

House File 831 - Introduced

HOUSE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 244)

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

A BILL FOR

1 An Act relating to a revised uniform anatomical gift Act, and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2098HV 82
5 pf/cf/24

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1 1 DIVISION I
1 2 ANATOMICAL GIFT ACT
1 3 Section 1. Section 142C.1, Code 2007, is amended to read
1 4 as follows:
1 5 142C.1 SHORT TITLE.
1 6 This chapter shall be known and may be cited as the
1 7 ~~Uniform~~ "Revised Uniform Anatomical Gift Act".
1 8 Sec. 2. Section 142C.2, Code 2007, is amended to read as
1 9 follows:
1 10 142C.2 DEFINITIONS.
1 11 As used in this chapter, unless the context otherwise
1 12 requires:
1 13 1. "Adult" means an individual who is eighteen years of
1 14 age or older.
1 15 2. "Agent" means an individual who meets any of the
1 16 following conditions:
1 17 a. Is authorized to make health care decisions on the
1 18 principal's behalf by a durable power of attorney for health
1 19 care pursuant to chapter 144B.
1 20 b. Is expressly authorized to make an anatomical gift on
1 21 the principal's behalf by any other record signed by the
1 22 principal.
1 23 ~~3. "Anatomical gift" or "gift" means a donation,~~
1 24 ~~effective upon or after the death of the donor, of all or part~~
1 25 ~~of the human body of the donor effective after the donor's~~
1 26 ~~death, for the purposes of transplantation, therapy, research,~~
1 27 ~~or education.~~
1 28 2. ~~"Bank or storage organization" means a person licensed,~~
1 29 ~~accredited, certified, registered, or approved under the laws~~
1 30 ~~of any state for the procurement, removal, preservation,~~
1 31 ~~storage, or distribution of human bodies or parts.~~
1 32 ~~3. 4. "Decedent" means a deceased individual whose body or~~
1 33 ~~part is or may be the source of an anatomical gift and~~
1 34 ~~includes a stillborn infant or fetus.~~
1 35 5. "Disinterested witness" means a witness other than the
2 1 spouse, child, parent, sibling, grandchild, grandparent, or
2 2 guardian of the individual who makes, amends, revokes, or
2 3 refuses to make an anatomical gift, or any other adult who
2 4 exhibited special care and concern for the individual.
2 5 "Disinterested witness" does not include a person who may
2 6 receive an anatomical gift pursuant to section 142C.5.
2 7 ~~4. 6. "Document of gift" means a donor card signed by an~~
2 8 ~~individual donor, a written or other record used to make an~~
2 9 ~~anatomical gift, including a statement attached to or~~
2 10 ~~imprinted or noted or symbol on a driver's license or~~
2 11 ~~nonoperator's identification card, or an entry in a donor~~
2 12 ~~registry, a donor's will, or any other written document used~~
2 13 ~~by a donor to make an anatomical gift.~~
2 14 ~~5. 7. "Donor" means an individual who makes whose body or~~
2 15 ~~part is the subject of an anatomical gift.~~
2 16 ~~6. 8. "Donor registry" means the statewide organ and~~
2 17 ~~tissue donor registry established pursuant to section 142C.18~~
2 18 ~~or a similar registry a database that contains records of~~

~~2 19 anatomical gifts and amendments of anatomical gifts.~~
~~2 20 9. "Driver's license" means a license or permit issued by~~
~~2 21 the state department of transportation to operate a vehicle,~~
~~2 22 whether or not conditions are attached to the license or~~
~~2 23 permit.~~
~~2 24 7. "Enucleator" means an individual who is certified by~~
~~2 25 the department of ophthalmology of the university of Iowa~~
~~2 26 college of medicine or by the eye bank association of America~~
~~2 27 to remove or process eyes or parts of eyes.~~
~~2 28 10. "Eye bank" means a person that is licensed,~~
~~2 29 accredited, or regulated under federal or state law to engage~~
~~2 30 in the recovery, screening, testing, processing, storage, or~~
~~2 31 distribution of human eyes or portions of human eyes.~~
~~2 32 11. "Guardian" means a person appointed by a court to make~~
~~2 33 decisions regarding the support, care, education, health, or~~
~~2 34 welfare of an individual, but does not include a guardian ad~~
~~2 35 litem.~~
~~3 1 8- 12. "Hospital" means a hospital licensed under chapter~~
~~3 2 135B, or a hospital licensed, accredited, or approved under~~
~~3 3 federal law or the laws of any other state, and includes a~~
~~3 4 hospital operated by the federal government, a state, or a~~
~~3 5 political subdivision of a state, although not required to be~~
~~3 6 licensed under state laws.~~
~~3 7 13. "Identification card" means a nonoperator's~~
~~3 8 identification card issued by the state department of~~
~~3 9 transportation pursuant to section 321.190.~~
~~3 10 14. "Know" means to have actual knowledge.~~
~~3 11 9- 15. "Medical examiner" means an individual who is~~
~~3 12 appointed as a medical examiner pursuant to section 331.801 or~~
~~3 13 691.5.~~
~~3 14 16. "Minor" means an individual who is less than eighteen~~
~~3 15 years of age.~~
~~3 16 10- 17. "Organ procurement organization" means an~~
~~3 17 organization that performs or coordinates the performance of~~
~~3 18 retrieving, preserving, or transplanting organs, which~~
~~3 19 maintains a system of locating prospective recipients for~~
~~3 20 available organs, and which is registered with the united~~
~~3 21 network for organ sharing and a person designated by the~~
~~3 22 United States secretary of health and human services pursuant~~
~~3 23 to 42 C.F.R. } 485, subpt. D as an organ procurement~~
~~3 24 organization.~~
~~3 25 11- 18. "Part" means organs, tissues, eyes, bones,~~
~~3 26 vessels, whole blood, plasma, blood platelets, blood~~
~~3 27 derivatives, fluid, or any other portion of a human body an~~
~~3 28 organ, an eye, or tissue of a human being, but does not~~
~~3 29 include the whole body of a human being.~~
~~3 30 12- 19. "Person" means person as defined in section 4.1.~~
~~3 31 13- 20. "Physician" or "surgeon" means a physician,~~
~~3 32 surgeon, or osteopathic physician and surgeon, licensed or~~
~~3 33 otherwise an individual authorized to practice medicine and~~
~~3 34 surgery or osteopathy and surgery under the laws of any state.~~
~~3 35 21. "Procurement organization" means an eye bank, organ~~
~~4 1 procurement organization, or tissue bank.~~
~~4 2 22. "Prospective donor" means an individual who is dead or~~
~~4 3 near death and has been determined by a procurement~~
~~4 4 organization to have a part that could be medically suitable~~
~~4 5 for transplantation, therapy, research, or education, but does~~
~~4 6 not include an individual who has made a refusal.~~
~~4 7 23. "Reasonably available" means able to be contacted by a~~
~~4 8 procurement organization without undue effort and willing and~~
~~4 9 able to act in a timely manner consistent with existing~~
~~4 10 medical criteria necessary for the making of an anatomical~~
~~4 11 gift.~~
~~4 12 24. "Recipient" means an individual into whose body a~~
~~4 13 decedent's part has been transplanted or is intended for~~
~~4 14 transplant.~~
~~4 15 25. "Record" means information that is inscribed on a~~
~~4 16 tangible medium or that is stored in an electronic or other~~
~~4 17 medium and is retrievable in perceivable form.~~
~~4 18 26. "Refusal" means a record created pursuant to section~~
~~4 19 142C.3 that expressly states an individual's intent to~~
~~4 20 prohibit other persons from making an anatomical gift of the~~
~~4 21 individual's body or part.~~
~~4 22 27. "Sign" means to do any of the following with the~~
~~4 23 present intent to authenticate or adopt a record:~~
~~4 24 a. Execute or adopt a tangible symbol.~~
~~4 25 b. Attach to or logically associate with the record an~~
~~4 26 electronic symbol, sound, or process.~~
~~4 27 14- 28. "State" means any state, district, commonwealth,~~
~~4 28 of the United States, the District of Columbia, Puerto Rico,~~
~~4 29 the United States Virgin Islands, or any territory, or insular~~

4 30 possession subject to the jurisdiction of the United States,
4 31 the District of Columbia, or the Commonwealth of Puerto Rico.
4 32 15. 29. "Technician" means an individual who determined to
4 33 be qualified to remove or process parts by an appropriate
4 34 organization that is licensed, certified, or approved by an
4 35 organ procurement organization or who is certified, or
5 1 approved by a bank or storage organization to procure, remove,
5 2 process, preserve, store, or distribute a part accredited, or
5 3 regulated under federal or state law and includes an
5 4 enucleator.

5 5 30. "Tissue" means a portion of the human body other than
5 6 an organ or an eye, but does not include blood unless the
5 7 blood is donated for the purpose of research or education.

5 8 31. "Tissue bank" means a person that is licensed,
5 9 accredited, or regulated under federal or state law to engage
5 10 in the recovery, screening, testing, processing, storage, or
5 11 distribution of tissue.

5 12 32. "Transplant hospital" means a hospital that furnishes
5 13 organ transplants and other medical and surgical specialty
5 14 services required for the care of transplant patients.

