

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 3439

By Delegate Worrell

[Originating in the Committee on the Judiciary;

Reported March 20, 2025.]

1 A BILL to amend and reenact §3-2-5, §16-19-3, §16-19-5, and §16-19-19 of the Code of West
2 Virginia, 1931, as amended, relating to registration of voters and voluntary registration of
3 organ donors; providing for applications for registration to include an option for the
4 applicant to register as an organ donor and be included in a national organ donor
5 database; revising a definition; authorizing the Secretary of State to provide donor
6 registrant records collected to the donor registry; requiring the Secretary of State to provide
7 information on the election of organ donation on voter registration cards, and providing for
8 promulgation of legislative rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. REGISTRATION OF VOTERS.

**§3-2-5. Forms for application for registration; information required and requested; types of
application forms; notices.**

1 (a)(1) All state forms for application for voter registration shall be prescribed by the
2 Secretary of State and shall conform with the requirements of 42 U. S. C. §1973gg, *et seq.*, the
3 National Voter Registration Act of 1993 and the requirements of the provisions of this article.
4 Separate application forms may be prescribed for voter registration conducted by the clerk of the
5 county commission, registration by mail, registration in conjunction with an application for motor
6 vehicle driver's license and registration at designated agencies. These forms may consist of one
7 or more parts, may be combined with other forms for use in registration by designated agencies or
8 in conjunction with driver licensing and may be revised and reissued as required by the Secretary
9 of State to provide for the efficient administration of voter registration.

10 (2) Notwithstanding any provisions of subdivision (1) of this subsection to the contrary, the
11 federal postcard application for voter registration issued pursuant to 42 U. S. C. §1973, *et seq.*, the
12 Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the mail voter registration
13 application form prescribed by the Federal Election Commission pursuant to 42 U. S. C. §1973gg,

14 *et seq.*, the National Voter Registration Act of 1993, are accepted as valid forms of application for
15 registration pursuant to the provisions of this article.

16 (3) The Secretary of State is authorized to promulgate procedures to permit persons to
17 register to vote through a secure electronic voter registration system.

18 (b) Each application form for registration shall include:

19 (1) A statement specifying the eligibility requirements for registration and an attestation
20 that the applicant meets each eligibility requirement;

21 (2) Any specific notice or notices required for a specific type or use of application by 42 U.
22 S. C.§1973gg, *et seq.*, the National Voter Registration Act of 1993;

23 (3) A notice that a voter may be permitted to vote the partisan primary election ballot of a
24 political party only if the voter has designated that political party on the application for registration
25 unless the political party has determined otherwise;

26 (4) The applicant's driver's license number or an identification number issued by the
27 Division of Motor Vehicles. If the applicant does not have a driver's license or an identification card
28 issued by the Division of Motor Vehicles, then the last four digits of the applicant's Social Security
29 number; and

30 (5) Any other instructions or information essential to complete the application process.

31 (c) Each application form shall require that the following be provided by the applicant,
32 under oath, and an application which does not contain each of the following is incomplete:

33 (1) The applicant's legal name, including the first name, middle or premarital name, if any,
34 and last name;

35 (2) The month, day, and year of the applicant's birth;

36 (3) The applicant's residence address including the number and street or route and city
37 and county of residence except:

38 (A) In the case of a person eligible to register under the provisions of 42 U. S. C.§1973ff, *et*
39 *seq.*, the Uniformed and Overseas Citizens Absentee Voting Act, the address at which he or she

last resided before leaving the United States or entering the uniformed services, or if a dependent child of such a person, the address at which his or her parent last resided;

(B) In the case of a homeless person having no fixed residence address who nevertheless resides and remains regularly within the county, the address of a shelter, assistance center or family member with whom he or she has regular contact or other specific location approved by the clerk of the county commission for the purposes of establishing a voting residence; or

(C) In the case of a participant in the Address Confidentiality Program administered by the Secretary of State in accordance with section one hundred three, article twenty-eight (a), chapter forty-eight of this code, the designated address assigned to the participant by the Secretary of State; and

(4) The applicant's signature, under penalty of perjury as provided in section thirty-six of this article, to the attestation of eligibility to register to vote and to the truth of the information given. The clerk may accept the electronically transmitted signature kept on file with another approved state database for an applicant who applies to register to vote using an approved electronic voter registration system in accordance with procedures promulgated by the Secretary of State.

