

DRAFT

FOR DISCUSSION ONLY

REVISED

UNIFORM
ANATOMICAL GIFT
ACT₍₁₉₈₇₎

—Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

—and by it

—APPROVED AND RECOMMENDED FOR ENACTMENT
—IN ALL THE STATES

— at its

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— With Prefatory Note and Comments

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WITHOUT PREFATORY NOTE AND COMMENTS

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NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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REVISED UNIFORM ANATOMICAL GIFT ACT (1987~~200~~)

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REVISED UNIFORM ANATOMICAL GIFT ACT (200)

SECTION 1. SHORT TITLE. This [act] may be cited as the “Revised Uniform Anatomical Gift Act (200).”

~~SECTION 1.~~ SECTION 2. DEFINITIONS. As used in this [Act~~act~~]:

(1) “Agent” means an individual authorized by a health-care power of attorney to make health-care decisions on behalf of the principal or an individual authorized by any other record to make an anatomical gift on behalf of the principal.

~~(12)~~ “Anatomical gift” means a donation of all or part of a human body to take effect upon or after death.

~~(23)~~ “Decedent” means a deceased individual ~~and~~ whose body or part is the source of an anatomical gift for transplantation, therapy, research, or educational purposes. The term includes a stillborn infant or fetus.

~~(34)~~ “Document of gift” ~~means a card,~~ means a [donor] card or other record used to make an anatomical gift. The term includes a will and a statement or symbol attached to or imprinted on a ~~motor vehicle operator's or chauffeur's license, a will, or other writing~~ used to make an anatomical gift. license to operate a vehicle, identification card issued by a state, or a donor registry.

(5) “Donee” means a person to whom an anatomical gift has been made.

(6) “Donor” means an individual making an anatomical gift of the individual’s part or body. The term includes a decedent.

(7) “Donor registry” means a registry that provides for the making, amending, or revoking of an anatomical gift or the refusal to make an anatomical gift.

~~_____ (4) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body.~~ (5) "Enucleator"**(8) "Enucleator"** means an individual who is **qualified and trained by an organization that is** [licensed] [certified] by the [State Board of Medical Examiners**accredited**] **regulated** **under federal or state law** to remove or process eyes or parts of eyes.

(9) "Eye bank" means a person engaged in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes that is [licensed] [accredited][regulated] [under federal or state law].

~~(610)~~—"Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

~~_____ (7) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.~~

(11) "Organ procurement organization" means a person designated by the Secretary of Health and Human Services pursuant to the laws of the United States as an organ procurement organization.

(12) "Part" means an organ, eye, or tissue.

~~(813)~~ "Person" means an individual, corporation, business trust, estate, trust, partnership, **association**, joint venture, association, government, **or** governmental subdivision or agency **or instrumentality**, or any other legal or commercial entity.

~~(914)~~ "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery ~~[or osteopathy and surgery]~~ under the ~~laws~~ **law** of any state.

~~(1015)~~—“Procurement organization” means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts”
means an eye bank, organ procurement organization, or tissue bank.

(16) “Reasonably available” means able to be contacted without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(17) “Recipient” means an individual into whom a decedent’s part has been or is intended to be transplanted.

(18) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(19) “Sign” means:

(A) to execute or adopt a tangible symbol with the present intent to authenticate a record; or

(B) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate the record.

~~(1120)~~—“State” means a state, territory, or possession of the United States, the District of Columbia, ~~or the Commonwealth of Puerto Rico,~~ the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(1221)~~—“Technician” means an individual who is ~~[licensed] [certified]~~ by the ~~[State Board of Medical Examiners]~~ to remove or process a qualified and trained by an organization that is [accredited] [licensed] [regulated] [under federal or state law] to

remove or process a body part.

