

FEB 2 1995

HOUSE FILE 122

HUMAN RESOURCES

BY GRUBBS

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the establishment of an anatomical gift
 2 registry.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 122

1 Section 1. NEW SECTION. 142C.1 SHORT TITLE.

2 This Act may be cited as the "Anatomical Gift Registry
3 Act".

4 Sec. 2. NEW SECTION. 142C.2 DEFINITIONS.

5 As used in this chapter unless the context otherwise
6 requires:

7 1. "Adult" means an individual eighteen years of age or
8 older or an emancipated minor.

9 2. "Attorney in fact" means attorney in fact as defined in
10 section 144B.1 or as defined under other applicable state or
11 federal law.

12 3. "Competent adult" means an adult who has not been
13 adjudged incompetent under applicable state law.

14 4. "Death" means the irreversible cessation of circulatory
15 and respiratory functions or the irreversible cessation of all
16 functions of the entire brain including the brain stem and
17 which determination has been made in accordance with generally
18 accepted medical standards.

19 5. "Decedent" means decedent as defined in section 142A.1.

20 6. "Department" means the Iowa department of
21 transportation.

22 7. "Director" means the director of transportation or the
23 director's designee.

24 8. "Donor" means an individual who has been recorded on
25 the registry as an individual from whom all organs may be
26 removed for transplantation purposes upon the death of the
27 individual or an individual from whom an organ is removed for
28 transplantation purposes.

29 9. "Donor form" means the Iowa organ donor registration
30 form described in section 142C.6.

31 10. "Emancipated minor" means an individual under eighteen
32 years of age for whom the parent or guardian of the individual
33 has released, by consent or operation of law, all care,
34 custody, and control of the individual.

35 11. "Family" means an individual's spouse, child, or

1 parent.

2 12. "Guardian" means a judicially appointed committee,
3 guardian, or conservator authorized to make health care
4 decisions for a minor or incompetent adult.

5 13. "Health care" means health care as defined in section
6 144B.1.

7 14. "Health care institution" means a hospital, health
8 care facility, hospice, or other facility where health care is
9 provided, which is licensed, accredited, approved, owned, or
10 operated by the government of the United States or a state or
11 which receives federal or state funding through the medical
12 assistance or Medicare program.

13 15. "Health care provider" means a person who is licensed,
14 certified, or otherwise authorized or permitted by state or
15 federal law to administer health care in the ordinary course
16 of business or in the practice of a profession.

17 16. "Hospice" means a hospice program as defined in
18 section 135J.1 which is licensed, accredited, approved, owned,
19 or operated by the government of the United States or a state
20 or which receives federal or state funding through the medical
21 assistance or Medicare program.

22 17. "Hospital" means hospital as defined in section 135B.1
23 which is licensed pursuant to chapter 135B or which is
24 licensed, accredited, or approved under state or federal law,
25 or which is operated by the government of the United States, a
26 state, or a political subdivision of a state although not
27 required to be licensed.

28 18. "Incompetent adult" means an adult who has been
29 adjudged incompetent.

30 19. "Minor" means an individual who is under eighteen
31 years of age, who is not emancipated, and includes a stillborn
32 child.

33 20. "Nondonor" means an individual recorded on the
34 registry from whom the removal of an organ is prohibited for
35 transplantation purposes upon the individual's death.

1 21. "Nursing home" means nursing home as defined in
2 section 155.1 including a nursing home which is licensed,
3 accredited, approved, owned, or operated as a nursing home by
4 the federal government, a state, or which receives federal or
5 state funding under the medical assistance or Medicare
6 program.

7 22. "Organ" means human organs, tissue, eyes, bones, or
8 cells processed for transplantation purposes, and any other
9 portion of the human body.

10 23. "Parent" means a biological or adoptive parent of a
11 child who has legal custody of the child or the guardian of a
12 child.

13 24. "Person" means person as defined in section 4.1.

14 25. "Physician" means physician or surgeon as defined in
15 section 142A.1.

16 26. "Principal" means an adult who has executed a durable
17 power of attorney for health care under state law.

18 27. "Registry" means the Iowa organ donor registry.