5 15 Sec. 3. Section 142C.3, Code 2007, is amended to read as
5 16 follows:

5 17 142C.3 DONATION OF ANATOMICAL GIFTS == PERSONS WHO MAY
5 18 EXECUTE MAKE == MANNER OF EXECUTING MAKING == AMENDING OR
5 19 REVOKING == REFUSAL TO MAKE ANATOMICAL GIFT BEFORE DONOR'S
5 20 DEATH == PRECLUSIVE EFFECT.

5 21 1. A competent individual who is at least eighteen years
5 22 of age, or a minor fourteen through seventeen years of age
5 23 with written consent of a parent or legal guardian, may make
5 24 an anatomical gift for one or more of the purposes listed in
5 25 section 142C.5, may limit an anatomical gift to one or more of
5 26 the purposes listed in section 142C.5, or may refuse to make
5 27 an anatomical gift, the gift to take effect upon the death of
5 28 the donor.

5 29 2. An anatomical gift may be made only by completion of a
5 30 document of gift or as otherwise provided in this section. If
5 31 the prospective donor is a minor fourteen through seventeen
5 32 years of age, to be valid, a document of gift shall be signed
5 33 by the minor and the minor's parent or legal guardian. If the
5 34 document of gift requires the signature of the donor, but the
5 35 donor is unable to sign the document, the document of gift
6 1 shall be signed by another individual and by two witnesses,
6 2 all of whom sign at the direction and in the presence of the
6 3 donor, the other individual, and the two witnesses. The
6 4 document of gift, including an entry in a donor registry,
6 5 shall provide certification that the document has been
6 6 executed in the prescribed manner.

6 7 3. If a donor indicates the wish to become a donor,
6 8 pursuant to section 321.189, and the indication is attached to
6 9 or imprinted or noted on an individual's driver's license or
6 10 nonoperator's identification card, or if a donor indicates the
6 11 wish to become a donor via an entry in a donor registry and
6 12 the entry is certified as being executed in the prescribed
6 13 manner, the document, including an entry in a donor registry,
6 14 shall be considered a valid document of gift.

6 15 4. A document of gift may designate a particular
6 16 physician, technician, or enucleator to perform the
6 17 appropriate procedures. In the absence of a designation or if
6 18 the designee is not available to perform the procedures, the
6 19 donee or other person authorized to accept the anatomical gift
6 20 may employ or authorize any physician, technician, or
6 21 enucleator to perform the appropriate procedures.

6 22 1. WHO MAY MAKE. Subject to subsection 5, an anatomical
6 23 gift of a donor's body or part may be made during the life of
6 24 the donor for the purposes of transplantation, therapy,
6 25 research, or education in the manner prescribed in subsection
6 26 2, by any of the following:

6 27 a. The donor if the donor is any of the following:

6 28 (1) An adult.

6 29 (2) A minor, if the minor is emancipated or is authorized
6 30 under state law to apply for a driver's license because the
6 31 minor is at least fourteen years of age.

6 32 b. An agent of the donor, unless the durable power of
6 33 attorney for health care or other record prohibits the agent
6 34 from making the anatomical gift.

6 35 c. A parent of the donor, if the donor is an unemancipated
7 1 minor.

7 2 d. The guardian of the donor.

7 3 2. MANNER OF MAKING.

7 4 a. A donor may make an anatomical gift by any of the
7 5 following means:

7 6 (1) By authorizing a statement or symbol indicating that
7 7 the donor has made an anatomical gift to be imprinted on the
7 8 donor's driver's license or identification card.

7 9 (2) In a will.

7 10 (3) During a terminal illness or injury of the donor, by
7 11 any form of communication addressed to at least two adults, at
7 12 least one of whom is a disinterested witness.

7 13 (4) As provided in paragraph "b".

7 14 b. (1) A donor or other person authorized to make an
7 15 anatomical gift under subsection 1 may make a gift by a donor
7 16 card or other record signed by the donor or other person
7 17 making the gift or by authorizing that a statement or symbol
7 18 indicating that the donor has made an anatomical gift be
7 19 included on the donor registry.

7 20 (2) If the donor or other person is physically unable to
7 21 sign a record, the record may be signed by another individual
7 22 at the direction of the donor or other person and shall meet
7 23 all of the following requirements:

7 24 (a) Be witnessed by at least two adults, at least one of
7 25 whom is a disinterested witness, who have signed at the
7 26 request of the donor or other person.

7 27 (b) State that the record has been signed and witnessed as
7 28 provided in subparagraph subdivision (a).

7 29 c. Revocation, suspension, expiration, or cancellation of
7 30 a driver's license or identification card upon which an
7 31 anatomical gift is indicated shall not invalidate the gift.

7 32 ~~5. d. A document of An anatomical gift made by will takes~~
7 33 ~~effect upon the donor's death of the testator, whether or not~~
7 34 ~~the will is probated. For the purposes of a document of gift~~
7 35 ~~by will, invalidation Invalidation of the will for~~
8 1 ~~testamentary purposes after the donor's death does not result~~
8 2 ~~in the invalidation of invalidate the document of gift.~~

8 3 ~~6. 3. AMENDING OR REVOKING GIFT BEFORE DONOR'S DEATH.~~

8 4 a. ~~A Subject to subsection 5, a donor or other person~~
8 5 ~~authorized to make an anatomical gift under subsection 1 may~~
8 6 ~~amend or revoke a document of an anatomical gift by any of the~~
8 7 ~~following means:~~

8 8 a. ~~A signed statement, executed by the donor.~~

8 9 b. ~~An oral statement made by the donor in the presence of~~
8 10 ~~two individuals.~~

8 11 (1) A record signed by any of the following:

8 12 (a) The donor.

8 13 (b) The other person authorized to make an anatomical
8 14 gift.

8 15 (c) Subject to paragraph "b", another individual acting at
8 16 the direction of the donor or the other authorized person if
8 17 the donor or other person is physically unable to sign the
8 18 record.

8 19 (2) A later-executed document of gift that amends or
8 20 revokes a previous anatomical gift or portion of an anatomical
8 21 gift, either expressly or by inconsistency.

8 22 b. A record signed pursuant to paragraph "a", subparagraph
8 23 (1), subparagraph subdivision (c), shall comply with all of
8 24 the following:

8 25 (1) Be witnessed by at least two adults, at least one of
8 26 whom is a disinterested witness, who have signed at the
8 27 request of the donor or the other authorized person.

8 28 (2) State that the record has been signed and witnessed as
8 29 provided in subparagraph (1).

8 30 c. Subject to subsection 5, a donor or other person
8 31 authorized to make an anatomical gift under subsection 1 may
8 32 revoke an anatomical gift by the destruction or cancellation
8 33 of the document of gift, or the portion of the document of
8 34 gift used to make the gift, with the intent to revoke the
8 35 gift.

9 1 e. d. Any form of communication A donor may amend or
9 2 revoke an anatomical gift that was not made in a will by any
9 3 form of communication during a terminal illness or injury
9 4 addressed to a health care professional, licensed or certified
9 5 pursuant to chapter 148, 148C, 150A, or 152 at least two
9 6 adults, at least one of whom is a disinterested witness.

9 7 d. The delivery of a written statement, signed by the
9 8 donor, to a specified donee to whom a document of gift has
9 9 been delivered.

9 10 7. e. The A donor of who makes an anatomical gift made by
9 11 in a will may amend or revoke the gift as provided in
9 12 subsection 6 or in the manner provided for amendment or
9 13 revocation of wills or as provided in paragraph "a".

9 14 8. A document of gift that is not revoked by the donor
9 15 prior to the donor's death does not require the consent or
9 16 concurrence of any other person after the donor's death and is

~~9 17 sufficient legal authority, following the donor's death, for~~
~~9 18 the removal of any part donated under the document of gift,~~
~~9 19 without the consent or concurrence of any other person. A~~
~~9 20 person, including but not limited to a family member, a~~
~~9 21 guardian, an attorney in fact named under a durable power of~~
~~9 22 attorney for health care, or an executor of the donor's~~
~~9 23 estate, is not authorized to and shall not revoke or in any~~
~~9 24 way supersede a document of gift that is not revoked by the~~
~~9 25 donor prior to the donor's death.~~

9 26 ~~9. 4. REFUSAL TO MAKE.~~

9 27 a. An individual may refuse to make an anatomical gift of
9 28 the individual's body or part by completing any written
~~9 29 document expressing the individual's refusal to make an~~
~~9 30 anatomical gift. During a terminal illness or injury, the~~
~~9 31 refusal may be by an oral statement or other form of unwritten~~
~~9 32 communication addressed to a health care professional licensed~~
~~9 33 or certified under chapter 148, 148C, 150A, or 152 any of the~~
9 34 following means:

9 35 (1) A record signed by any of the following:

10 1 (a) The individual.

10 2 (b) Subject to paragraph "b", another individual acting at
10 3 the direction of the individual if the individual is
10 4 physically unable to sign the record.

10 5 (2) The individual's will, whether or not the will is
10 6 admitted to probate or invalidated after the individual's
10 7 death.

10 8 (3) Any form of communication made by the individual
10 9 during the individual's terminal illness or injury addressed
10 10 to at least two adults, at least one of whom is a
10 11 disinterested witness.

10 12 b. A record signed pursuant to paragraph "a", subparagraph
10 13 (1), subparagraph subdivision (b), shall comply with all of
10 14 the following:

10 15 (1) Be witnessed by at least two adults, at least one of
10 16 whom is a disinterested witness, who have signed at the
10 17 request of the individual.