~~–(22) “Tissue bank” means a person engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue that is [licensed] [accredited][regulated][under federal or state law].~~

~~SECTION 2. 3. MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL.~~

(a) Subject to Section 6, an anatomical gift of an individual’s body or part for transplantation, therapy, research, or education may be made by:

~~–(a) An (1) the individual ~~who~~, if the individual is at least [18] years of age may (i) make an anatomical gift for any of the purposes stated in Section 6(a), (ii) limit an anatomical gift to one or more of those purposes, or (iii) refuse to make an anatomical gift. [or an emancipated minor];~~

(2) an agent of the individual unless the power of attorney to make health-care decisions or other record prohibits the agent from making an anatomical gift;

(3) a parent of the individual, if the individual is under the age of [18] years [and not emancipated]; or

(4) the [guardian] of the person of the individual.

(b) An anatomical gift may be made ~~only~~ by a document of gift [donor] card or other record signed by the ~~donor~~ person making the gift. If the ~~donor~~ person cannot sign, the document of gift the [donor] card or other record, the [donor] card or other record must be signed by ~~another~~ on the person’s behalf by an individual and acting at the person’s direction and by two witnesses, ~~at~~ both of whom have signed ~~at the direction and in the~~

presence of the donor and of each other, at the request of that individual and state that it has been so signed.

~~_____ (c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with subsection (b)(c)~~
A donor may make an anatomical gift by authorizing the [motor vehicle department] to imprint on the donor's license to operate a vehicle or state-issued identification card a statement or symbol indicating that the donor has made an anatomical gift. Revocation, suspension, expiration, or cancellation of the donor's license or card does not invalidate the anatomical gift.

~~_____ (d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.~~

(d) A donor may make an anatomical gift by authorizing any person who maintains a donor registry to include on the donor registry a statement or symbol that the donor has made an anatomical gift.

(e) **A donor may make an anatomical gift by the donor's will.** An anatomical gift **made by a donor's** will takes effect upon **the donor's** death ~~of the testator~~, whether or not the will is probated. ~~If, after death, the will is declared invalid for testamentary purposes, the validity of~~ **If the will is invalidated,** the anatomical gift is ~~unaffected.~~ **not invalidated.**

~~_____ (f) A donor may amend or revoke an anatomical gift, not made by will, only by:~~
~~_____ (1) a signed statement;~~

~~_____ (2) an oral statement made in the presence of two individuals;~~

SECTION 4. AMENDING OR REVOKING ANATOMICAL GIFTS.

(a) Subject to Section 6, a donor or other person authorized to make an anatomical gift under Section 3 may amend or revoke an anatomical gift, whether or not made by will, by:

(1) a signed record; or

(2) a later-dated document of gift that revokes or amends a previous anatomical gift or a portion of a gift either expressly or by inconsistency.

~~(3)~~ **(b) A donor may also amend or revoke an anatomical gift, not made by will, by any form of communication during a terminal illness or injury addressed to a physician or surgeon; or at least two other individuals who are at least [18] years of age.**

~~_____ (4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.~~

~~(gc)~~ **The A donor of who makes an anatomical gift ~~made~~ by will may amend or revoke the gift in the manner provided for amendment or revocation of wills; or as the manner provided in subsection (fa).**

~~_____ (h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.~~

SECTION 5. REFUSAL TO MAKE ANATOMICAL GIFT.

(~~ia~~) An individual may refuse to make an anatomical gift of the individual's body or any part by ~~(i) a writing~~a signed in the same manner as a document of gift, ~~(ii) record or~~ a statement or symbol attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, or ~~(iii) any other writing used to identify the individual as refusing to make an anatomical gift.~~ During a license to operate a vehicle or an identification card issued by a state or on a donor registry. During the individual's terminal illness or injury, the refusal may be an oral statement or other form of communication by any form of communication addressed to two or more other individuals who are at least [18] years of age.

(b) An individual who has refused to make an anatomical gift may amend or revoke the refusal in the same manner as provided in subsection (a).

SECTION 6. PRECLUSIVE EFFECT OF AMENDMENT, REVOCATION, OR REFUSAL.

(a) A donor's anatomical gift or amendment of an anatomical gift or an individual's refusal to make an anatomical gift of the individual's body or a part precludes any other person from making, amending, or revoking an anatomical gift of the body or that part.

(b) A donor's revocation of an anatomical gift of the donor's body or any part under Section 4 does not preclude any other person from making an anatomical gift of the body or any part.