19 28. "Restricted donor" means an individual recorded on the
20 registry from whom removal of some but not all organs is
21 authorized for transplantation purposes, upon the individual's
22 death.

23 29. "State" means state as defined in section 142A.1.

24 30. "Transplantation purposes" means grafting,
25 transplanting, or implanting an organ to the body of another
26 individual.

27 Sec. 3. NEW SECTION. 142C.3 IOWA ORGAN DONOR REGISTRY
28 ESTABLISHED.

29 The director shall establish an Iowa organ donor registry
30 within the department and shall adopt rules to provide a
31 single, uniform database in the state to reflect the donative
32 status of individual registrants and to make the data
33 accessible to all health care institutions, organ procurement
34 organizations, and other persons as designated by rule. The
35 rules shall include the establishment or revision of forms to

1 enable collection of organ donor information. The rules shall
2 also provide access to personal data of an individual by that
3 individual for the purposes of ascertaining or changing the
4 individual's donative status.

5 Sec. 4. NEW SECTION. 142C.4 REGISTRATION PROCEDURES.

6 1. Upon initial or renewal application for a driver's
7 license or identification card by an individual who is
8 eighteen years of age or older, the individual shall do one of
9 the following:

10 a. Complete Donor Form A, identified in section 142C.6,
11 prior to the issuance or renewal of the license or
12 identification card.

13 b. Complete the license or identification card application
14 including designation by the applicant of the applicant's
15 status relative to organ donation by checking one of the
16 following choices provided on the form:

17 _____ DONOR STATUS. Upon my death, I wish to make all of
18 my organs available for transplantation.

19 _____ RESTRICTED DONOR STATUS. Upon my death, I wish to
20 make all of my organs available for transplant-
21 ation, with the exception of the following:

22 _____
23 _____ NONDONOR STATUS. Upon my death, I do not wish to
24 make any of my organs available for transplantation.

25 2. In addition to the procedure for registration provided
26 under subsection 1, a competent adult may record the
27 individual's donor status at any time by completing donor form
28 A and filing the completed form with the department.

29 3. A competent adult may change the individual's donor
30 status at any time by filing a new Donor Form A with the
31 department or by completing an initial or renewal application
32 for a driver's license or identification card which includes
33 designation of the individual's donor status as provided in
34 subsection 1, paragraph "b".

35 4. A parent of a minor or a guardian of an incompetent

1 adult may record the donor status of the minor or incompetent
2 adult with the registry at any time, by filing a completed
3 Donor Form B, identified in section 142C.6, with the
4 department, if the minor or incompetent adult has not
5 previously recorded the individual's status under subsection
6 1. A parent of a minor or a guardian of an incompetent adult
7 may change the donor status of the minor or incompetent adult
8 with the registry by filing a new, completed Donor Form B with
9 the registry.

10 5. The donor status of an individual is effective only
11 following recording of the information, provided through
12 completion of the donor form or driver's license or
13 identification card application, with the registry.

14 6. The department shall delete the status of a minor
15 recorded with the registry upon the minor attaining the age of
16 eighteen.

17 Sec. 5. NEW SECTION. 142C.5 DUTIES.

18 1. The department shall maintain the registry and provide
19 educational materials to the public regarding the program.

20 2. The director shall do all of the following:

21 a. Record the information provided in each donor form on
22 the registry within a reasonable period of time as determined
23 by rule following receipt of the completed form.

24 b. Record as a donor, a restricted donor, or a nondonor,
25 each individual who files a completed form with the
26 department.

27 c. Use the individual's social security number to identify
28 the individual as a donor, restricted donor, or nondonor.

29 d. Provide access to the information in the registry to
30 all health care institutions, organ procurement organizations,
31 and other persons as designated by rule.

32 e. Provide access to the information in the registry
33 regarding a specific individual to that individual, upon
34 request, or to a parent of a minor or guardian of an
35 incompetent adult, upon request of the parent or guardian.

1 f. Provide donor forms to every physician and health care
2 institution, at all offices of the department, and at all
3 other locations designated by rule.

4 g. Provide educational materials regarding organ donation
5 for distribution to all physicians and health care
6 institutions, at all offices of the department and at all
7 other locations designated by rule.

