

**CHAPTER 39**  
**ANATOMICAL GIFTS**  
*S.F. 117*

**AN ACT** adopting a new uniform anatomical gift Act and providing a penalty.

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

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

This chapter shall be known and may be cited as the "Uniform Anatomical Gift Act".

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

As used in this chapter, unless the context otherwise requires:

1. "Anatomical gift" means a donation, effective upon or after the death of the donor, of all or part of the human body of the donor.
2. "Bank or storage organization" means a person licensed, accredited, certified, registered, or approved under the laws of any state for the procurement, removal, preservation, storage, or distribution of human bodies or parts.
3. "Decedent" means a deceased individual and includes a stillborn infant or fetus.
4. "Document of gift" means a card signed by an individual donor, a donor's will, or any other written document used by a donor to make an anatomical gift.
5. "Donor" means an individual who makes an anatomical gift.
6. "Enucleator" means an individual who is certified by the department of ophthalmology of the college of medicine of the university of Iowa, or by the eye bank association of America to remove or process eyes or parts of eyes.
7. "Hospital" means a hospital licensed under chapter 135B, a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.
8. "Medical examiner" means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.
9. "Organ procurement organization" means an organization that performs or coordinates the performance of retrieving, preserving, or transplanting organs, which maintains a system of locating prospective recipients for available organs, and which is registered with the united network for organ sharing and designated by the United States secretary of health and human services pursuant to 42 C.F.R. § 485, subpt. D.
10. "Part" means organs, tissues, eyes, bones, vessels, whole blood, plasma, blood platelets, blood derivatives, fluid, or any other portion of a human body.
11. "Person" means person as defined in section 4.1.
12. "Physician" or "surgeon" means a physician, surgeon, or osteopathic physician and surgeon, licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.
13. "State" means any state, district, commonwealth, territory, or insular possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
14. "Technician" means an individual who is licensed, certified, or approved by an organ procurement organization or who is certified, or approved by a bank or storage organization to procure, remove, process, preserve, store, or distribute a part.

**Sec. 3. NEW SECTION. 142C.3 DONATION OF ANATOMICAL GIFTS – PERSONS WHO MAY EXECUTE – MANNER OF EXECUTING.**

1. A competent individual who is at least eighteen years of age, or a minor fourteen through seventeen years of age with written consent of a parent or legal guardian, may make an anatomical gift for one or more of the purposes listed in section 142C.5, may limit

an anatomical gift to one or more of the purposes listed in section 142C.5, or may refuse to make an anatomical gift, the gift to take effect upon the death of the donor.

2. An anatomical gift may be made only by completion of a document of gift or as otherwise provided in this section. If the prospective donor is a minor fourteen through seventeen years of age, to be valid, a document of gift shall be signed by the minor and the minor's parent or legal guardian. If the donor is unable to sign the document, the document of gift shall be signed by another individual and by two witnesses, all of whom sign at the direction and in the presence of the donor, the other individual, and the two witnesses. The document of gift shall provide certification that the document has been executed in the prescribed manner.

3. If a donor indicates the wish to become a donor, pursuant to section 321.189, and the indication is attached to or imprinted or noted on an individual's driver's license, the document shall be considered an expression of intent for the purposes of this section.

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

5. A document of gift by will takes effect upon the death of the testator, whether or not the will is probated. For the purposes of a document of gift by will, invalidation of the will for testamentary purposes does not result in the invalidation of the document of gift.

6. A donor may amend or revoke a document of gift by any of the following means:

- a. A signed statement, executed by the donor.
- b. An oral statement made by the donor in the presence of two individuals.
- c. Any form of communication during a terminal illness or injury addressed to a health care professional, licensed or certified pursuant to chapter 148, 148C, 150A, or 152.
- d. The delivery of a written statement, signed by the donor, to a specified donee to whom a document of gift has been delivered.

7. The donor of an anatomical gift made by will may amend or revoke the gift as provided in subsection 6 or in the manner provided for amendment or revocation of wills.

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

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

10. In the absence of a contrary indication by the donor, an anatomical gift of a part does not constitute a refusal to donate other parts nor does it constitute a limitation on an anatomical gift made pursuant to section 142C.4.

11. In the absence of a contrary indication by the donor, a revocation or amendment of an anatomical gift does not constitute a refusal to make a subsequent anatomical gift. If the donor intends a revocation to constitute a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection 9.

