

Sub for SF 368  
5-13-69

February 18, 1969  
Social Services, *Pages 4-8*

HOUSE FILE 305

*Deferred 5-13-69*

By MILLIGAN, KREAMER, ALT,  
HUFF, and VARLEY

Passed House, Date *4-18-69* Passed Senate, Date *5-21-69*

Vote: Ayes *102* Nays *1* Vote: Ayes *43* Nays *0*

Approved ..... *motion to reconsider tabled 5-21*

# A BILL FOR

1 An Act authorizing the gift of all or part of a human body  
2 after death for specified purposes.

3 *Be It Enacted by the General Assembly of the State of Iowa:*

4 Section 1. Definitions.

5 1. "Bank or storage facility" means a facility licensed,  
6 accredited, or approved under the laws of any state for stor-  
7 age of human bodies or parts thereof.

8 2. "Decedent" means a deceased individual and includes a  
9 stillborn infant or fetus.

10 3. "Donor" means an individual who makes a gift of all or  
11 part of his body.

12 4. "Hospital" means a hospital licensed under the laws of  
13 this state, or licensed, accredited, or approved under the  
14 laws of any other state and includes a hospital operated by  
15 the United States government, a state, or a subdivision  
16 thereof, although not required to be licensed under state  
17 laws.

18 5. "Part" includes organs, tissues, eyes, bones, arteries,  
19 blood, other fluids and other portions of a human body, and  
20 "part" includes "parts".

1 6. "Person" means an individual, corporation, government  
2 or governmental subdivision or agency, business trust, part-  
3 nership, association, or any other legal entity.

4 7. "Physician" or "surgeon" means a physician, surgeon,  
5 or osteopathic physician and surgeon, licensed or authorized  
6 to practice under the laws of any state.

7 8. "State" includes any state, district, commonwealth,  
8 territory, insular possession, and any other area subject  
9 to the legislative authority of the United States of America.

10 **Sec. 2. Persons Who May Execute an Anatomical Gift.**

11 1. Any individual of sound mind and twenty-one years of  
12 age or more may give all or any part of his body for any pur-  
13 poses specified in section three (3) of this Act, the gift  
14 to take effect upon death.

15 2. Any of the following persons, in order of priority  
16 stated, when persons in prior classes are not available at  
17 the time of death, and in the absence of actual notice of  
18 contrary indications by the decedent, or actual notice of  
19 opposition by a member of the same or a prior class, may give  
20 all or any part of the decedent's body for any purposes  
21 specified in section three (3) of this Act:

22 a. The spouse.

23 b. An adult son or daughter.

24 c. Either parent.

25 d. An adult brother or sister.

26 e. A guardian of the person of the decedent at the time  
27 of his death.

28 f. Any other person authorized or under obligation to  
29 dispose of the body.

30 The persons authorized by this subsection may make the  
31 gift after death or immediately before death.

32 3. If the donee has actual notice of contrary indications  
33 by the decedent, or that a gift by a member of a class is op-  
34 posed by a member of the same or a prior class, the donee  
35 shall not accept the gift.

1 4. A gift of all or part of a body authorizes any examin-  
2 ation necessary to assure medical acceptability of the gift  
3 for the purposes intended.

4 5. The rights of the donee created by the gift are para-  
5 mount to the rights of others except as provided by section  
6 seven (7), subsection four (4) of this Act.

7 **Sec. 3. Persons Who May Become Donees, and Purposes for**  
8 **Which Anatomical Gifts May Be Made.** The following persons  
9 may become donees of gifts of bodies or parts thereof for  
10 the purposes stated:

11 1. Any hospital, surgeon, or physician, for medical or  
12 dental education, research, advancement of medical or dental  
13 science, therapy, or transplantation.

14 2. Any accredited medical or dental school, college, or  
15 university, for education, research, advancement of medical  
16 or dental science, or therapy.

17 3. Any bank or storage facility, for medical or dental  
18 education, research, advancement of medical or dental science,  
19 therapy, or transplantation.

20 4. Any specified individual for therapy or transplanta-  
21 tion needed by him.

22 **Sec. 4. Manner of Executing Anatomical Gifts.**

23 1. A gift of all or part of the body under section two (2),  
24 subsection one (1) of this Act may be made by will. The gift  
25 becomes effective upon the death of the testator without wait-  
26 ing for probate. If the will is not probated, or if it is de-  
27 clared invalid for testamentary purposes, the gift, to the  
28 extent that it has been acted upon in good faith, is neverthe-  
29 less valid and effective.

30 2. A gift of all or part of the body under section two (2),  
31 subsection one (1) of this Act may also be made by a document  
32 other than a will. The gift becomes effective upon the death  
33 of the donor. The document, which may be a card designed to  
34 be carried on the person, must be signed by the donor, in the  
35 presence of two witnesses who must sign the document in his

1 presence. If the donor cannot sign, the document may be  
2 signed for him at his direction and in his presence, and in  
3 the presence of two witnesses who must sign the document in  
4 his presence. Delivery of the document of gift during the  
5 donor's lifetime is not necessary to make the gift valid.

6 3. The gift may be made to a specified donee or without  
7 specifying a donee. If the latter, the gift may be accepted  
8 by the attending physician as donee upon or following death.  
9 If the gift is made to a specified donee who is not available  
10 at the time and place of death, the attending physician upon  
11 or following death, in the absence of any expressed indica-  
12 tion that the donor desired otherwise, may accept the gift  
13 as donee. The physician who becomes a donee under this sub-  
14 section shall not participate in the procedures for removing  
15 or transplanting a part, except as provided in section seven  
16 (7), subsection two (2) of this Act.