8 Sec. 6. NEW SECTION. 142C.6 ORGAN DONOR REGISTRATION
9 FORMS.

10 The forms provided by the department shall be in
11 substantially the following form:

12 1. IOWA ORGAN DONOR REGISTRATION FORM A (competent
13 adults).

14 DONOR FORM A

15 ADULTS

16 NAME (print your name): _____

17 SOCIAL SECURITY NUMBER OR ALIEN REGISTRATION NUMBER IF

18 KNOWN (print your number): _____

19 DATE OF BIRTH: _____

20 _____

21 CHECK ONLY ONE OF THE FOLLOWING:

22 DONOR STATUS - Upon my death, I wish to make all of my
23 organs available for transplantation.

24 RESTRICTED DONOR STATUS - Upon my death, I wish to make all
25 my organs available for transplantation, with the
26 exception of the following:

27 _____

28 NONDONOR STATUS - Upon my death, I do not wish to make
29 any of my organs available for transplantation.

30 _____

31 Your signature

32 The following notarial certificate need not be completed if
33 this form is filed at any office of the Iowa department of
34 transportation, or at any health care institution in the state
35 if this form is filed in conjunction with admission to that

1 health care institution.

2 NOTARIAL CERTIFICATE

3 STATE OF IOWA)

4 COUNTY OF)

5 On this _____ day of _____, _____, before me

6 a Notary Public in and for the State of _____

7 personally appeared _____ (insert name of

8 person above), to me known and known to me to be the

9 individual named in and who executed the foregoing Adult Donor

10 Form A, and who acknowledged to me that the

11 individual executed the

12 same as the individual's free act and deed.

13

14 _____
Notary Public in and for the State of _____

15 NOTICE:

16 Through completion of this form you may donate all or some

17 of your organs if they are needed after your death for

18 transplantation purposes. You may refuse to donate any of

19 your organs. You may complete this form at any time and are

20 required to do so before you receive an Iowa driver's license

21 or Iowa identification card when you initially apply for a

22 license or identification card after your eighteenth birthday.

23 When you complete and return this form, you will be

24 recorded on the Iowa organ donor registry. This registry will

25 be used at your death to determine your decision regarding

26 organ donation. At your death, your decision regarding the

27 donation of your organs will be followed regardless of any

28 other individual's decision to the contrary. Please inform

29 your family of the decision you record on this form.

30 You may change your status on the registry at any time

31 after you reach eighteen years of age if you complete and

32 return a subsequent form to the Iowa department of

33 transportation and the offices of health care providers. You

34 may also change your status when you are admitted as a patient

35 at a health care institution.

1 If you personally return a completed form to any office of
2 the Iowa department of transportation or to a health care
3 institution in conjunction with your admission to that
4 institution, notarization is not necessary. If you mail a
5 completed form directly to the Iowa department of
6 transportation, the form must be notarized to insure that no
7 other person is attempting to change your status on the
8 registry.

9 (Insert name and address of office that maintains the Iowa
10 organ donor registry.)

11 2. IOWA ORGAN DONOR REGISTRATION FORM B (minors and
12 incompetent adults).

13 DONOR FORM B

14 MINORS UNDER EIGHTEEN YEARS OF AGE OR INCOMPETENT ADULTS

15 (to be completed by either parent or guardian)

16 NAME (print name of child or ward): _____

17 CHILD OR WARD'S SOCIAL SECURITY NUMBER OR ALIEN REGISTRATION
18 NUMBER (print child or ward's number): _____

19 DATE OF BIRTH OF CHILD OR WARD: _____

20 _____

21 CHECK ONLY ONE OF THE FOLLOWING:

22 _____ DONOR STATUS - Upon the death of the child or ward, all
23 of the child's or ward's organs may be removed for
24 transplantation.

25 _____ RESTRICTED DONOR STATUS - Upon the death of the child
26 or ward, all of the child's or ward's organs may be
27 removed for transplantation, with the exception of
28 the following:

29 _____

30 _____ NONDONOR STATUS - Upon the death of the child or ward,
31 none of the child's or ward's organs may be removed
32 for transplantation.

