

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 671

BY SENATOR MANN

[Originating in the Committee on Government

Organization; reported on March 24, 2017]

1 A BILL to amend and reenact §18B-4-8 of the Code of West Virginia, 1931, as amended, relating
2 to the West Virginia Anatomical Board; providing that the board be reestablished under
3 the authority of the Higher Education Policy Commission; modifying composition of the
4 board; defining terms; modifying powers and responsibilities of the board; requiring the
5 board to make requisition for, receiving and making disposition of dead human bodies for
6 certain uses and purposes; requiring the board to keep full and complete records of certain
7 information, which shall be open at all times for inspection of the Attorney General and
8 any prosecuting attorney in the state; authorizing the Higher Education Policy Commission
9 to promulgate legislative rules; providing that members of the board shall not be entitled
10 to or receive compensation for services rendered in their capacity; requiring the board to
11 operate in compliance with the Revised Anatomical Gift Act; eliminating requirement that
12 certain dead human bodies buried at the public's expense be delivered to the board;
13 eliminating procedures and requirements related to unclaimed bodies subject to
14 requisition by the board; eliminating bond requirements of the board; and eliminating a
15 criminal misdemeanor offense, penalties and the imposition of liability for certain conduct.

Be it enacted by the Legislature of West Virginia:

1 That §18B-4-8 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. GENERAL ADMINISTRATION.

**§18B-4-8. West Virginia Anatomical Board; powers and duties relating to anatomical gifts;
requisition of bodies; autopsies; transportation of bodies; expenses of
preservation; ~~bond required; offenses and penalties.~~**

1 ~~(a) There is hereby established the "West Virginia anatomical board" which consists of the~~
2 ~~following four members: (1) The dean of the school of dentistry, West Virginia University; (2) the~~
3 ~~chairperson of the department of anatomy, West Virginia University; (3) the chairperson of the~~

4 ~~department of anatomy, school of medicine, Marshall university; and (4) the dean of the school of~~
5 ~~medicine, West Virginia school of osteopathic medicine.~~

6 ~~(b) The board shall have authority to appoint such officers, employees and agents as may~~
7 ~~be necessary to carry out the purposes for which the board is organized. It shall keep a full and~~
8 ~~complete record of its transactions, showing, among other things, every dead human body coming~~
9 ~~under its authority, giving name, sex, age, date of death, place from which received and when~~
10 ~~and from whom received, which record shall be open at all times to the inspection of the Attorney~~
11 ~~General and any prosecuting attorney in the state.~~

12 ~~(c) The board shall be responsible for making requisition for, receiving and making~~
13 ~~disposition of the dead human bodies for the scientific uses and purposes of reputable education~~
14 ~~institutions, within the state and elsewhere, having medical, osteopathy, dentistry or nursing~~
15 ~~schools. The board shall have full power to establish rules for its own government and for the~~
16 ~~requisition, use, disposition and control of such bodies as may come under its authority by way of~~
17 ~~gift, pursuant to this section or pursuant to section four, article nineteen, chapter sixteen of this~~
18 ~~code.~~

19 ~~(d) All dead human bodies which may come under the charge or control of any mortician,~~
20 ~~any officer or agent of the department of welfare or of any county commission or municipality, or~~
21 ~~any superintendent, officer or agent having the supervision of any prison, morgue, hospital or~~
22 ~~other public institution in this state and which may be required to be buried at public expense,~~
23 ~~shall be subject to the requisition of the board as provided in this section. No such body shall be~~
24 ~~delivered to the board if any person related to the deceased by blood or marriage shall make a~~
25 ~~statement in writing to that effect and shall claim such body for burial or shall make affidavit that~~
26 ~~the relative is unable to bear the expense of burial and desires that the deceased be buried at~~
27 ~~public expense. This statement and affidavit may be filed by any such relative with the person~~
28 ~~having charge and control of the body of the person so claimed, either before or after the death~~
29 ~~of such person.~~

30 ~~(e) No autopsy shall be performed on any unclaimed body without the written permission~~
31 ~~of the board, except upon the proper order of a duly authorized law enforcement officer.~~

32 ~~(f) It shall be the duty of any person who has charge or control of any unclaimed body,~~
33 ~~subject to requisition by the board, to give notice to the board of that fact by telephone or telegraph~~
34 ~~within twenty four hours after such body comes under that person's control. Thereafter, such~~
35 ~~person shall hold the body subject to the order of the board for at least twenty four hours after the~~
36 ~~sending of such notice. If the board makes requisition for the body within the twenty four hour~~
37 ~~period, it shall be delivered, pursuant to the order of the board, to the board or its authorized agent~~
38 ~~for transportation to any education institution which the board considers to be in bona fide need~~
39 ~~of the body and able to adequately control, use and dispose of the body. The board shall make~~
40 ~~suitable arrangements for the transportation of any body, or part or parts of any body, which may~~
41 ~~come under its authority to the education institution. All expenses incurred in connection with the~~
42 ~~preservation, delivery and transportation of any body delivered pursuant to the order of the board~~
43 ~~shall be paid by the education institution receiving the body.~~

44 ~~(g) No dead body shall be received or requisitioned by the board until the members of the~~
45 ~~board have filed a bond with the clerk of the circuit court of Kanawha County in a penalty of~~
46 ~~\$1,000, with good security, signed by a responsible person or persons, or by some surety~~
47 ~~company authorized to do business in this state, or have proved to the clerk that they are covered~~
48 ~~by a suitable bond in at least that amount, conditioned for the faithful performance of their duties.~~

49 ~~(h) Any person who shall neglect, refuse or fail to perform any duty required by this section~~
50 ~~relating to the board shall be guilty of a misdemeanor and, upon conviction thereof, shall be~~
51 ~~punished by a fine of not more than \$100 or by imprisonment in the county or regional jail for not~~
52 ~~more than ten days or by both such fine and imprisonment. Any person who fails to give the~~
53 ~~required notice that that person has charge of an unclaimed body subject to requisition by the~~
54 ~~board shall also be personally liable for all burial expenses, if such body was buried at public~~
55 ~~expense, to the public agency that paid for the burial.~~

56 (a) The West Virginia Anatomical Board, previously created herein, is hereby
57 reestablished under the authority of the Higher Education Policy Commission and shall consist of
58 the following four members, or their designee:

59 (1) The Dean of the Marshall University School of Medicine;

60 (2) The Dean of the West Virginia University School of Medicine;

61 (3) The Dean of the West Virginia University School of Dentistry; and

62 (4) The Dean of the West Virginia School of Osteopathic Medicine.

63 (b) For purposes of this section:

64 (1) "Board" means the West Virginia Anatomical Board; and

65 (2) "Commission" means the West Virginia Higher Education Policy Commission.

66 (c) The responsibilities of the board shall include:

67 (1) Making requisition for, receiving and making disposition of dead human bodies for the
68 scientific and educational uses and purposes of higher education institutions within the state and
69 elsewhere; and

70 (2) Keeping a full and complete record of its transactions, showing, among other things,
71 every dead human body coming under its authority, giving name, sex, age, date of death, place
72 from which received and when and from whom received, which record shall be open at all times
73 for the inspection of the Attorney General and any prosecuting attorney in the state.

74 (d) The commission may promulgate legislative rules pursuant to article three-a, chapter
75 twenty-nine-a of this code in order to effectuate the provisions of this section.

76 (e) Members of the board shall not be entitled to, or receive, any compensation for services
77 rendered in their capacity as members of the board.

78 (f) The board shall operate in compliance with the Revised Anatomical Gift Act under
79 article nineteen, chapter sixteen of this code.