(c) An anatomical gift or an amendment or revocation of an anatomical gift of all or any part of the donor's body by a person other than the donor precludes all other persons from making, amending, or revoking an anatomical gift of the body or that part at a later

time under Section 7.

(d) In the absence of contrary indications by the donor or other person authorized to make an anatomical gift under Section 3:

(j) ~~In the absence of contrary indications by the donor,~~¹⁾ an anatomical gift of a part is neither a refusal to give other parts nor a limitation on the making of an anatomical gift under Section 3 or on a removal or release of other parts under Section ~~4.~~under Section 7, and

~~———— (k) In the absence of contrary indications by the donor, a~~
~~(2) a revocation or or amendment of of~~ an anatomical gift is not a a refusal to make another an anatomical gift at a later time. ~~If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection (i).~~

SECTION 7. MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS BY A LIVING DONOR OR OTHERS.

~~———— SECTION 3. MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.~~

~~———— (a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:~~

~~———— (1) the spouse of the~~
(a) Subject to subsection (c) and except as otherwise provided in Section 6, in the order of priority listed any member of the following classes of persons who is reasonably available, or, if there is more than one member of a class listed in subsections (1), (3), (4),

(5), (6), (7) or (8), a majority of the members of the class who are reasonably available, may make an anatomical gift of all or any part of a decedent's body for transplantation, therapy, research, or education:

(1) an individual who was acting as the agent of the decedent at the time of death;

(2) the spouse of the decedent;

~~—(2) an ;~~

(3) adult son or daughter of the children of the decedent;

~~—(3) either parent of the ;~~

(4) parents of the decedent;

~~—(4) an ;~~

(5) adult brother or sister of the siblings of the decedent;

~~—————(5) a grandparent of the decedent; and~~

~~—————(6) a guardian of the person of the decedent at the time of death.~~

~~—————(b) An anatomical gift may not be made by a person listed in subsection (a) if:~~

~~—————(1) a person in a prior class is available at the time of death to make an anatomical gift;~~

~~—————(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or~~

~~—————(3) 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.;~~

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) a person who was acting as the [guardian] of the person of the decedent at

the time of death;

(9) an adult who exhibited special care and concern for the decedent and who is reasonably available to make an anatomical gift on behalf of the decedent; and

(10) any other person having the authority to dispose of the decedent's body.

~~(e)~~ An anatomical gift by a person authorized under subsection (a) ~~must~~may only be made by ~~(i)~~ a document of gift signed by the person ~~or (ii)~~making the person's gift or that person's telegraphic, recorded telephonic, or other recorded message; or ~~other~~by another form of oral communication from the person that is contemporaneously reduced to writing a record and signed by the recipient donee.

(c) A person or class of persons listed in subsection (a) may not make an anatomical gift if a person in a prior class is reasonably available at the time of the decedent's death to make an anatomical gift but has not been given a reasonable opportunity to make or refuse to make an anatomical gift.

~~(d)~~ (d) Subject to subsection (e), an anatomical gift by a person authorized under subsection (a) may be revoked by any member of the same or a prior class who is reasonably available. If there is more than one member of the prior class who is reasonably available, the gift is revoked if a majority of the members of the class object to the making of the anatomical gift or the members are equally divided whether to make an anatomical gift.

(e) A revocation under subsection (d) is effective only if, before procedures have begun for the removal of to remove a part from the body of the decedent, 's body or surgically prepare the recipient, the donee or the physician, surgeon, technician, or enucleator removing the part ~~knows of the revocation~~ or preparing the recipient actually knows of the revocation.

———— (e) A failure to make an anatomical gift under subsection (a) is not an objection to the making of an anatomical gift.

(f) For purposes of this section, if a person having priority to make or refuse to make an anatomical gift is unwilling to make a decision in a reasonably timely manner, the person is deemed not to be reasonably available.

— SECTION 4. AUTHORIZATION BY [CORONER] [MEDICAL EXAMINER] OR [LOCAL PUBLIC HEALTH OFFICIAL].