33 _____

34 Parent or guardian signature

35 The following notarial certificate need not be completed if

1 this form is filed at any office of the Iowa department of
2 transportation, or of any health care institution in the state
3 if this form is filed in conjunction with admission to the
4 health care institution.

5 NOTARIAL CERTIFICATE

6 STATE OF IOWA)
7 COUNTY OF)

8 On this ____ day of _____, _____, before me
9 a Notary Public in and for the State of _____

10 personally appeared _____ (insert name of
11 parent or guardian), to me known and known to me to be the
12 individual named in and who executed the foregoing Donor
13 Form B, and who
14 acknowledged to me that the individual executed the
15 same as the individual's free act and deed.

16 _____
17 Notary Public in and for the State of _____

18 NOTICE:

19 Through completion of this form you may donate all or some
20 of the organs of your minor child or ward, if they are needed
21 after the child's or ward's death for transplantation
22 purposes. You also may refuse to donate any of your child's
23 or ward's organs. You may complete this form at any time.

24 When you complete and return this form to any office of the
25 Iowa department of transportation, your child or ward will be
26 recorded on the Iowa organ donor registry. This registry will
27 be used at the child's or ward's death to determine the
28 child's or ward's decision regarding the donation of organs.
29 At a ward's death, the ward's wishes as evidenced by this form
30 will be followed regardless of any other individual's decision
31 to the contrary with the exception of you, the guardian.
32 Following the death of a minor, a minor's parents or guardian
33 may authorize the removal, or may refuse to authorize the
34 removal, of the minor's organs regardless of the minor's
35 status on the registry.

1 Parents of minors and the guardian of incompetent adults
2 may change the status of the minor or ward on the registry at
3 any time by filing a new form. However, a minor's status on
4 the registry is automatically deleted from the registry when
5 the minor attains age eighteen. Thereafter, only the
6 individual who has attained majority status and on whose
7 behalf this form was filed may alter the individual's status
8 on the registry. Forms are available at any office of the
9 Iowa department of transportation and health care providers
10 offices. Your child's or ward's status may also be changed
11 when the child or ward is admitted as a patient at a health
12 care institution.

13 If you personally return a completed form to any office of
14 the Iowa department of transportation, or to a health care
15 institution in conjunction with your child's or ward's
16 admission to that institution, notarization is not necessary.
17 If you mail a completed form directly to the Iowa department
18 of transportation, notarization is necessary to insure that no
19 other person is attempting to change your child's or ward's
20 status on the registry.

21 (Insert name and address of office that maintains the
22 national organ donor registry.)

23 Sec. 7. NEW SECTION. 142C.7 REMOVAL OF CADAVERIC ORGANS.

24 1. Except as provided in subsection 2, upon the death of
25 an individual, the health care institution in which the
26 individual dies or to which a decedent's body is transported
27 shall initiate all necessary procedures to maintain, remove,
28 preserve, and transfer all of the decedent's usable organs
29 needed for transplantation purposes.

30 2. An organ shall not be removed from a decedent if any
31 one of the following conditions exist:

32 a. The decedent is recorded with the registry as a
33 nondonor or a restricted donor with respect to that organ,
34 unless the decedent is a minor whose parent authorizes the
35 removal of that organ.

1 b. The decedent is not recorded on the registry and one of
2 the following individuals objects at the time of the
3 decedent's death:

- 4 (1) The decedent's attorney in fact.
- 5 (2) The decedent's guardian.
- 6 (3) The decedent's surviving spouse.
- 7 (4) A competent adult child of the decedent.
- 8 (5) A parent of the decedent.

9 c. The identity of the decedent cannot be determined.

10 d. The decedent was a minor whose parent objects to the
11 removal of that organ at the time of the minor's death.

12 e. The removal of that organ would interfere with a
13 pending autopsy or official investigation under federal law or
14 the law of any state.

15 f. The decedent is not a citizen or resident of the United
16 States and is not recorded on the registry. However, if one
17 of the individuals noted in paragraph "b" authorizes the
18 removal of the organ at the time of the decedent's death, the
19 organ may be removed.