12. A document of gift may be in the form of a specific donor card such as an eye donor card, a uniform donor card, a will, or any other written document executed pursuant to this chapter. A uniform donor card shall include the options of donating any and all parts, or any specific part or parts. A uniform donor card may, but is not required to be, in the following form:

## UNIFORM DONOR CARD

I, \_\_\_\_\_, have made a commitment to be an anatomical gift donor.

I wish to donate the following:

\_\_\_ Any needed part

\_\_\_ Only the following part

Donor Signature \_\_\_\_\_ Date \_\_\_\_\_

**Sec. 4. NEW SECTION. 142C.4 DONATION OF ANATOMICAL GIFTS BY INDIVIDUALS OTHER THAN THE DONOR.**

1. Any available member of the following classes of persons, in the order of priority listed, may make an anatomical gift of a decedent's body or parts for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make an anatomical gift:

- a. The attorney in fact pursuant to a durable power of attorney for health care.
- b. The spouse of the decedent.
- c. An adult child of the decedent.
- d. A parent of the decedent.
- e. An adult sibling of the decedent.
- f. A grandparent of the decedent.
- g. A guardian of the decedent at the time of the decedent's death.

2. An anatomical gift shall not be made by a person listed in subsection 1 if any of the following conditions apply:

- a. A person in a prior class is available at the time of the death of the decedent to make an anatomical gift.
- b. The person proposing to make an anatomical gift knows of a refusal by the decedent to make an anatomical gift.
- c. The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

3. An anatomical gift by a person authorized under subsection 1 shall be made by execution of a document of gift signed by the person or by the person's telegraphic, recorded telephonic, or other recorded message, or by any other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient of the communication.

4. An anatomical gift by a person authorized under subsection 1 may be revoked by any member of the same or prior class if, before the procedures have begun for removal of a part from the body of the decedent, the physician, technician, or enucleator performing the removal procedures is notified of the revocation.

5. Failure to make an anatomical gift under subsection 1 does not constitute an objection to the making of an anatomical gift.

**Sec. 5. NEW SECTION. 142C.5 REQUIREMENTS - ACCEPTABLE DONEES AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.**

1. The following persons may be donees of anatomical gifts for the purposes stated:

- a. A hospital, physician, organ procurement organization, or bank or storage organization for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.
- b. An accredited medical or dental school, college, or university for education, research, or the advancement of medical or dental science.
- c. A designated individual for transplantation or therapy needed by the individual.

2. An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any person listed in subsection 1.

3. If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class listed in section 142C.4, the donee shall not accept the anatomical gift.

Sec. 6. NEW SECTION. 142C.6 DELIVERY OF DOCUMENT OF GIFT.

1. Validity of an anatomical gift does not require delivery of the document of gift during the donor's lifetime.

2. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the death of the donor. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization, bank or storage organization, or registry office that accepts the document of gift for safekeeping or for the facilitation of procedures after the death of the donor. If a document is deposited by a donor in a hospital or bank or storage organization, the hospital or bank or storage organization may forward the document to an organ procurement organization which will retain the document for facilitating procedures following the death of the donor. Upon request of a hospital, physician, or surgeon, upon or after the donor's death, the person in possession of the document of gift may allow the hospital, physician, or surgeon to examine or copy the document of gift.

Sec. 7. NEW SECTION. 142C.7 CONFIDENTIAL INFORMATION.

A hospital, licensed or certified health care professional, pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to an organ procurement organization, or bank or storage organization as part of a referral or evaluation of the patient as a donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

Sec. 8. NEW SECTION. 142C.8 RIGHTS AND DUTIES AT DEATH.

1. The rights of a donee created by an anatomical gift are superior to the rights of any other person except with respect to autopsies pursuant to section 142C.11.

2. A donee may accept or reject an anatomical gift of an entire body or part. If the donee accepts the entire body as a gift, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed with minimal alteration to body appearance. Following removal of the part, custody of the remainder of the body vests in the person under a legal obligation to dispose of the body.

3. The time of death shall be determined by a physician who attends the donor at death, as defined in section 702.8, or, if no attending physician is present, the physician who certifies the death. The physician who attends the donor at death and the physician who certifies the time of death shall not participate in the procedures for removing or transplanting a part of the decedent. A medical examiner acting to determine the time of death or to certify the death, however, may remove a part if otherwise in accordance with this chapter.

4. If an anatomical gift is made, a physician or technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician.

5. A donee may presume that a document of gift is valid absent actual knowledge to the contrary.

Sec. 9. NEW SECTION. 142C.9 COORDINATION OF PROCUREMENT AND USE.

Each hospital in the state shall establish agreements or affiliations for coordination of

procurement and use of human parts with an organ procurement organization for any purpose stated in section 142C.5.

