

26:6-57 thru 65

February 10, 1970

LEGISLATIVE HISTORY OF R.S. 26:6-57 thru 65
(Uniform Anatomical Gift Act)

COPY NO. 2

New York had studied organ transplants as early as 1964:

NJ20.9 New York (State). Law Revision Commission.
T7 ... study relating to ... autopsies and
N567 donations of bodies or parts of bodies. 1964.

The uniform act was published in 1968:

NJ20.9 National Conference of Commissioners on
T7 Uniform State Laws.
1277 Uniform anatomical gift act. 1968.

See also:

Per
S
A uniform state law for heart and other medical
transplants. State Government, vol. 42, no. 1,
p. 17-22 (Winter 1969).

Sadler, A.M. & others.

Per
A
The Uniform anatomical gift act: a model
for reform. 206 American Medical Association
Journal 2501-6, December 9, 1968.

Related bills:

1968 - SCR 37 (Miller, Kelly, Italiano)
Creates Commission to Study Transplants.
Died in Assembly Committee.

1968 - S333 (Beadleston).
Became Chapter 25 of 1968.

L. 1969, Chapter 161 - A137

Pre-filed for introduction by Kaltenbacher, and 9 others.
March 24 - Passed in Assembly, amended.
May 15 - Passed in Senate, amended.
May 20 - Senate amendment passed in Assembly.
September 9 - Approved, Chapter 161.
Amended during passage; copies of original bill and
amendments enclosed.
Statement on bill (original bill enclosed).
Governor's statement on signing; copy attached.

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February 10, 1970

- 2 -

No N.J. hearings or reports were located.

See following: (all enclosed).

The Uniform Anatomic Gift Law. (Editorial).
66 Journal of the Medical Society of N.J. 289 (July 1969).

Uniform Anatomical Gift Act - Resolution #16.
66 Journal of the Medical Society of N.J. 420 (July 1969).

"Legality question no hurdle in N.J." NSL 1-28-68.

"Organ transplants (Editorial). NSL 10-13-68.

"Sills urges N.J. medical-legal study on organ transplants".
NEN 9-18-68.

"A transplant law is gaining favor." NYT 9-22-68.

"Organ transplant bill submitted." NEN 1-24-69.

See also other law review articles on transplants, definition of death, etc. in this period. Several other states adopted acts in 1968.

RSL/PC

ASSEMBLY, No. 137

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Assemblymen KALTENBACHER, PFALTZ and DICKEY

AN ACT authorizing the gift of all or part of a human body after death for specified purposes, repealing "An act authorizing the disposition in certain cases of human remains and parts thereof for the advancement of medical science or the replacement or rehabilitation of diseased or worn-out parts or organs of other human beings," approved September 16, 1963 (P. L. 1963, c. 154), as said title was amended by chapter 225 of the laws of 1965, and repealing section 3 of chapter 225 of the laws of 1965 and chapter 25 of the laws of 1968.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 (a) "Bank or storage facility" means a facility licensed,
3 accredited, or approved under the laws of any State for storage of
4 human bodies or parts thereof.

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

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

9 (d) "Hospital" means a hospital licensed, accredited, or ap-
10 proved under the laws of any State; includes a hospital operated
11 by the United States Government, a State, or a subdivision thereof,
12 although not required to be licensed under State laws.

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

15 (f) "Person" means said term as defined in section 1:1-2 of the
16 Revised Statutes.

17 (g) "Physician" or "surgeon" means a physician or surgeon
18 licensed or authorized to practice under the laws of any State.

19 (h) "State" includes any State, district, commonwealth, terri-
20 tory, insular possession, and any other area subject to the legisla-
21 tive authority of the United States of America.

1 2. (a) Any individual of sound mind and 18 years of age or more
2 may give all or any part of his body for any purpose specified in
3 section 3, the gift to take effect upon death.

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

10 (1) The spouse,

11 (2) An adult son or daughter,

12 (3) Either parent,

13 (4) An adult brother or sister,

14 (5) A guardian of the person of the decedent at the time of
15 his death,

16 (6) Any other person authorized or under obligation to dis-
17 pose of the body.

18 (c) If the donee has actual notice of contrary indications by the
19 decedent or that a gift by a member of a class is opposed by a
20 member of the same or a prior class, the donee shall accept the
21 gift. The persons authorized by subsection (b) may make the gift
22 after or immediately before death.