17 4. Notwithstanding section seven (7), subsection two (2)  
18 of this Act, the donor may designate in his will, card or  
19 other document of gift the surgeon or physician to carry out  
20 the appropriate procedures. In the absence of a designation,  
21 or if the designee is not available, the donee or other per-  
22 son authorized to accept the gift may employ or authorize any  
23 surgeon or physician for the purpose.

24 5. Any gift by a person designated in section two (2),  
25 subsection two (2) of this Act shall be made by a document  
26 signed by him, or made by his telegraphic, recorded telephonic  
27 or other recorded message.

28 **Sec. 5. Delivery of Document of Gift.** If the gift is made  
29 by the donor to a specified donee, the will, card, or other  
30 document, or an executed copy thereof, may be delivered to  
31 the donee to expedite the appropriate procedures immediately  
32 after death, but delivery is not necessary to the validity of  
33 the gift. The will, card, or other document, or an executed  
34 copy thereof, may be deposited in any hospital, bank, or stor-  
35 age facility, or registry office that accepts documents for

1 safekeeping or for facilitation of procedures after death.  
2 On request of any interested party upon or after the donor's  
3 death, the person in possession shall produce the document  
4 for examination.

5 **Sec. 6. Amendment or Revocation of the Gift.**

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

9 a. The execution and delivery to the donee of a signed  
10 statement.

11 b. An oral statement made in the presence of two persons  
12 and communicated to the donee.

13 c. A statement during a terminal illness or injury ad-  
14 dressed to an attending physician and communicated to the  
15 donee.

16 d. A signed card or document found on his person or in  
17 his effects.

18 2. Any document of gift which has not been delivered to  
19 the donee may be revoked by the donor in the manner set out  
20 in subsection one (1) of this section, or by destruction, can-  
21 cellation, or mutilation of the document and all executed  
22 copies thereof.

23 3. Any gift made by a will may also be amended or revoked  
24 in the manner provided for amendment or revocation of wills,  
25 or as provided in subsection one (1) of this section.

26 **Sec. 7. Rights and Duties at Death.**

27 1. The donee may accept or reject the gift. If the donee  
28 accepts a gift of the entire body, he may, subject to the terms  
29 of the gift, authorize embalming and the use of the body in  
30 funeral services. If the gift is of a part of the body, the  
31 donee, upon the death of the donor and prior to embalming,  
32 shall cause the part to be removed without unnecessary mutila-  
33 tion. After removal of the part, custody of the remainder of  
34 the body vests in the surviving spouse, next of kin, or other  
35 persons under obligation to dispose of the body.

1 2. The time of death shall be determined by a physician  
2 who attends the donor at his death, or, if none, the physi-  
3 cian who certifies the death. This physician shall not par-  
4 ticipate in the procedures for removing or transplanting a  
5 part, the enucleation of eyes being the exception.

6 3. A person who acts in good faith in accordance with  
7 the terms of this Act, or under the anatomical gift laws of  
8 another state, is not liable for damages in any civil action  
9 or subject to prosecution in any criminal proceeding for his  
10 act.

11 4. The provisions of this Act are subject to the laws of  
12 this state prescribing powers and duties with respect to  
13 autopsies.

14 **Sec. 8. Uniformity of Interpretation.** This Act shall be  
15 so construed as to effectuate its general purpose to make  
16 uniform the law of those states which enact it.

17 **Sec. 9. Short Title.** This Act may be cited as the "Uniform  
18 Anatomical Gift Act".

19 **Sec. 10.** Section one hundred forty-two point twelve  
20 (142.12), Code 1966, is hereby repealed.

#### EXPLANATION OF HOUSE FILE 305

It is the policy and purpose of this legislation to encourage and aid the development of reconstructive medicine and surgery and the development of medical research by facilitating authorizations for donations of tissue and organs.

1 Amend House File 305 as follows:

2 1. Amend House File 305, page 6, by adding the following new  
3 section:

4 "The procurement, processing, distribution or use of whole blood,  
5 plasma, blood products, blood derivatives and other human tissues such  
6 as corneas, bones or organs for the purpose of injecting, transfusing  
7 or transplanting any of them into the human body is declared to be,  
8 for all purposes, the rendition of a service by every person partici-  
9 pating therein and, whether or not any remuneration is paid therefor,  
10 is declared not to be a sale of such whole blood, plasma, blood products,  
11 blood derivatives or other tissues, for any purpose, subsequent to  
12 enactment of this section."

*Adopted  
4-18*

13 2. Amend House File 305, page 6, by adding the following new  
14 section:

15 "Section one hundred forty-two point four (142.4), Code 1966, is  
16 hereby amended by adding the following:

17 "This section shall not apply to bodies given under authority of  
18 the Uniform Anatomical Gift Act."

19 3. Amend House File 305, page 6, by adding the following new sec-  
tion:

20 "Section one hundred forty-two point eight (142.8), Code 1966, is  
21 hereby amended by adding the following:

22 "This section shall not apply to bodies given under authority of the  
23 Uniform Anatomical Gift Act."

24 4. Amend House File 305, page 1, by striking lines one (1) and  
25 two (2) and inserting in lieu thereof the following:

26 "An Act relating to anatomical gifts and related procedures."

Filed - *Adopted 4-18*  
April 14, 1969

MILLIGAN of Polk

1 Amend House File 305, page 2, by striking lines 26  
2 through 29.

Filed - *Withdrawn 5-21*  
May 13, 1969

By BALLOUN