10 18 (2) State that the record has been signed and witnessed as
10 19 provided in subparagraph (1).

10 20 c. An individual who has made a refusal may amend or
10 21 revoke the refusal in accordance with any of the following:

10 22 (1) In the manner provided in paragraph "a" for making a
10 23 refusal.

10 24 (2) By subsequently making an anatomical gift pursuant to
10 25 subsection 2 that is inconsistent with the refusal.

10 26 (3) By destroying or canceling the record evidencing the
10 27 refusal, or the portion of the record used to make the
10 28 refusal, with the intent to revoke the refusal.

10 29 d. Except as otherwise provided in subsection 5, paragraph
10 30 "h", in the absence of an express, contrary indication by the
10 31 individual set forth in the refusal, an individual's unrevoked
10 32 refusal to make an anatomical gift of the individual's body or
10 33 part prohibits all other persons from making an anatomical
10 34 gift of the individual's body or part.

10 35 5. PRECLUSIVE EFFECT.

11 1 a. Except as otherwise provided in paragraph "g", and
11 2 subject to paragraph "f", in the absence of an express,
11 3 contrary indication by the donor, a person other than the
11 4 donor is prohibited from making, amending, or revoking an
11 5 anatomical gift of a donor's body or part if the donor made an
11 6 anatomical gift of the donor's body or part under subsection 2
11 7 or an amendment to an anatomical gift of the donor's body or
11 8 part under subsection 3.

11 9 b. A donor's revocation of an anatomical gift of the
11 10 donor's body or part under subsection 3 is not a refusal and
11 11 does not prohibit another person specified in subsection 1 or
11 12 section 142C.4 from making an anatomical gift of the donor's
11 13 body or part under subsection 2 or section 142C.4.

11 14 c. If a person other than the donor makes an unrevoked
11 15 anatomical gift of the donor's body or part under subsection
11 16 2, or an amendment to an anatomical gift of the donor's body
11 17 or part under subsection 3, another person may not make,
11 18 amend, or revoke the gift of the donor's body or part under
11 19 section 142C.4.

11 20 d. A revocation of an anatomical gift of a donor's body or
11 21 part under subsection 3 by a person other than the donor does
11 22 not prohibit another person from making an anatomical gift of
11 23 the body or part under subsection 2 or section 142C.4.

11 24 ~~10~~ e. In the absence of ~~a~~ an express, contrary indication
11 25 by the donor or other person authorized to make an anatomical
11 26 gift under subsection 1, an anatomical gift of a part does not
11 27 constitute is neither a refusal to donate other parts another

~~11 28 part nor does it constitute a limitation on the making of an
11 29 anatomical gift made pursuant to section 142C.4 of another
11 30 part at a later time by the donor or another authorized
11 31 person.~~

~~11 32 ~~11. f.~~ In the absence of ~~a~~ an express, contrary indication
11 33 by the donor, ~~a revocation or amendment of an anatomical gift
11 34 does not constitute a refusal to make a subsequent anatomical
11 35 gift.~~ If the donor intends a revocation to constitute a
12 1 refusal to make an anatomical gift, the donor shall make the
12 2 refusal pursuant to subsection 9, or other person authorized
12 3 to make an anatomical gift under subsection 1, an anatomical
12 4 gift of a part for one or more of the purposes specified in
12 5 subsection 1 is not a limitation on the making of an
12 6 anatomical gift of the part for any of the other purposes by
12 7 the donor or any other person under subsection 2 or section
12 8 142C.4.~~

~~12 9 g. If a donor who is an unemancipated minor dies, a parent
12 10 of the donor who is reasonably available may revoke or amend
12 11 an anatomical gift of the donor's body or part.~~

~~12 12 h. If an unemancipated minor who signed a refusal dies, a
12 13 parent of the minor who is reasonably available may revoke the
12 14 minor's refusal.~~

~~12 15 12. A document of gift may be in the form of a specific
12 16 donor card such as an eye donor card, a uniform donor card, a
12 17 driver's license, a nonoperator's identification card, an
12 18 entry in a donor registry, a will, or any other written
12 19 document executed pursuant to this chapter. A uniform donor
12 20 card shall include the options of donating any and all parts,
12 21 or any specific part or parts. A uniform donor card may, but
12 22 is not required to, be in the following form:~~

~~12 23 UNIFORM DONOR CARD
12 24 I,, have made a commitment to be an anatomical gift
12 25 donor.~~

~~12 26 I wish to donate the following:
12 27 Any needed Only the
12 28 part following part
12 29~~

~~12 30 Donor Signature Date~~

~~12 31 Sec. 4. Section 142C.4, Code 2007, is amended to read as
12 32 follows:~~

~~12 33 142C.4 DONATION OF WHO MAY MAKE ANATOMICAL GIFTS BY
12 34 INDIVIDUALS OTHER THAN THE DONOR GIFT OF DECEDENT'S BODY OR
12 35 PART == AMENDING OR REVOKING GIFT.~~

~~13 1 1. Any available Subject to subsection 2, and unless
13 2 prohibited by section 142C.3, subsection 4 or 5, an anatomical
13 3 gift of a decedent's body or part for purposes of
13 4 transplantation, therapy, research, or education may be made
13 5 by any member of the following classes of persons who is
13 6 reasonably available, in the order of priority listed, may
13 7 make an anatomical gift of a decedent's body or parts for an
13 8 authorized purpose, unless the decedent, at the time of death,
13 9 has made an unrevoked refusal to make an anatomical gift:~~

~~13 10 a. The attorney in fact pursuant to a durable power of
13 11 attorney for health care An agent of the decedent at the time
13 12 of death who could have made an anatomical gift under section
13 13 142C.3, subsection 1, immediately before the decedent's death.~~

~~13 14 b. The spouse of the decedent.~~

~~13 15 c. An adult child Adult children of the decedent.~~

~~13 16 d. A parent Parents of the decedent.~~

~~13 17 e. An adult sibling Adult siblings of the decedent.~~

~~13 18 f. A grandparent Adult grandchildren of the decedent.~~

~~13 19 g. A guardian Grandparents of the decedent at the time of
13 20 the decedent's death.~~

~~13 21 h. An adult who exhibited special care and concern for the
13 22 decedent.~~

~~13 23 i. Any persons who were acting as guardians of the
13 24 decedent at the time of death.~~

~~13 25 j. Any other person having the authority to dispose of the
13 26 decedent's body.~~

~~13 27 2. a. An If there is more than one member of a class
13 28 listed in subsection 1, paragraph "a", "c", "d", "e", "f",
13 29 "g", or "i", entitled to make an anatomical gift shall not be
13 30 made by a person listed in subsection 1 if any of the
13 31 following conditions apply: an anatomical gift may be made by
13 32 one member of the class unless that member or a person to whom
13 33 the gift may pass under section 142C.5 knows of an objection
13 34 by another member of the class. If an objection is known, the
13 35 gift shall be made only by a majority of the members of the
14 1 class who are reasonably available.~~

~~14 2 a. b. A person in a prior class is available, in person or
14 3 by telephone contact shall not make an anatomical gift if, at~~

~~14 4 the time of the death of the decedent to make an anatomical
14 5 gift a person in a prior class under subsection 1 is
14 6 reasonably available to make or to object to the making of an
14 7 anatomical gift.~~

~~14 8 b. The person proposing to make an anatomical gift knows
14 9 of a refusal by the decedent to make an anatomical gift.~~

~~14 10 c. The person proposing to make an anatomical gift knows
14 11 of an objection to making an anatomical gift by a member of
14 12 the person's class or a prior class.~~

~~14 13 3. An A person authorized to make an anatomical gift by a
14 14 person authorized under subsection 1 shall be made by
14 15 execution of may make an anatomical gift by a document of gift
14 16 signed by the person making the gift or by the person's
14 17 telegraphic, recorded telephonic, or other oral communication
14 18 that is electronically recorded message, or by any other form
14 19 of communication from the person that is contemporaneously
14 20 reduced to writing a record and signed by the recipient of the
14 21 oral communication.~~

~~14 22 4. An Subject to subsection 5, an anatomical gift by a
14 23 person authorized under subsection 1 may be amended or revoked
14 24 orally or in a record by any member of the same or prior class
14 25 if, before the procedures have begun for removal of a part
14 26 from the body of the decedent, the physician, technician, or
14 27 enucleator performing the removal procedures is notified of
14 28 the revocation who is reasonably available. If more than one
14 29 member of the prior class is reasonably available, the gift
14 30 made by a person authorized under subsection 1 may be:~~

~~14 31 a. Amended only if a majority of the reasonably available
14 32 members agree to the amending of the gift.~~

~~14 33 b. Revoked only if a majority of the reasonably available
14 34 members agree to the revoking of the gift or if they are
14 35 equally divided as to whether to revoke the gift.~~

~~15 1 5. Failure to make an anatomical gift under subsection 1
15 2 does not constitute an objection to the making of an
15 3 anatomical gift. A revocation under subsection 4 is effective
15 4 only if, before an incision has been made to remove a part
15 5 from the donor's body or before invasive procedures have begun
15 6 to prepare the recipient, the procurement organization,
15 7 transplant hospital, or physician or technician knows of the
15 8 revocation.~~

~~15 9 Sec. 5. Section 142C.4A, Code 2007, is amended to read as
15 10 follows:~~