23 (d) A gift of all or part of a body authorizes any examination
24 necessary to assure medical acceptability of the gift for the pur-
25 poses intended.

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

1 3. The following persons may become donees of gifts of bodies
2 or parts thereof for the purposes stated:

3 (1) Any hospital, surgeon, or physician, for medical or dental
4 education, research, advancement of medical or dental science,
5 therapy, or transplantation; or

6 (2) Any accredited medical or dental school, college or university
7 for education, research, advancement of medical or dental science,
8 or therapy; or

9 (3) Any bank or storage facility, for medical or dental education,
10 research, advancement of medical or dental science, therapy, or
11 transplantation; or

12 (4) Any specified individual for therapy or transplantation
13 needed by him.

1 4. (a) A gift of all or part of the body under section 2 (a) may
2 be made by will. The gift becomes effective upon the death of the

3 testator without waiting for probate. If the will is not probated,
4 or if it is declared invalid for testamentary purposes, the gift, to
5 the extent that it has been acted upon in good faith, is nevertheless
6 valid and effective.

7 (b) A gift of all or part of the body under section 2 (a) may also
8 be made by document other than a will. The gift becomes effective
9 upon the death of the donor. The document, which may be a card
10 designed to be carried on the person, must be signed by the donor
11 in the presence of 2 witnesses who must sign the document in his
12 presence. If the donor cannot sign, the document may be signed for
13 him at his direction and in his presence in the presence of 2 wit-
14 nesses who must sign the document in his presence. Delivery of the
15 document of gift during the donor's lifetime is not necessary to
16 make the gift valid.

17 (c) The gift may be made to a specified donee or without speci-
18 fying a donee. If the latter, the gift may be accepted by the attend-
19 ing physician as donee upon or following death. If the gift is made
20 to a specified donee who is not available at the time and place of
21 death, the attending physician upon or following death, in the
22 absence of any expressed indication that the donor desired other-
23 wise, may accept the gift as donee. The physician who becomes a
24 donee under this subsection shall not participate in the procedures
25 for removing or transplanting a part.

26 (d) Notwithstanding section 7(b), the donor may designate in
27 his will, card, or other document of gift the surgeon or physician to
28 carry out the appropriate procedures. In the absence of a designa-
29 tion or if the designee is not available, the donee or other person
30 authorized to accept the gift may employ or authorize any surgeon
31 or physician for the purpose.

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

1 5. If the gift is made by the donor to a specified donee, the will,
2 card, or other document, or an executed copy thereof, may be de-
3 livered to the donee to expedite the appropriate procedures
4 immediately after death. Delivery is not necessary to the validity
5 of the gift. The will, card, or other document, or an executed copy
6 thereof, may be deposited in any hospital, bank, or storage facility,
7 or registry office that accepts it for safekeeping or for facilitation
8 of procedures after death. On request of any interested party upon
9 or after the donor's death, the person in possession shall produce
10 the document for examination.

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

4 (1) The execution and delivery to the donee of a signed state-
5 ment, or

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

8 (3) A statement during a terminal illness or injury ad-
9 dressed 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 sub-
15 section (a) or by destruction, cancellation, or mutilation of the
16 document and all executed copies thereof.

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

1 7. (a) The donee may accept or reject the gift. If the donee
2 accepts a gift of the entire body, he may, subject to the terms of the
3 gift, authorize embalming and the use of the body in funeral serv-
4 ices. If the gift is of a part of the body, the donee, upon the death
5 of the donor and prior to embalming, shall cause the part to be
6 removed without unnecessary mutilation. After removal of the part,
7 custody of the remainder of the body vests in the surviving spouse,
8 next of kin, or other persons under obligation to dispose of the body.

9 (b) The time of death shall be determined by a physician who
10 attends the donor at his death, or, if none, the physician who certi-
11 fies the death. The physician shall not participate in the procedures
12 for removing or transplanting a part.

13 (c) A person who acts in good faith in accord with the terms of
14 this act or the anatomical gift laws of another State is not liable
15 for damages in any civil action or subject to prosecution in any
16 criminal proceeding for his act.