20 3. Following removal of an organ from a donor or a
21 restricted donor, the remainder of the body vests in the
22 surviving spouse, the next of kin, or any other person
23 responsible for the disposal of the body.

24 4. On or before the admission of a patient to a health
25 care institution, or as soon as is practicable after
26 admission, the health care institution shall do all of the
27 following:

28 a. Determine the status of the patient on the registry.

29 b. Inform the patient, if the patient is a competent
30 adult, or the patient's parent if the patient is a minor, or
31 the patient's guardian if the patient is an incompetent adult,
32 of the options available for organ donation and of
33 registration with the registry.

34 c. Provide the patient, or the patient's parent or
35 guardian, as applicable, with the appropriate donor form.

1 5. If a patient, or the patient's parent or guardian, as
2 applicable, files a donor form with a health care institution
3 in accordance with the procedures established in subsection 4,
4 the health care institution shall immediately forward the
5 information contained on the form to the department.
6 Notarization is not necessary if the form is completed under
7 section 4.

8 6. A health care institution does not have an affirmative
9 duty under this chapter to locate an individual or request a
10 decision from an individual who may authorize or object to the
11 removal of an organ under subsection 2.

12 7. The status of a patient on the registry or on a donor
13 form filed with a health care institution pursuant to
14 subsection 5 shall be recorded on the patient's medical
15 record.

16 Sec. 8. NEW SECTION. 142C.8 CONSCIENTIOUS OBJECTION,
17 CONFLICT OF INTEREST, AND TRANSFER OF PATIENTS.

18 1. Subject to the conditions of subsection 2, a health
19 care provider who has a conscientious objection or a conflict
20 of interest with respect to any aspect of a transplantation
21 procedure involving a deceased individual's organ may refuse
22 to participate, directly or indirectly, in any aspect of a
23 transplantation procedure.

24 2. A health care provider who has a conscientious
25 objection or conflict of interest regarding a specific patient
26 pursuant to subsection 1, shall refer or transfer the patient
27 immediately to another health care provider who has no
28 objection or conflict of interest with regard to any aspect of
29 the transplantation procedure.

30 Sec. 9. NEW SECTION. 142C.9 IMMUNITIES.

31 1. A health care provider who acts in good faith in
32 accordance with the terms of this chapter, is immune from any
33 liability, civil or criminal, or from disciplinary action for
34 unprofessional conduct, based upon the provider's
35 participation, directly or indirectly, in a transplantation

1 procedure.

2 2. A health care provider who relies on the information
3 recorded in the registry or in the patient's medical record,
4 is immune from any liability, civil or criminal, or from
5 disciplinary action for unprofessional conduct for
6 participating, directly or indirectly, in a transplantation
7 procedure.

8 3. An individual who donates an organ on the individual's
9 own behalf, or on behalf of another individual for whom the
10 individual has authority to donate an organ, in accordance
11 with this chapter, is immune from any liability, civil or
12 criminal, which is based upon any injury that may result from
13 the transplantation of the organ.

14 Sec. 10. NEW SECTION. 142C.10 SERVICE BUT NOT A SALE.

15 The procurement, processing, distribution, or use of whole
16 blood, plasma, blood products, blood derivatives, and other
17 human tissues such as corneas, bones, or organs for the
18 purpose of injecting, transfusing, or transplanting any of
19 them into the human body is declared to be, for all purposes,
20 the rendition of a service by every person participating in
21 the service and whether or not any remuneration is paid for
22 the service, is declared not to be a sale of the whole blood,
23 plasma, blood products, blood derivatives, or other tissues,
24 for any purpose. However, any person or entity that renders
25 such service warrants only under this section that due care
26 has been exercised and that professional standards of care in
27 providing such service to the current state of the medical
28 arts have been followed. Strict liability, in tort, shall not
29 be applicable to the rendition of such service.

30 Sec. 11. NEW SECTION. 142C.11 EFFECTS ON INSURANCE AND
31 HEALTH CARE.

32 1. The recordation of an individual on the registry as a
33 donor, nondonor, or restricted donor shall not affect the
34 sale, procurement, issuance, or terms of a health, life, or
35 annuity policy or contract and shall not affect, impair, or

1 modify the terms of any existing health, life, or annuity
2 policy or contract. A health, life, or annuity policy is not
3 legally impaired or invalidated by any act or procedure
4 authorized under this chapter.