~~15 11 142C.4A AUTHORITY OF COOPERATION BETWEEN MEDICAL EXAMINER
15 12 AND ORGAN PROCUREMENT ORGANIZATION == RELEASE AND REMOVAL OF
15 13 PART FOR MAKING FACILITATION OF ANATOMICAL GIFT FROM DECEDENT
15 14 WHOSE BODY IS UNDER THE JURISDICTION OF THE MEDICAL EXAMINER.~~

~~15 15 1. A medical examiner may permit the removal of a part
15 16 from a body in the custody of the medical examiner and may
15 17 release the part for any purpose authorized pursuant to
15 18 section 142C.5 if the body of the decedent cannot be
15 19 identified or if the next of kin of the decedent cannot be
15 20 located, and if all of the following conditions are met: shall
15 21 cooperate with organ procurement organizations to maximize the
15 22 opportunity to recover organs for the purpose of
15 23 transplantation.~~

~~15 24 a. The medical examiner has received a request for the
15 25 part from a hospital, physician, organ procurement
15 26 organization, or bank or storage organization.~~

~~15 27 b. Given the useful life of the specific part, the medical
15 28 examiner is satisfied that a reasonable effort has been made
15 29 by the organ procurement organization or bank or storage
15 30 organization to locate and examine the decedent's medical
15 31 records and to inform a person specified in section 142C.4 of
15 32 the option to make or object to the making of an anatomical
15 33 gift.~~

~~15 34 c. The medical examiner does not know of a refusal or
15 35 contrary indication by the decedent or of an objection by a
16 1 person having priority to act pursuant to section 142C.4
16 2 regarding the making of an anatomical gift.~~

~~16 3 d. The medical examiner does not know that the decedent,
16 4 at the time of death, was a member of a religion, church,
16 5 sect, or denomination which relies solely upon prayer for the
16 6 healing of disease or which has religious tenets that would be
16 7 violated by the disposition of the decedent's body or part for
16 8 any of the purposes provided pursuant to section 142C.5.~~

~~16 9 e. Removal of a part will be performed by a physician,
16 10 technician, or enucleator.~~

~~16 11 f. Removal of a part will not significantly alter or
16 12 compromise the results of any autopsy or investigation.~~

~~16 13 g. Removal of a part will be in accordance with accepted
16 14 medical standards.~~

16 15 h. ~~Cosmetic restoration will be performed, if appropriate.~~
16 16 i. ~~The person's death is not a death which affects the~~
16 17 ~~public interest as defined in section 331.802, or if the death~~
16 18 ~~is a death which affects the public interest, any~~
16 19 ~~investigation relating to the decedent's death has been~~
16 20 ~~completed.~~

16 21 2. ~~The If a medical examiner releasing and permitting the~~
16 22 ~~removal of a part shall maintain a permanent record of all of~~
16 23 ~~the following: receives notice from an organ procurement~~
16 24 ~~organization that an organ might be or was made available with~~
16 25 ~~respect to a decedent whose body is under the jurisdiction of~~
16 26 ~~the medical examiner and a postmortem examination will be~~
16 27 ~~performed, unless the medical examiner denies recovery in~~
16 28 ~~accordance with this section, the medical examiner or designee~~
16 29 ~~shall conduct a postmortem examination of the body or the~~
16 30 ~~organ in a manner and within a period compatible with its~~
16 31 ~~preservation for the purposes of the gift.~~

16 32 a. ~~The name of the decedent, if available.~~

16 33 b. ~~The date and time of the release of the body or part~~
16 34 ~~and the name of the person to whom the body or part was~~
16 35 ~~released.~~

17 1 3. ~~An organ shall not be removed from the body of a~~
17 2 ~~decedent under the jurisdiction of a medical examiner for~~
17 3 ~~transplantation unless the organ is the subject of an~~
17 4 ~~anatomical gift. This subsection does not preclude a medical~~
17 5 ~~examiner from performing a medicolegal investigation pursuant~~
17 6 ~~to subsection 5 upon the body or organs of a decedent under~~
17 7 ~~the jurisdiction of the medical examiner.~~

17 8 4. ~~Upon request of an organ procurement organization, a~~
17 9 ~~medical examiner shall release to the organ procurement~~
17 10 ~~organization the name, contact information, and available~~
17 11 ~~medical and social history of a decedent whose body is under~~
17 12 ~~the jurisdiction of the medical examiner. If the decedent's~~
17 13 ~~organ is medically suitable for transplantation, the medical~~
17 14 ~~examiner shall release postmortem examination results to the~~
17 15 ~~organ procurement organization. The organ procurement~~
17 16 ~~organization may make a subsequent disclosure of the~~
17 17 ~~postmortem examination results or other information received~~
17 18 ~~from the medical examiner only if relevant to transplantation.~~

17 19 5. ~~The medical examiner may conduct a medicolegal~~
17 20 ~~examination by reviewing all medical records, laboratory test~~
17 21 ~~results, X rays, other diagnostic results, and other~~
17 22 ~~information that any person possesses about a donor or~~
17 23 ~~prospective donor whose body is under the jurisdiction of the~~
17 24 ~~medical examiner which the medical examiner determines may be~~
17 25 ~~relevant to the investigation.~~

17 26 6. ~~A person who has any information requested by a medical~~
17 27 ~~examiner pursuant to subsection 5 shall provide that~~
17 28 ~~information as expeditiously as possible to allow the medical~~
17 29 ~~examiner to conduct the medicolegal investigation within a~~
17 30 ~~period compatible with the preservation of organs for the~~
17 31 ~~purpose of transplantation.~~

17 32 7. ~~If an anatomical gift has been or might be made of an~~
17 33 ~~organ of a decedent whose body is under the jurisdiction of~~
17 34 ~~the medical examiner and a postmortem examination is not~~
17 35 ~~required, or the medical examiner determines that a postmortem~~
18 1 ~~examination is required but that the recovery of the organ~~
18 2 ~~that is the subject of an anatomical gift will not interfere~~
18 3 ~~with the examination, the medical examiner and organ~~
18 4 ~~procurement organization shall cooperate in the timely removal~~
18 5 ~~of the organ from the decedent for the purpose of~~
18 6 ~~transplantation.~~

18 7 8. ~~If an anatomical gift of an organ from a decedent under~~
18 8 ~~the jurisdiction of the medical examiner has been or might be~~
18 9 ~~made, but the medical examiner initially believes that the~~
18 10 ~~recovery of the organ could interfere with the postmortem~~
18 11 ~~investigation into the decedent's cause or manner of death,~~
18 12 ~~the medical examiner shall consult with the organ procurement~~
18 13 ~~organization or physician or technician designated by the~~
18 14 ~~organ procurement organization about the proposed recovery.~~
18 15 ~~After consultation, the medical examiner may allow the~~
18 16 ~~recovery.~~

18 17 9. ~~Following the consultation under subsection 8, in the~~
18 18 ~~absence of mutually agreed upon protocols to resolve conflict~~
18 19 ~~between the medical examiner and the organ procurement~~
18 20 ~~organization, if the medical examiner intends to deny~~
18 21 ~~recovery, the medical examiner or designee, at the request of~~
18 22 ~~the organ procurement organization, shall attend the removal~~
18 23 ~~procedure for the organ before making a final determination~~
18 24 ~~not to allow the organ procurement organization to recover the~~
18 25 ~~organ. During the removal procedure, the medical examiner or~~

18 26 designee may allow recovery by the organ procurement
18 27 organization to proceed, or, if the medical examiner or
18 28 designee reasonably believes that the organ may be involved in
18 29 determining the decedent's cause or manner of death, deny
18 30 recovery by the organ procurement organization.

18 31 10. If the medical examiner or designee allows recovery of
18 32 an organ under subsection 7, 8, or 9, the organ procurement
18 33 organization, upon request, shall cause the physician or
18 34 technician who removes the organ to provide the medical
18 35 examiner with a record describing the condition of the organ,
19 1 a biopsy, a photograph, and any other information and
19 2 observations that would assist in the postmortem examination.

19 3 11. If a medical examiner or designee is required to be
19 4 present at a removal procedure under subsection 9, upon
19 5 request the organ procurement organization requesting the
19 6 recovery of the organ shall reimburse the medical examiner or
19 7 designee for the additional costs incurred in complying with
19 8 subsection 9.

19 9 12. A physician or technician who removes an organ at the
19 10 direction of the organ procurement organization may be called
19 11 to testify about findings from the surgical recovery of organs
19 12 at no cost to taxpayers if the decedent is under the
19 13 jurisdiction of the medical examiner.

19 14 Sec. 6. Section 142C.5, Code 2007, is amended to read as
19 15 follows:

19 16 142C.5 REQUIREMENTS -- ACCEPTABLE DONEES PERSONS WHO MAY
19 17 RECEIVE ANATOMICAL GIFTS AND PURPOSES FOR WHICH ANATOMICAL
19 18 GIFTS MAY BE MADE.

19 19 1. ~~The~~ An anatomical gift may be made to the following
19 20 persons ~~may be donees of anatomical gifts for the purposes~~
19 21 ~~stated named in a document of gift:~~

19 22 a. A hospital, physician accredited medical school, dental
19 23 school, college, or university, organ procurement
19 24 organization, or bank or storage organization for
19 25 transplantation, therapy, medical or dental education, or
19 26 other appropriate person for research, or advancement of
19 27 medical or dental science education.

