30 (c) The gift may be made to a specified donee or without

1 specifying a donee. If the latter, the gift may be accepted by
2 the attending physician as donee upon or following death. If the
3 gift is made to a specified donee who is not available at the
4 time and place of death, the attending physician upon or
5 following death, in the absence of any expressed indication that
6 the donor desired otherwise, may accept the gift as donee. The
7 physician who becomes a donee under this subsection shall not
8 participate in the procedures for removing or transplanting a
9 part.

10 (d) Notwithstanding section 7(b), the donor may designate in
11 his will, card, or other document of gift the surgeon or
12 physician to carry out the appropriate procedures. In the
13 absence of a designation or if the designee is not available,
14 the donee or other person authorized to accept the gift may
15 employ or authorize any surgeon or physician for the purpose.

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

19 Section 5. Delivery of Document of Gift.--If the gift is
20 made by the donor to a specified donee, the will, card, or other
21 document, or an executed copy thereof, may be delivered to the
22 donee to expedite the appropriate procedures immediately after
23 death. Delivery is not necessary to the validity of the gift.
24 The will, card, or other document, or an executed copy thereof,
25 may be deposited in any hospital, bank or storage facility or
26 registry office that accepts it for safekeeping or for
27 facilitation of procedures after death. On request of any
28 interested party upon or after the donor's death the person in
29 possession shall produce the document for examination.

30 Section 6. Amendment or Revocation of the Gift.--(a) If the

1 will, card, or other document or executed copy thereof, has been
2 delivered to a specified donee, the donor may amend or revoke
3 the gift by:

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

6 (2) an oral statement made in the presence of two persons
7 and communicated to the donee, or

8 (3) a statement during a terminal illness or injury
9 addressed to an attending physician and communicated to the
10 donee, or

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

13 (b) Any document of gift which has not been delivered to the
14 donee may be revoked by the donor in the manner set out in
15 subsection (a), or by destruction, cancellation, or mutilation
16 of the document and all executed copies thereof.

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

20 Section 7. Rights and Duties at Death.--(a) The donee may
21 accept or reject the gift. If the donee accepts a gift of the
22 entire body, he ~~may~~, SHALL subject to the terms of the gift, <--
23 authorize embalming and the use of the body in funeral services
24 if the surviving spouse or next of kin as determined in section
25 2(b) requests embalming and use of the body for funeral
26 services. If the gift is of a part of the body, the donee, upon
27 the death of the donor and prior to embalming, shall cause the
28 part to be removed without unnecessary mutilation. After removal
29 of the part, custody of the remainder of the body vests in the
30 surviving spouse, next of kin, or other persons under obligation

1 to dispose of the body.

2 (b) The time of death shall be determined by a physician who
3 tends the donor at his death, or, if none, the physician who
4 certifies the death. The physician who certifies death or any of
5 his professional partners or associates shall not participate in
6 the procedures for removing or transplanting a part.

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

12 (d) The provisions of this act are subject to the laws of
13 this State prescribing powers and duties with respect to
14 autopsies.

15 Section 8. Uniformity of Interpretation.--This act shall be
16 so construed as to effectuate its general purpose to make
17 uniform the law of those states which enact it.

18 Section 9. Short Title.--This act shall be known and may be
19 cited as the "Uniform Anatomical Gift Act."

20 Section 10. Repeal.--The act of November 30, 1959 (P. L.
21 1617), entitled "An act providing for the carrying out of the
22 directions of any person with respect to the disposition of any
23 part of his remains to an eye bank or body part bank," is hereby
24 repealed. All other acts or parts of acts are repealed in so far
25 as they are inconsistent herewith.

26 Section 11. Effective Date.--This act shall take effect
27 January 1, 1970.