5 2. A person shall not prohibit or require the execution of
6 a donor form as a condition of health care insurance or
7 benefits coverage.

8 Sec. 12. Section 142A.2, subsection 2, unnumbered
9 paragraph 1, and subsection 3, Code 1995, is amended to read
10 as follows:

11 Any of the following persons, in order of priority stated,
12 when persons in prior classes are not available at the time of
13 death, and in the absence of actual notice of contrary
14 indications by the decedent whether indicated through
15 registration with the Iowa organ donor registry, through
16 completion of a Donor Form A or a Donor Form B in the
17 decedent's medical records or through any other manner, or
18 actual notice of opposition by a member of the same or a prior
19 class, may give all or any part of the decedent's body for any
20 purposes specified in section 142A.3:

21 3. If the donee has actual notice of contrary indications
22 by the decedent through completion of Donor Form A or Donor
23 Form B, by inclusion of the contrary indication in the
24 decedent's medical records, or through any other means, or
25 that a gift by a member of a class is opposed by a member of
26 the same or a prior class, the donee shall not accept the
27 gift.

28 Sec. 13. Section 142A.4, subsection 2, Code 1995, is
29 amended to read as follows:

30 2. A gift of all or part of the body under section 142A.2,
31 subsection 1, may also be made by a document other than a
32 will. The gift becomes effective upon the death of the donor.
33 The document, which may be a card designed to be carried on
34 the person, must be signed by the donor, in the presence of
35 two witnesses who must sign the document in the donor's

1 presence. If the donor cannot sign, the document may be
2 signed for the donor at the donor's direction and in the
3 donor's presence, and in the presence of two witnesses who
4 must sign the document in the donor's presence. The document
5 may also be a Donor Form A described in and completed in
6 accordance with section 142C.6. Delivery of the document of
7 gift during the donor's lifetime is not necessary to make the
8 gift valid.

9 Sec. 14. Section 142A.4, Code 1995, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 6. This section shall not be construed to
12 preclude the donation of a part by recordation as a donor or
13 restricted donor on the Iowa organ donor registry pursuant to
14 chapter 142C.

15 Sec. 15. Section 142A.6, subsection 1, Code 1995, is
16 amended by adding the following new paragraph:

17 NEW PARAGRAPH. e. Filing a new Donor Form A with the Iowa
18 department of transportation or by completing an initial or
19 renewal application for a driver's license or identification
20 card, pursuant to section 142C.4, or by indicating the
21 amendment or revocation in the donor's medical records
22 pursuant to section 142C.7.

23 Sec. 16. NEW SECTION. 142A.11 COORDINATION WITH CHAPTER
24 142C.

25 If this chapter and chapter 142C conflict, chapter 142C
26 shall control.

27 EXPLANATION

28 This bill establishes an Iowa organ donor registry within
29 the Iowa department of transportation, which is to develop a
30 uniform database to reflect the donative status of registrants
31 and to make the data accessible to health care institutions,
32 organ procurement organizations, and others.

33 Under the registry provisions, an individual applying for
34 initial or renewal application for driver's license or
35 identification cards, who is 18 years of age or older, is to

1 complete forms which indicate the individual's donor status.
2 An individual may also complete the donor form at any other
3 time and file the form with the department. A parent may also
4 register a minor child's donor status and a guardian may also
5 register an incompetent adult's donor status with the
6 department.

7 The bill also establishes duties of the department
8 regarding the registry program, provides examples of the forms
9 to be used, provides requirements for removal of cadaveric
10 organs, provides conscientious objection or conflict of
11 interest provisions with regard to a health care provider's
12 actions in relation to transplants, provides for good faith
13 immunity, establishes that certain actions taken regarding
14 donation and transplantation of body parts are a service and
15 not a sale, and provides that donation of a body part does not
16 affect an insurance policy and that insurance coverage shall
17 not prohibit or require execution of a donation form as a
18 condition of coverage.

19 The bill also makes conforming changes in the current
20 anatomical gift Act chapter.

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