19 28 b. An accredited medical or dental school, college, or
19 29 university for education, research, or the advancement of
19 30 medical or dental science eye bank or tissue bank.

19 31 c. ~~A~~ Subject to subsection 2, an individual designated
19 32 individual for transplantation or therapy needed by the person
19 33 making the anatomical gift if the individual is the recipient
19 34 of the part.

19 35 2. If an anatomical gift to an individual under subsection
20 1 1, paragraph "c", cannot be transplanted into the individual,
20 2 the part passes in accordance with subsection 7 in the absence
20 3 of an express, contrary indication by the person making the
20 4 anatomical gift.

20 5 ~~2- 3. An~~ If an anatomical gift may be made to a designated
20 6 donee or without designating a donee. If a donee is not
20 7 designated or if the donee is not available or rejects the
20 8 anatomical gift, the anatomical gift may be accepted by any
20 9 person listed in subsection 1 of one or more specific parts or
20 10 of all parts is made in a document of gift that does not name
20 11 a person described in subsection 1 but identifies the purpose
20 12 for which an anatomical gift may be used, the following rules
20 13 apply:

20 14 a. If the part is an eye and the gift is for the purpose
20 15 of transplantation or therapy, the gift passes to the
20 16 appropriate eye bank.

20 17 b. If the part is tissue and the gift is for the purpose
20 18 of transplantation or therapy, the gift passes to the
20 19 appropriate tissue bank.

20 20 c. If the part is an organ and the gift is for the purpose
20 21 of transplantation or therapy, the gift passes to the
20 22 appropriate organ procurement organization as custodian of the
20 23 organ.

20 24 d. If the part is an organ, an eye, or tissue and the gift
20 25 is for the purpose of research or education, the gift passes
20 26 to the appropriate procurement organization.

20 27 4. For the purpose of subsection 3, if there is more than
20 28 one purpose of an anatomical gift set forth in the document of
20 29 gift but the purposes are not set forth in any priority, the
20 30 gift shall be used for transplantation or therapy, if
20 31 suitable. If the gift cannot be used for transplantation or
20 32 therapy, the gift may be used for research or education.

20 33 5. If an anatomical gift of one or more specific parts is
20 34 made in a document of gift that does not name a person
20 35 described in subsection 1 and does not identify the purpose of
21 1 the gift, the gift may be used only for transplantation or

~~21 2 therapy, and the gift passes in accordance with subsection 7.
21 3 6. If a document of gift specifies only a general intent
21 4 to make an anatomical gift by words such as "donor", "organ
21 5 donor", or "body donor", or by a symbol or statement of
21 6 similar import, the gift may be used only for transplantation
21 7 or therapy, and the gift passes in accordance with subsection
21 8 7.~~

~~21 9 7. For the purposes of subsections 2, 5, and 6, the
21 10 following rules shall apply:~~

~~21 11 a. If the part is an eye, the gift passes to the
21 12 appropriate eye bank.~~

~~21 13 b. If the part is tissue, the gift passes to the
21 14 appropriate tissue bank.~~

~~21 15 c. If the part is an organ, the gift passes to the
21 16 appropriate organ procurement organization as custodian of the
21 17 organ.~~

~~21 18 8. An anatomical gift of an organ for transplantation or
21 19 therapy, other than an anatomical gift under subsection 1,
21 20 paragraph "c", passes to the organ procurement organization
21 21 as custodian of the organ.~~

~~21 22 9. If an anatomical gift does not pass pursuant to
21 23 subsections 1 through 8, or the decedent's body or part is not
21 24 used for transplantation, therapy, research, or education,
21 25 custody of the body or part passes to the person under
21 26 obligation to dispose of the body or part.~~

~~21 27 3- 10. If A person shall not accept an anatomical gift if
21 28 the donee person knows of the decedent's refusal or contrary
21 29 indications to make an anatomical that the gift or that an
21 30 anatomical gift by a member of a class having priority to act
21 31 is opposed by a member of the same class or a prior class
21 32 listed in section 142C.4, the donee shall not accept the
21 33 anatomical gift was not effectively made under section 142C.3,
21 34 subsection 2, or section 142C.4, or if the person knows that
21 35 the decedent made a refusal under section 142C.3, subsection
22 1 4, that was not revoked. For purposes of this subsection, if
22 2 a person knows that an anatomical gift was made on a document
22 3 of gift, the person is deemed to know of any amendment or
22 4 revocation of the gift or any refusal to make an anatomical
22 5 gift on the same document of gift.~~

~~22 6 11. Except as otherwise provided in subsection 1,
22 7 paragraph "c", nothing in this chapter shall affect the
22 8 allocation of organs for transplantation or therapy.~~

~~22 9 Sec. 7. NEW SECTION. 142C.5A SEARCH AND NOTIFICATION.~~

~~22 10 1. The following persons shall make a reasonable search of
22 11 an individual who the person reasonably believes is dead or
22 12 near death for a document of gift or other information
22 13 identifying the individual as a donor or as an individual who
22 14 made a refusal:~~

~~22 15 a. A law enforcement officer, firefighter, paramedic, or
22 16 other emergency rescuer finding the individual.~~

~~22 17 b. If no other source of the information is immediately
22 18 available, a hospital, as soon as practical after the
22 19 individual's arrival at the hospital.~~

~~22 20 2. If a document of gift or a refusal to make an
22 21 anatomical gift is located by the search required by
22 22 subsection 1, paragraph "a", and the individual or deceased
22 23 individual to whom it relates is taken to a hospital, the
22 24 person responsible for conducting the search shall deliver the
22 25 document of gift or refusal to the hospital.~~

~~22 26 3. A person is not subject to criminal or civil liability
22 27 for failing to discharge the duties imposed by this section
22 28 but may be subject to administrative sanctions.~~

~~22 29 Sec. 8. Section 142C.6, Code 2007, is amended to read as
22 30 follows:~~

~~22 31 142C.6 DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED == RIGHT
22 32 TO EXAMINE.~~

~~22 33 1. ~~Validity of an anatomical~~ A document of gift does not
22 34 require delivery of the document of gift during the donor's
22 35 lifetime to be effective.~~

~~23 1 2. If an anatomical gift is made to a designated donee,
23 2 the document of gift, or a copy, may be delivered to the donee
23 3 to expedite the appropriate procedures after the death of the
23 4 donor. The document of gift, or a copy, may be deposited in
23 5 any hospital, organ procurement organization, bank or storage
23 6 organization, or donor registry office that accepts the
23 7 document of gift for safekeeping or for the facilitation of
23 8 procedures after the death of the donor. If a document is
23 9 deposited by a donor in a hospital, donor registry office, or
23 10 bank or storage organization, the hospital, donor registry
23 11 office, or bank or storage organization may forward the
23 12 document to an organ procurement organization which will~~

~~23 13 retain the document for facilitating procedures following the~~
~~23 14 death of the donor. Upon request of a hospital, physician, or~~
~~23 15 surgeon, upon or after the donor's an individual's death, the~~
~~23 16 a person in possession of the document of gift may allow the~~
~~23 17 hospital, physician, or surgeon to examine or copy or a~~
~~23 18 refusal to make an anatomical gift with respect to the~~
~~23 19 individual shall allow examination and copying of the document~~
~~23 20 of gift or the refusal by a person authorized to make or~~
~~23 21 object to the making of an anatomical gift with respect to the~~
~~23 22 individual or by a person to whom the gift could pass under~~
~~23 23 section 142C.5.~~

23 24 Sec. 9. Section 142C.7, Code 2007, is amended to read as
23 25 follows:

23 26 142C.7 CONFIDENTIAL INFORMATION.

23 27 A hospital, licensed or certified health care professional
23 28 pursuant to chapter 148, 148C, 150A, or 152, or medical
23 29 examiner may release patient information to ~~an organ a~~
23 30 ~~procurement organization, donor registry, or bank or storage~~
~~23 31 organization~~ as part of a referral or retrospective review of
23 32 the patient as a potential donor. ~~Additionally, a medical~~
~~23 33 examiner or a medical examiner's designee, peace officer, fire~~
~~23 34 fighter, or emergency medical care provider may release an~~
~~23 35 individual's identifying information to an organ procurement~~
~~24 1 organization, donor registry, or bank or storage organization~~
~~24 2 to determine if the individual is a donor. Any information~~
24 3 regarding a patient, including the patient's identity,
24 4 however, constitutes confidential medical information and
24 5 under any other circumstances is prohibited from disclosure
24 6 without the written consent of the patient or the patient's
24 7 legal representative.

24 8 Sec. 10. Section 142C.8, Code 2007, is amended to read as
24 9 follows:

24 10 142C.8 RIGHTS AND DUTIES ~~AT DEATH OF PROCUREMENT~~
24 11 ~~ORGANIZATIONS AND DONORS.~~

24 12 1. When a hospital refers an individual at or near death
24 13 to a procurement organization, the organization shall make a
24 14 reasonable search of the records of the state department of
24 15 transportation and any donor registry that the hospital knows
24 16 exists for the geographical area in which the individual
24 17 resides to ascertain whether the individual has made an
24 18 anatomical gift.

24 19 2. A procurement organization shall be allowed reasonable
24 20 access to information in the records of the state department
24 21 of transportation to ascertain whether an individual at or
24 22 near death is a donor.

