

# **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

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

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

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

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

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

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

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

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

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

64 (5) The applicant's telephone number;

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

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

68 (8) The applicant's gender; and

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

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

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

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

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

**ARTICLE                    19.                    ANATOMICAL                    GIFT                    ACT.**

**§16-19-3. Definitions.**

1            As used in this article:

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

3            "Agent" means an individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) A donor may make an anatomical gift:

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

5 (2) In a will;

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

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

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

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

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

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

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

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

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

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

**§16-19-19. Donor registry.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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