(d) The applicant shall be requested to provide the following information, but no application may be rejected for lack of this information:

(1) An indication whether the application is for a new registration, change of address, change of name or change of party affiliation;

(2) The applicant's choice of political party affiliation, if any, or an indication of no affiliation. An applicant who does not enter a choice of political party affiliation is listed as having no party affiliation on the voting record;

(3) The applicant's residence mailing address if different than the residence street address;

(4) The last four digits of the applicant's Social Security number;

(5) The applicant's telephone number;

(6) The applicant's e-mail address;

(7) The address where the applicant was last registered to vote, if any, for the purpose of cancelling or transferring the previous registration; ~~and~~

(8) The applicant's gender; and

(9) A statement as to whether the applicant requests to register as an organ donor and be included in the National Donate Life Registry.

(e) The Secretary of State shall prescribe the printing specifications of each type of voter registration application and the voter registration application portion of any form which is part of a combined agency form: *Provided*, That any physical voter registration records created under this article may be destroyed under the process described in §3-2-29 of this code.

(f) Application forms prescribed in this section may refer to various public officials by title or official position but in no case may the actual name of an officeholder be printed on the voter registration application or on any portion of a combined application form.

(g) No later than July 1 of each odd-numbered year, the Secretary of State shall submit the specifications of the voter registration application by mail for statewide bidding for a contract period beginning September 1 of each odd-numbered year and continuing for two calendar years. The successful bidder shall produce and supply the required mail voter registration forms at the contract price to all purchasers of the form for the period of the contract.

(h) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article, including, but not limited to, the collection of the minimum personal information to be collected and transferred to a national organ donor registry, as provided in §3-2-5(d)(9) of this code.

ARTICLE	19.	ANATOMICAL	GIFT	ACT.
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§16-19-3. Definitions.

As used in this article:

"Adult" means an individual who is at least 18 years of age.

"Agent" means an individual:

(1) Authorized by a medical power of attorney to make health care decisions on behalf of a prospective donor; or

(2) Expressly authorized by any other record signed by the donor to make an anatomical gift on his or her behalf.

"Anatomical gift" means a donation of all or part of a human body, to take effect after the donor's death, for the purpose of transplantation, therapy, research, or education.

"Authorized person" means a person other than the donor who is authorized to make an anatomical gift of the donor's body or part by §16-19-4 or §16-19-9 of this code.

"Certification of death" means a written pronouncement of death by an attending physician. Certification is required before an attending physician can allow removal of any part from the decedent's body for transplant purposes.

"Decedent" means a deceased individual whose body is or may be the source of an anatomical gift. The term "decedent" includes a stillborn infant and, subject to restrictions imposed by law other than this article, a fetus.

"Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of, or another adult who exhibited special care and concern for, an individual who has made, amended, revoked, or refused to make an anatomical gift. The term "disinterested witness" does not include a person to whom an anatomical gift may pass pursuant to §16-19-11 of this code.

"Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, hunting or fishing license, voter registration card, or donor registry.

"Donor" means an individual whose body or part is the subject of an anatomical gift.

"Donor registry" means a database that contains records of anatomical gifts and amendments to, or revocations, of anatomical gifts.

"Driver's license" means a license or permit issued by the Division of Motor Vehicles to operate a vehicle.

"Eye bank" means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

"Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term "guardian" does not include guardian ad litem.

"Hunting or fishing license" means a license issued by the Division of Natural Resources pursuant to §20-2-1 *et seq.* of this code, for hunting and fishing in the state of West Virginia.

"Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

"Identification card" means an identification card issued by the Division of Motor Vehicles pursuant to §17B-2-1 of this code.

"Know" means to have actual knowledge. It does not include constructive notice and other forms of imputed knowledge.

"Medical examiner" means an individual appointed pursuant to §61-12-3 *et seq.* of this code to perform death investigations and to establish the cause and manner of death. The term "medical examiner" includes any person designated by the medical examiner to perform any duties required by this article.

"Minor" means an individual who is under 18 years of age.

"Organ procurement organization" means a nonprofit entity designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization pursuant to 42 U.S.C. §273(b).

"Parent" means another person's natural or adoptive mother or father whose parental rights have not been terminated by a court of law.

"Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

"Physician assistant" has the meaning provided in §30-3E-1 of this code.

"Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

"Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term "prospective donor" does not include an individual who has made a refusal.

"Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

"Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Revocation" means the affirmative declaration of the potential donor's withdrawal of their decision to make or not make a document of gift. It does not have the same meaning as a refusal but only establishes that the potential donor chooses not to make an affirmative declaration of their wishes.