24 23 3. When a hospital refers an individual at or near death
24 24 to a procurement organization, the organization may conduct
24 25 any reasonable examination necessary to ensure the medical
24 26 suitability of a part that is or could be the subject of an
24 27 anatomical gift for transplantation, therapy, research, or
24 28 education from a donor or a prospective donor. During the
24 29 examination period, measures necessary to ensure the medical
24 30 suitability of the part shall not be withdrawn unless the
24 31 hospital or procurement organization knows that the individual
24 32 expressed a contrary intent.

24 33 4. Unless prohibited by law other than this chapter, at
24 34 any time after a donor's death, the person to whom a part
24 35 passes under section 142C.5 may conduct any reasonable
25 1 examination necessary to ensure the medical suitability of the
25 2 body or part for its intended purpose.

25 3 5. Unless prohibited by law other than this chapter, an
25 4 examination under subsection 3 or 4 may include an examination
25 5 of all medical and dental records of the donor or prospective
25 6 donor.

25 7 6. Upon the death of a minor who was a donor or had signed
25 8 a refusal, unless a procurement organization knows the minor
25 9 is emancipated, the procurement organization shall conduct a
25 10 reasonable search for the parents of the minor and provide the
25 11 parents with an opportunity to revoke or amend the anatomical
25 12 gift or revoke the refusal.

25 13 7. Upon referral by a hospital under subsection 1, a
25 14 procurement organization shall make a reasonable search for
25 15 any person listed in section 142C.4 having priority to make an
25 16 anatomical gift on behalf of a prospective donor. If a
25 17 procurement organization receives information that an
25 18 anatomical gift to any other person was made, amended, or
25 19 revoked, the procurement organization shall promptly advise
25 20 the other person of all relevant information.

25 21 1- 8. The Subject to section 142C.5, subsection 9, the
25 22 rights of a donee created by an anatomical gift person to whom
25 23 a part passes under section 142C.5 are superior to the rights

25 24 of ~~any all other person except with respect to autopsies~~
25 25 ~~pursuant to section 142C.11 persons with respect to the part.~~
25 26 ~~2. 9. A donee The person may accept or reject an~~
25 27 ~~anatomical gift of an entire body in whole or in part. If the~~
25 28 ~~donee Subject to the terms of the document of gift and this~~
25 29 ~~chapter, a person who accepts the an anatomical gift of an~~
25 30 ~~entire body as a gift, the donee, subject to the terms of the~~
25 31 ~~gift, may allow embalming, burial or cremation, and use of the~~
25 32 ~~body remains in a funeral services service. If the gift is of~~
25 33 ~~a part of a body, the donee person to whom the part passes~~
25 34 ~~under section 142C.5, upon the death of the donor and prior to~~
25 35 ~~embalming, burial, or cremation, shall cause the part to be~~
26 1 ~~removed with minimal alteration to body appearance without~~
26 2 ~~unnecessary mutilation. Following removal of the part,~~
26 3 ~~custody of the remainder of the body vests in the person under~~
26 4 ~~a legal obligation to dispose of the body.~~
26 5 ~~3. 10. The time of death shall be determined by a~~
26 6 ~~physician who attends the donor at death, as defined in~~
26 7 ~~section 702.8, or, if no attending physician is present, the~~
26 8 ~~physician who certifies the death. The physician who attends~~
26 9 ~~the donor decedent at death and the physician who certifies~~
26 10 ~~determines the time of death shall not participate in the~~
26 11 ~~procedures for removing or transplanting a part of from the~~
26 12 ~~decedent. A medical examiner acting to determine the time of~~
26 13 ~~death or to certify the death, however, may remove a part if~~
26 14 ~~otherwise in accordance with this chapter.~~
26 15 ~~4. 11. If an anatomical gift is made, a A physician or~~
26 16 ~~technician may remove any a donated parts and an enucleator~~
26 17 ~~may remove any donated eyes or parts of eyes, after~~
26 18 ~~determination of death by a physician part from the body of a~~
26 19 ~~donor that the physician or technician is qualified to remove.~~
26 20 ~~5. A donee may presume that a document of gift is valid~~
26 21 ~~absent actual knowledge to the contrary.~~
26 22 ~~Sec. 11. Section 142C.9, Code 2007, is amended to read as~~
26 23 ~~follows:~~
26 24 ~~142C.9 COORDINATION OF PROCUREMENT AND USE.~~
26 25 ~~Each hospital in the state shall establish enter into~~
26 26 ~~agreements or affiliations for coordination of procurement and~~
26 27 ~~use of human parts with an organ procurement organization for~~
26 28 ~~any purpose stated in section 142C.5 organizations for~~
26 29 ~~coordination of procurement and use of anatomical gifts.~~
26 30 ~~Sec. 12. Section 142C.10, Code 2007, is amended to read as~~
26 31 ~~follows:~~
26 32 ~~142C.10 SALE OR PURCHASE OF PARTS PROHIBITED == PENALTY.~~
26 33 ~~1. A person shall not knowingly, for valuable~~
26 34 ~~consideration, purchase or sell a part for transplantation or~~
26 35 ~~therapy, if removal of the part is intended to occur after the~~
27 1 ~~death of the decedent.~~
27 2 ~~2. Valuable consideration does not include reasonable~~
27 3 ~~payment for the removal, processing, disposal, preservation,~~
27 4 ~~quality control, storage, distribution, transportation, or~~
27 5 ~~implantation, or disposal of a part.~~
27 6 ~~3. A person who violates this section is guilty of a class~~
27 7 ~~"C" felony and is subject to imprisonment not to exceed ten~~
27 8 ~~years and notwithstanding section 902.9, to a fine not to~~
27 9 ~~exceed two hundred fifty thousand dollars, or both.~~
27 10 ~~Sec. 13. NEW SECTION. 142C.10A OTHER PROHIBITED ACTS ==~~
27 11 ~~PENALTY.~~
27 12 ~~A person who, in order to obtain a financial gain,~~
27 13 ~~intentionally falsifies, forges, conceals, defaces, or~~
27 14 ~~obliterates a document of gift, an amendment or revocation of~~
27 15 ~~a document of gift, or a refusal, commits a class "C" felony~~
27 16 ~~and is subject to imprisonment not to exceed five years and~~
27 17 ~~notwithstanding section 902.9, to a fine not to exceed fifty~~
27 18 ~~thousand dollars, or both.~~
27 19 ~~Sec. 14. Section 142C.11, Code 2007, is amended to read as~~
27 20 ~~follows:~~
27 21 ~~142C.11 EXAMINATION, AUTOPSY, LIABILITY IMMUNITY.~~
27 22 ~~1. An anatomical gift is subject to reasonable~~
27 23 ~~examination, including but not limited to an autopsy, human~~
27 24 ~~immunodeficiency virus testing, and testing for communicable~~
27 25 ~~disease, which is necessary to ensure medical acceptability of~~
27 26 ~~the gift for the purposes intended.~~
27 27 ~~2. Anatomical gifts made pursuant to this chapter are~~
27 28 ~~subject to the laws governing autopsies.~~
27 29 ~~3- 1. A hospital, funeral establishment, health care~~
27 30 ~~professional licensed or certified pursuant to chapter 148,~~
27 31 ~~148C, 150A, or 152, a medical examiner or a medical examiner's~~
27 32 ~~designee, technician, enucleator, peace officer, fire fighter,~~
27 33 ~~emergency medical care provider, funeral director, or other~~
27 34 ~~person, who complies with this chapter in good faith or with~~

27 35 the applicable anatomical gift law of another state, or who
28 1 attempts in good faith to comply, is immune from ~~any~~
28 2 liability, ~~civil or criminal, which might result from the~~
~~28 3 making or acceptance of an anatomical gift in any civil~~
~~28 4 action, criminal prosecution, or administrative proceeding.~~

28 5 ~~4- 2.~~ An individual who makes an anatomical gift pursuant
28 6 to ~~section 142C.3 or 142C.4~~ this chapter and the individual's
28 7 estate are not liable for any injury or damages that may
28 8 result from the making or the use of the anatomical gift, ~~if~~
~~28 9 the gift is made in good faith.~~

28 10 3. In determining whether an anatomical gift has been
28 11 made, amended, or revoked under this chapter, a person may
28 12 rely upon representations of an individual listed in section
28 13 142C.4, subsection 1, paragraph "b", "c", "d", "e", "f", "g",
28 14 or "h", relating to the individual's relationship to the donor
28 15 or prospective donor unless the person knows that the
28 16 representation is untrue.

28 17 Sec. 15. NEW SECTION. 142C.12A LAW GOVERNING VALIDITY,
28 18 CHOICE OF LAW, PRESUMPTION OF VALIDITY.

28 19 1. A document of gift is valid if executed in accordance
28 20 with any of the following:

28 21 a. This chapter.

28 22 b. The laws of the state or country where the document of
28 23 gift was executed.

28 24 c. The laws of the state or country where the person
28 25 making the anatomical gift was domiciled, has a place of
28 26 residence, or was a national at the time the document of gift
28 27 was executed.

28 28 2. If a document of gift is valid under this section, the
28 29 law of this state governs the interpretation of the document
28 30 of gift.

28 31 3. A person may presume that a document of gift or
28 32 amendment of an anatomical gift is valid unless that person
28 33 knows that it was not validly executed or was revoked.