17 (d) The provisions of this act are subject to the laws of this
18 State prescribing powers and duties with respect to autopsies. An
19 autopsy or postmortem examination of the remains of a decedent
20 shall not delay or prevent the carrying out of any of the donor's
21 directions; however, if inspection of the remains by the county
22 physician or a coroner is requisite, the consent of said county
23 physician or coroner shall be first obtained.

1 8. This act shall be so construed as to effectuate its general pur-
2 pose to make uniform the law of those States which enact it.

1 9. This act may be cited as the "Uniform Anatomical Gift Act."

1 10. The following acts and parts of acts are hereby repealed:

2 (1) "An act authorizing the disposition in certain cases of
3 human remains and parts thereof for the advancement of medical
4 science or the replacement or rehabilitation of diseased or worn-out
5 parts or organs of other human beings," approved September 16,
6 1963 (P. L. 1963, c. 154), as said title was amended by chapter 225
7 of the laws of 1965.

8 (2) Section 3 of chapter 225 of the laws of 1965 (C. 26:6-51.1).

9 (3) Chapter 25 of the laws of 1968 (C. 26:6-55.1).

1 11. This act shall take effect immediately.

STATEMENT

The problem of the disposition of parts of human bodies has been dramatically brought home to the public during the past year in the numerous references in the public news media concerning heart transplants. New Jersey, however, has been aware of the problem for some time, and since 1963 has had effective laws to regulate this situation. The present act repeals these laws not because they are inadequate, but because of a need for uniformity.

The proposed act was promulgated in 1968 by the National Conference of Commissioners on Uniform State Laws.

Not only is there a need for uniformity because of the great diversity of statutory provisions on the subject today, but because of the high mobility of the American population. Although a gift may be executed in State A to an institution in State A, death may occur in State B and given scientific problems of timing of removal of the part of the body and the difficulty of transportation of the body or part, the most effective and socially desirable use of the gift may be in State B or even State C. It is desirable, therefore, to provide for uniformity of law in order to take care not only of the patient who moves from one place to another but also to take care of the accident of the place of death.

The proposed uniform act is comprehensive in its applicability to parts of the body for which science currently makes transplants possible, and also for foreseeable developments in medical science.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 137

STATE OF NEW JERSEY

ADOPTED MARCH 17, 1969

Amend page 1, section 1 (f), lines 15 and 16, after "means", delete "said term as defined in section 1:1-2 of the Revised Statutes", and insert "an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity".

Amend page 2, section 2 (c), line 20, after "shall", insert "not".

Amend page 2, section 2 (c), line 22, delete "immediately", and insert "immediately".

Amend page 4, section 7 (c), line 14, after "State", insert "or foreign country".

Amend page 4, section 7 (d), line 18, after "autopsies.", delete "An".

Amend page 4, section 7 (d), lines 18 to 23, delete these lines in their entirety.

SENATE AMENDMENT TO
ASSEMBLY, No. 137
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STATE OF NEW JERSEY

ADOPTED MAY 15, 1969

Amend page 4, section 7, line 4, after "ices", insert ", and after it has served its scientific purposes, provide for its disposal by burial or cremation".

FROM: OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE:
September 9, 1969

Governor Richard J. Hughes today signed into law the following bills:

Senate Bill No. 446 - which amends the provisions in the law regarding the State Library and State Museum. It modernizes the law, defines the duties and responsibilities of the State Librarian and his Advisory Council, and is patterned closely upon the accepted Standards for Library Functions at the State Level of the American Library Association.

Senate Bill No. 585 - which provides that railroad passes issued to State employees and other officials of the State government are not valid on interstate trains which do not provide intrastate service, or on extra fare or special purpose trains.

Assembly Bill No. 137 - which authorizes the gift of all or part of a human body after death for specified purposes and under certain conditions. The bill was originally proposed in 1968 by the National Conference of Commissioners of Uniform State Laws. This act will help to bring uniformity in an area where there had been great diversity of statutory provisions.

Assembly Bill No. 416 - which simplifies the identification procedures for polling places, eliminating the necessity for a metes and bounds description of the polling place but requiring the address and telephone number.

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Assembly Bill No. 419 - which reinstates the power held by railway police prior to 1962, giving the specific authority to arrest violators. This will obviate the present need to hold a train while seeking a local police officer in the event detention is necessary.

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