"Refusal" means a record created under §16-19-7 of this code that expressly states an individual's intent to bar other persons from making an anatomical gift of his or her body or part.

"Sign" means to execute or adopt a tangible symbol or attach to or logically associate with the record an electronic symbol, sound or process, with the present intent to authenticate or adopt a record.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"State registration card" means a physical or electronic document provided to a person as evidence that the person has registered with a state or county authority or has been granted a license by a state agency for purposes administered by that agency or authority.

"Surrogate" means an individual 18 years of age or older who is reasonably available, is willing to make health care decisions on behalf of an incapacitated person, possesses the capacity to make health care decisions, and is identified or selected by the attending physician or advanced nurse practitioner in accordance with §16-30-1 *et seq.* of this code as the person who is to make those decisions in accordance with the provisions of this article.

"Technician" means an individual qualified to remove or process parts by an organization that is licensed, accredited, or regulated under federal or state law. The term "technician" includes an enucleator, i.e., an individual who removes or processes eyes or parts of eyes.

"Tissue" means a portion of the human body other than an organ or an eye. The term "tissue" does not include blood unless the blood is donated for the purpose of research or education.

"Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

"Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

§16-19-5. Manner of making anatomical gift before donor's death.

(a) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol to be imprinted on his or her driver's license, identification card, voter registration card, or hunting or fishing license indicating that he or she has made an anatomical gift;

(2) In a will;

(3) During a terminal illness or injury, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (b) of this section.

(b) (1) A donor or a person authorized by §16-9-4 of this code may make a gift by:

(A) A donor card or other record signed by the donor or the authorized person; or

(B) Authorizing a statement or symbol indicating that the donor has made an anatomical gift to be included on a donor registry.

(2) If the donor or the authorized person is physically unable to sign a record, another individual may sign at the direction of the donor or the authorized person if the document of gift:

(A) Is witnessed and signed by at least two adults, at least one of whom is a disinterested witness; and

(B) Contains a statement that it has been signed and witnessed as required by paragraph (A) of this subdivision.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death regardless of whether the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

§16-19-19. Donor registry.

(a) The Division of Motor Vehicles may establish, or contract for the establishment of, a donor registry.

(b) The Division of Motor Vehicles shall cooperate with a person that administers any donor registry established or contracted for pursuant to this section or recognized for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(c) The Division of Natural Resources shall provide all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift to a donor registry established or contracted for pursuant to this section.

(d) The Secretary of State may establish, contract for the establishment of, a donor registry, or contract for a system to transmit donor information to a donor registry. The Secretary of State shall provide all relevant information, collected pursuant to the provisions of §3-2-5 of this code, regarding a donor's making, amendment to, or revocation of an anatomical gift to a donor registry in connection with the registration of voters and changes to a person's voter information.

~~(d)~~ (e) A donor registry must:

(1) Allow a donor or person authorized under §16-19-4 of this code to include on the ~~donor~~ registry state registration card a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) Be accessible for purposes of subdivisions (1) and (2) of this subsection 24 hours a day, seven days a week.

~~(e)~~ (f) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor,

or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

~~(f)~~ (g) The Director of the Division of Natural Resources shall provide information regarding the existence of the anatomical organ donation program, the procedures for a hunting or fishing license applicant to indicate his or her desire to make an anatomical gift, and having document of gift affixed to his or her hunting or fishing license pursuant to this article.

~~(g)~~ (h) The Division of Natural Resources shall be reimbursed for all costs relating to the creation and administration of an anatomical gift record by the Center for Organ Recovery and Education: *Provided*, That the division is absolved of all responsibilities to collect and provide donor registrant records pursuant to this article if not reimbursed according to this subsection.

(i) The Secretary of State shall provide every person registering to vote, or modifying details of his or her registration, information regarding the existence of the anatomical organ donation program, the procedures for a voter to indicate his or her desire to make an anatomical gift, and having a document of gift affixed to his or her voter registration card pursuant to this article.

(j) The Secretary of State shall be reimbursed by the Center for Organ Recovery and Education for all costs, relating to the creation and administration of a system for transmission of donor information to a donor registry: *Provided*, That the secretary is absolved of all responsibilities to collect and provide donor registrant records pursuant to this article if not reimbursed according to this subsection.

~~(h)~~ (k) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any private donor registry must comply with subsections ~~(d)~~ (e) and ~~(e)~~ (f) of this section.