**Sec. 10. NEW SECTION. 142C.10 SALE OR PURCHASE OF PARTS PROHIBITED.**

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

2. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, distribution, transportation, or implantation of a part.

3. A person who violates this section is guilty of a class "C" felony and is subject to imprisonment not to exceed ten years and notwithstanding section 902.9, to a fine not to exceed two hundred fifty thousand dollars, or both.

**Sec. 11. NEW SECTION. 142C.11 EXAMINATION, AUTOPSY, LIABILITY.**

1. An anatomical gift is subject to reasonable examination, including but not limited to an autopsy, human immunodeficiency virus testing, and testing for communicable disease, which is necessary to ensure medical acceptability of the gift for the purposes intended.

2. Anatomical gifts made pursuant to this chapter are subject to the laws governing autopsies.

3. A hospital, health care professional licensed or certified pursuant to chapter 148, 148C, 150A, or 152, a medical examiner, technician, enucleator, or other person, who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from any liability, civil or criminal, which might result from the making or acceptance of an anatomical gift.

4. An individual who makes an anatomical gift pursuant to section 142C.3 or 142C.4 and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.

**Sec. 12. NEW SECTION. 142C.12 SERVICE BUT NOT A SALE.**

The procurement, removal, preservation, processing, storage, distribution, or use of parts for the purpose of injecting, transfusing, or transplanting any of the parts into the human body is, for all purposes, the rendition of a service by every person participating in the act, and whether or not any remuneration is paid, is not a sale of the part for any purposes. However, any person that renders such service warrants only under this section that due care has been exercised and that acceptable professional standards of care in providing such service according to the state of the medical arts have been followed. Strict liability, in tort, shall not be applicable to the rendition of such services.

**Sec. 13. NEW SECTION. 142C.13 TRANSITIONAL PROVISIONS.**

This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to the making of an anatomical gift on or after July 1, 1995.

**Sec. 14. NEW SECTION. 142C.14 UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

This chapter shall be applied and construed to effectuate the general purpose to make uniform the law with respect to anatomical gifts among states which enact this law.

**Sec. 15. REPEAL.** Chapter 142A, Code 1995, is repealed.

Approved April 19, 1995

**CHAPTER 40**  
**STATEWIDE TRAUMA CARE SYSTEM**  
*S.F. 118*

**AN ACT** relating to the development and implementation of a coordinated statewide trauma care delivery system and providing penalties and immunity from liability.

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

**Section 1. NEW SECTION. 147A.20 TITLE OF DIVISION.**

This division may be cited as the "Iowa Trauma Care System Development Act".

**Sec. 2. NEW SECTION. 147A.21 DEFINITIONS.**

As used in this division, unless the context otherwise requires:

1. "Categorization" means a preliminary determination by the department that a hospital or emergency care facility is capable of providing trauma care in accordance with criteria adopted pursuant to chapter 17A for level I, II, III, and IV care capabilities.
2. "Department" means the Iowa department of public health.
3. "Director" means the director of public health.
4. "Emergency care facility" means a physician's office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.
5. "Hospital" means a facility licensed under chapter 135B, or a comparable emergency care facility located and licensed in another state.
6. "Trauma" means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.
7. "Trauma care facility" means a hospital or emergency care facility which provides trauma care and has been verified by the department as having level I, II, III, or IV care capabilities and issued a certificate of verification pursuant to section 147A.23, subsection 2, paragraph "c".
8. "Trauma care system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.
9. "Verification" means a formal process by which the department certifies a hospital or emergency care facility's capacity to provide trauma care in accordance with criteria established for level I, II, III, and IV trauma care facilities.

**Sec. 3. NEW SECTION. 147A.22 LEGISLATIVE FINDINGS AND INTENT - PURPOSE.**

The general assembly finds the following:

1. Trauma is a serious health problem in the state of Iowa and is the leading cause of death of younger Iowans. The death and disability associated with traumatic injury contributes to the significant medical expenses and lost work, and adversely affects the productivity of Iowans.
2. Optimal trauma care is limited in many parts of the state. With health care delivery in transition, access to quality trauma and emergency medical care continues to challenge our rural communities.
3. The goal of a statewide trauma care system is to coordinate the medical needs of the injured person with an integrated system of optimal and cost-effective trauma care. The result of a well-coordinated statewide trauma care system is to reduce the incidences of inadequate trauma care and preventable deaths, minimize human suffering, and decrease the costs associated with preventable mortality and morbidity.
4. The development of the Iowa trauma care system will achieve these goals while meeting the unique needs of the rural residents of the state.