28 34 Sec. 16. NEW SECTION. 142C.12B EFFECT OF ANATOMICAL GIFT
28 35 ON ADVANCE HEALTH CARE DIRECTIVE.

29 1 1. As used in this section:

29 2 a. "Advance health care directive" means a durable power
29 3 of attorney for health care pursuant to chapter 144B or a
29 4 record signed by a prospective donor containing the
29 5 prospective donor's direction concerning a health care
29 6 decision for the prospective donor.

29 7 b. "Declaration" means a record signed by a prospective
29 8 donor specifying the circumstances under which a life support
29 9 system may be withheld or withdrawn from the prospective
29 10 donor.

29 11 c. "Health care decision" means any decision made
29 12 regarding the health care of the prospective donor.

29 13 2. If a prospective donor has a declaration or an advance
29 14 health care directive, measures necessary to ensure the
29 15 medical suitability of an organ for transplantation or therapy
29 16 shall not be withheld or withdrawn from the prospective donor,
29 17 unless the declaration expressly provides to the contrary.

29 18 Sec. 17. Section 142C.13, Code 2007, is amended to read as
29 19 follows:

29 20 142C.13 TRANSITIONAL PROVISIONS.

29 21 This chapter applies to ~~a document of an anatomical~~ gift,
29 22 ~~or amendment to, revocation of, or refusal to make an~~
29 23 ~~anatomical gift signed by the donor or a person authorized to~~
~~29 24 make or object to the making of an anatomical gift on or after~~
~~29 25 July 1, 1995 whenever made. A document of gift, revocation,~~
~~29 26 or refusal to make an anatomical gift pursuant to the law in~~
~~29 27 effect prior to July 1, 1995, shall not be affected by the~~
~~29 28 provisions of this chapter.~~

29 29 Sec. 18. Section 142C.14, Code 2007, is amended to read as
29 30 follows:

29 31 142C.14 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

29 32 This chapter shall be applied and construed ~~to effectuate~~
~~29 33 the general purpose to make uniform with consideration given~~
~~29 34 to the need to promote uniformity of the law with respect to~~

29 35 anatomical gifts among states which enact this law.

30 1 Sec. 19. NEW SECTION. 142C.14A ELECTRONIC SIGNATURES.

30 2 This chapter modifies, limits, and supersedes the federal
30 3 Electronic Signatures in Global and National Commerce Act, 15
30 4 U.S.C. } 7001 et seq., but does not modify, limit, or
30 5 supersede section 101(a) of that Act, 15 U.S.C. } 7001, or
30 6 authorize electronic delivery of any of the notices described
30 7 in } 103(b) of that Act, 15 U.S.C. } 7003(b).

30 8 Sec. 20. Section 142C.15, subsection 4, paragraphs a and
30 9 c, Code 2007, are amended to read as follows:

30 10 a. Not more than twenty percent of the moneys in the fund

30 11 annually may be expended in the form of grants to state
30 12 agencies or to nonprofit legal entities with an interest in
30 13 anatomical gift public awareness and transplantation to
~~30 14 conduct public awareness projects. Moneys remaining that were
30 15 not requested and awarded for public awareness projects may be
30 16 used for research, or to develop and support a statewide organ
30 17 and tissue donor registry. Grants shall be made based upon
30 18 the submission of a grant application by an agency or entity
30 19 to conduct a public awareness project or to research, or
30 20 develop and support a statewide organ and tissue donor
30 21 registry.~~

30 22 c. Not more than fifty percent of the moneys in the fund
30 23 annually may be expended in the form of grants to ~~transplant~~
~~30 24 recipients, transplant candidates, living organ donors, or to~~
~~30 25 legal representatives on behalf of transplant recipients,~~
~~30 26 transplant candidates, or living organ donors. Transplant~~
~~30 27 recipients, transplant candidates, living organ donors, or the~~
~~30 28 legal representatives of transplant recipients, transplant~~
~~30 29 candidates, or living organ donors shall submit grant~~
~~30 30 applications with supporting documentation provided by a~~
~~30 31 hospital that performs transplants, verifying that the person~~
~~30 32 by or for whom the application is submitted requires a~~
~~30 33 transplant or is a living organ donor and specifying hospitals~~
30 34 that perform heart, lung, liver, pancreas, or kidney

30 35 transplants. As a condition of receiving a grant, a hospital
31 1 shall demonstrate, through documentation, that the hospital,
31 2 in the previous calendar year, properly complied with
31 3 in-hospital anatomical gift request protocols for all deaths
31 4 occurring in the hospital at a percentage rate which places
31 5 the hospital in the upper fifty percent of all protocol
31 6 compliance rates for hospitals submitting documentation for
31 7 cost reimbursement under this section. The hospital shall
31 8 submit an application on behalf of a patient requiring a
31 9 transplant in the amount of the costs associated with the
31 10 following, if funds are not available from any other
31 11 third-party payor:

- 31 12 (1) The costs of the organ transplantation procedure.
31 13 (2) The costs of ~~post-transplantation~~ posttransplantation
31 14 drug or other therapy.
31 15 (3) Other transplantation costs including but not limited
31 16 to food, lodging, and transportation.

31 17 Sec. 21. Section 142C.16, subsection 1, paragraph e, Code
31 18 2007, is amended to read as follows:

31 19 e. A ~~bank or storage~~ procurement organization.

31 20 Sec. 22. Section 142C.18, Code 2007, is amended to read as
31 21 follows:

31 22 142C.18 ~~STATEWIDE ORGAN AND TISSUE DONOR REGISTRY.~~

31 23 1. The director of public health may establish or contract
31 24 for the establishment of or may recognize a statewide organ
~~31 25 and tissue donor registry for the purpose of transferring to~~
31 26 the donor registry all relevant information regarding a
31 27 donor's making, amendment to, or revocation of an anatomical
31 28 gift. The contract shall provide for a centralized database
~~31 29 and automated system to make organ and tissue donor~~
~~31 30 information available to family members and physicians seven~~
~~31 31 days a week, twenty-four hours per day. The registry shall be~~
~~31 32 used to compile the organ and tissue donation information~~
~~31 33 received by the state department of transportation, county~~
~~31 34 treasurers, attorneys, organ donation awareness programs, and~~
31 35 others.

32 1 The director of public health shall work with the state
32 2 department of transportation, county treasurers, and the Iowa
32 3 organ donor network in developing specifications for the
32 4 registry. Consideration shall be given to implementing an
32 5 automated toll-free hotline and providing internet access to
32 6 the registry.

32 7 2. The state department of transportation shall cooperate
32 8 with a person that administers the donor registry that this
32 9 state establishes, contracts for, or recognizes for the
32 10 purpose of transferring to the donor registry all relevant
32 11 information regarding a donor's making, amendment to, or
32 12 revocation of an anatomical gift.

32 13 3. A donor registry shall do all of the following:

32 14 a. Allow a donor or other person authorized under section
32 15 142C.3 to include on the donor registry a statement or symbol
32 16 that the donor has made, amended, or revoked an anatomical
32 17 gift.

32 18 b. Be accessible to a procurement organization to allow
32 19 the procurement organization to obtain relevant information on
32 20 the donor registry to determine, at or near the death of the
32 21 donor or a prospective donor, whether the donor or prospective

32 22 donor has made, amended, or revoked an anatomical gift.
32 23 c. Be accessible for purposes of paragraphs "a" and "b"
32 24 seven days a week on a twenty-four-hour per day basis.
32 25 d. Provide a centralized, automated system to compile
32 26 donation information received by the state department of
32 27 transportation, county treasurers, and the Iowa donor network.
32 28 4. Personally identifiable information on a donor registry
32 29 about a donor or prospective donor shall not be used or
32 30 disclosed without the express consent of the donor,
32 31 prospective donor, or person that made the anatomical gift for
32 32 any purpose other than to determine, at or near the death of
32 33 the donor or prospective donor, whether the donor or
32 34 prospective donor has made, amended, or revoked an anatomical
32 35 gift.

33 1 DIVISION II

33 2 CONFORMING AMENDMENTS

33 3 Sec. 23. Section 141A.7, subsection 2, paragraph "a", Code
33 4 2007, is amended to read as follows:

33 5 a. The performance by a health care provider or health
33 6 facility of an HIV-related test when the health care provider
33 7 or health facility procures, processes, distributes, or uses a
33 8 human body part donated for a purpose specified under the
33 9 revised uniform anatomical gift Act as provided in chapter
33 10 142C, or semen provided prior to July 1, 1988, for the purpose
33 11 of artificial insemination, or donations of blood, and such
33 12 test is necessary to ensure medical acceptability of such gift
33 13 or semen for the purposes intended.

33 14 Sec. 24. Section 142.4, unnumbered paragraph 2, Code 2007,
33 15 is amended to read as follows:

33 16 This section shall not apply to bodies given under
33 17 authority of the revised uniform anatomical gift Act as
33 18 provided in chapter 142C.

33 19 Sec. 25. Section 142.8, unnumbered paragraph 2, Code 2007,
33 20 is amended to read as follows:

33 21 This section shall not apply to bodies given under
33 22 authority of the revised uniform anatomical gift Act as
33 23 provided in chapter 142C.

33 24 Sec. 26. Section 321.178, subsection 1, paragraph a,
33 25 subparagraph (3), Code 2007, is amended to read as follows:

33 26 (3) Instruction relating to becoming an organ donor under
33 27 the revised uniform anatomical gift Act as provided in chapter
33 28 142C.

33 29 Sec. 27. Section 321.189, subsection 4, Code 2007, is
33 30 amended to read as follows:

33 31 4. SYMBOLS. Upon the request of a licensee, the
33 32 department shall indicate on the license the presence of a
33 33 medical condition, that the licensee is a donor under the
33 34 revised uniform anatomical gift Act as provided in chapter
33 35 142C, or that the licensee has in effect a medical advance
34 1 directive. For purposes of this subsection, a medical advance
34 2 directive includes, but is not limited to, a valid durable
34 3 power of attorney for health care as defined in section
34 4 144B.1. The license may contain such other information as the
34 5 department may require by rule.

34 6 EXPLANATION

34 7 This bill revises the uniform anatomical gift Act, Code
34 8 chapter 142C.

34 9 The bill provides a new short title for the Code chapter,
34 10 the "Revised Uniform Anatomical Gift Act".

34 11 The bill provides new and amended definitions for the Code
34 12 chapter. "Agent" is defined to include an agent acting under
34 13 a durable power of attorney for health care or under another
34 14 record which empowers the agent to make an anatomical gift on
34 15 the principal's behalf, independent of any other law.
34 16 "Anatomical gift" means a donation of all or part of the human
34 17 body effective after the donor's death, for the purposes of
34 18 transplantation, therapy, research, or education, and does
34 19 therefore not include the gift of an organ from a living donor
34 20 to a living recipient. The definition of "decedent" is
34 21 amended to include only a stillborn infant and not a fetus.

34 22 "Document of gift" includes a donor card or other document
34 23 used to make an anatomical gift, a driver's license or
34 24 nonoperator's identification card, or an entry in a donor
34 25 registry. The inclusion of a will in the definition of
34 26 document of gift is eliminated, but is included in the broader
34 27 definition of "record". A statement or symbol on a driver's
34 28 license or an entry in a donor registry is in and of itself a
34 29 document of gift and is not merely an expression of intent to
34 30 make a gift. "Driver's license" includes a license or permit
34 31 issued by the state department of transportation. As defined
34 32 in the bill, "guardian" does not include a guardian ad litem.

34 33 "Know" means to have actual knowledge. "Reasonably available"
34 34 is defined in reference to those who may make an anatomical
34 35 gift after the decedent's death.

35 1 The bill expands the list of persons who may make an
35 2 anatomical gift of a donor's body or part during the life of
35 3 the donor and specifies the purposes for which the gift may be
35 4 made: for transplantation, therapy, research, or education.
35 5 The donor may make an anatomical gift if the donor is an
35 6 adult, and additionally under the Act, the donor may make an
35 7 anatomical gift if the donor is a minor only if the minor is
35 8 emancipated or is authorized under state law to apply for a
35 9 driver's license because the minor is at least 14 years of
35 10 age. Additionally, under the bill, an agent of the donor, a
35 11 parent of the donor if the donor is an unemancipated minor, or
35 12 the guardian of the donor may make an anatomical gift on
35 13 behalf of the donor.

35 14 The bill provides that an anatomical gift may be made by
35 15 authorizing a statement or symbol indicating the making of an
35 16 anatomical gift to be imprinted on a donor's driver's license
35 17 or nonoperator's identification card, in a will, by a donor
35 18 card or other record, or by an entry in a donor registry.
35 19 Under the bill, a new provision allows that a donor may make
35 20 an anatomical gift by any form of communication addressed to
35 21 at least two adults, at least one of whom is a disinterested
35 22 witness during a terminal illness or injury of the donor. In
35 23 addition to the donor, other persons authorized to make an
35 24 anatomical gift on behalf of the donor may do so by a donor
35 25 card or other record signed by the donor or other person or by
35 26 authorizing an entry in a donor registry. The bill also
35 27 allows for the making of an anatomical gift by a donor or
35 28 other person who is physically unable to sign a record. The
35 29 bill provides that revocation, suspension, expiration, or
35 30 cancellation of a driver's license or nonoperator's
35 31 identification card upon which an anatomical gift is indicated
35 32 does not invalidate the gift. The bill also removes the
35 33 specific form previously included in the statute for the
35 34 making of an anatomical gift.

35 35 The bill provides the means by which an anatomical gift may
36 1 be revoked or amended either by the donor or other person
36 2 authorized to make an anatomical gift in the bill. The bill
36 3 also provides the process for an individual to refuse to make
36 4 an anatomical gift. The bill provides specifically that, with
36 5 certain limited exceptions, in the absence of an express,
36 6 contrary indication by the donor, a person other than the
36 7 donor is prohibited from making, amending, or revoking an
36 8 anatomical gift of a donor's body or part if the donor made an
36 9 anatomical gift of the donor's body or part. The limited
36 10 exceptions are that if the donor who is an unemancipated minor
36 11 dies, a parent of the donor who is reasonably available may
36 12 revoke or amend an anatomical gift of the donor.
36 13 Additionally, the parent of an emancipated minor who dies and
36 14 who had signed a refusal, may revoke the minor's refusal if
36 15 the parent is reasonably available to do so. Also, in the
36 16 absence of an express, contrary indication by the donor or
36 17 other person authorized to make an anatomical gift on behalf
36 18 of the donor, an anatomical gift of a part for one purpose
36 19 does not limit the making of an anatomical gift of the part
36 20 for any other purpose allowed.

36 21 The bill provides a priority listing of persons who may
36 22 make an anatomical gift of the decedent's body or part for the
36 23 allowed purposes after the donor's death. The list is
36 24 expanded to include an agent, which is broader than the
36 25 attorney in fact under a durable power of attorney for health
36 26 care, adult grandchildren, an adult who exhibited special care
36 27 and concern for the decedent, and last in priority, any other
36 28 person having the authority to dispose of the decedent's body.
36 29 Any member of the class who is reasonably available may make
36 30 the gift. However, the bill also provides that if there is
36 31 more than one member of a class listed as agents, adult
36 32 children, parents, adult siblings, adult grandchildren,
36 33 grandparents, or guardians, entitled to make an anatomical
36 34 gift, the gift may be made by a member of the class unless
36 35 that member or a person to whom the gift may pass knows of an
37 1 objection by another member of the class. If an objection is
37 2 known, the gift may be made only by a majority of the members
37 3 of the class who are reasonably available. Additionally, a
37 4 person is prohibited from making an anatomical gift if at the
37 5 time of the death of the decedent a person in a prior class is
37 6 reasonably available to make or to object to the making of an
37 7 anatomical gift. The bill also specifies the means by which a
37 8 person authorized to make an anatomical gift after a

37 9 decedent's death may make, amend, or revoke an anatomical
37 10 gift. If an anatomical gift is revoked, the revocation is
37 11 effective only if, before an incision has been made to remove
37 12 the part from the donor or before invasive procedures have
37 13 begun to prepare the recipient, the procurement organization,
37 14 transplant hospital, or physician or technician knows of the
37 15 revocation.

37 16 The bill includes various provisions to provide for
37 17 cooperation between organ procurement organizations and
37 18 medical examiners and facilitation of anatomical gifts from
37 19 decedents whose bodies are under the jurisdiction of the
37 20 medical examiner. The provisions do not empower the medical
37 21 examiner to make an anatomical gift, unless the medical
37 22 examiner is the person with authority to dispose of the
37 23 decedent's body and has priority to make an anatomical gift
37 24 under other provisions of the bill.

37 25 The bill provides the process for identifying the person to
37 26 whom a part or body passes as the result of an anatomical
37 27 gift, based upon whether the person to whom the gift passes is
37 28 named in the document of gift or not, whether the document of
37 29 gift specifies the purpose for which the gift is made or not,
37 30 and if the document of gift specifies only a general intent.

37 31 The bill includes new provisions relating to search and
37 32 notification, to allow for the reasonable search of a person
37 33 who another person reasonably believes is dead or near death
37 34 for a document of gift or other information relative to
37 35 anatomical gift making. The bill specifies the rights and
38 1 duties of procurement organizations and others in determining
38 2 whether an individual at or near death is a donor.

38 3 In addition to existing prohibited acts, the bill adds that
38 4 a person who, in order to obtain a financial gain,
38 5 intentionally falsifies, forges, conceals, defaces, or
38 6 obliterates a document of gift, or a refusal, commits a class
38 7 "C" felony subject to imprisonment not to exceed five years
38 8 and a fine not to exceed \$50,000. The bill also specifies the
38 9 law governing validity of an anatomical gift, choice of law,
38 10 and provides for presumption of the validity of document of
38 11 gift or amendment of an anatomical gift. The bill provides,
38 12 relative to an advance health care directive, that if a
38 13 prospective donor has a declaration or an advance health care
38 14 directive, measures necessary to ensure the medical
38 15 suitability of an organ for transplantation or therapy shall
38 16 not be withheld or withdrawn from the prospective donor,
38 17 unless the declaration expressly provides to the contrary.
38 18 The bill provides transition provisions and specifies the
38 19 relationship between the bill and the federal Electronic
38 20 Global and National Electronic Signatures Act.

38 21 The bill amends provisions relating to the anatomical gift
38 22 public awareness and transplantation fund and the donor
38 23 registry. The bill specifies certain additional duties of the
38 24 donor registry.

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38 26 pf:nh/cf/24