———— (a) The [coroner] [medical examiner] may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

———— (1) the official has received a request for the part from a hospital, physician, surgeon, or **procurement organization**;

———— (2) the official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in Section 3(a) of their option to make, or object to making, an anatomical gift;

———— (3) the official does not know of a refusal or contrary indication by the decedent or objection by **a person having priority to** act as listed in Section 3(a);

———— (4) the removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;

———— (5) the removal **will not interfere with** any autopsy or investigation;

———— (6) the removal will be in accordance with accepted medical standards; and

———— (7) cosmetic restoration will be done, if appropriate.

———— (b) If the body is not within the custody of the [coroner] [medical examiner], the [local public health officer] may release and permit the removal of any part from a body in the [local public health officer's] custody for transplantation or therapy if the requirements of subsection (a) are met.

~~_____ (c) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.~~

**SECTION 8. COOPERATION BETWEEN [CORONER][MEDICAL EXAMINER]
AND PROCUREMENT ORGANIZATIONS AND DONEES.**

(a) A [coroner] [medical examiner] and a procurement organization shall collaborate to maximize the opportunity to recover parts for the purposes of transplantation, therapy, research, and education.

(b) If a [coroner] [medical examiner] receives notice from a procurement organization that an anatomical gift might be available with respect to a deceased individual whose body is in the jurisdiction of the [coroner][medical examiner] or receives notice from a donee of an anatomical gift of any part from a decedent in the jurisdiction of the [coroner][medical examiner], the [coroner][medical examiner] shall conduct an examination, autopsy, or analysis of those parts in a manner and within a time period compatible with their preservation for the purposes of the anatomical gift.

(c) The [coroner] [medical examiner] may review all necessary information, including medical records, laboratory test results, x-rays, and other diagnostic results in the possession of any person which the [coroner][medical examiner] determines may be relevant to an examination, autopsy, or analysis of the body and parts of a body within the jurisdiction of the [coroner][medical examiner].

(d) Any information requested by a [coroner] [medical examiner] pursuant to subsection (c) must be provided by the person having that information as expeditiously as

possible to allow the [coroner] [medical examiner] to conduct the investigation into the cause of death and to complete the examination, autopsy, or analysis of the body and parts within a time period compatible with the preservation of parts for purposes of transplantation, therapy, research, or education.

(e) If an anatomical gift has been made of an organ from a decedent whose body is within the jurisdiction of a [coroner] [medical examiner] and no autopsy is required, or the [coroner] [medical examiner] determines that an autopsy is required but that the recovery of the organ **will not interfere with** the autopsy, the [coroner] [medical examiner] and the organ procurement organization shall collaborate in the timely removal of the organ from a decedent for purposes of transplantation or therapy.

(f) If an anatomical gift of an organ from a deceased individual whose body is within the jurisdiction of a [coroner][medical examiner] has been or might be made but the [coroner][medical examiner] initially believes that the recovery of the organ by the organ procurement organization could interfere with the investigation into that individual's cause of death, then the [coroner][medical examiner] or its designee shall attend the removal procedure for that organ before making a final determination not to allow the organ procurement organization to recover the organ for transplantation, therapy, research, or education. At the removal procedure, the [coroner][medical examiner] may allow recovery by the organ procurement organization to proceed, request a biopsy, or deny recovery by the organ procurement organization if, in the judgment of the [coroner][medical examiner], the organ may be involved in the individual's cause of death. The [coroner] [medical examiner] shall explain in a record the reasons for not allowing the organ

procurement organization to recover the organ and shall include those reasons in the records of the [coroner] [[medical examiner] and provide a copy of the reasons to the organ procurement agency.

(g) If, pursuant to subsection (f), a [coroner][medical examiner] is required to be present at an autopsy, the organ procurement organization requesting the recovery of the organ shall reimburse the [coroner][medical examiner], upon request, for the actual costs incurred in performing the duty specified in subdivision (f).

————— Subsection (b) is a companion provision to subsection (a) to cover similar situations but in cases where the [coroner] [medical examiner] is not authorized to act. Under both subsections, the removal and release is limited to transplant or therapeutic purposes.(h) A [coroner][medical examiner] shall release, upon request of a procurement organization, the name, contact information, available medical and social history, and autopsy results relating to the death of a deceased individual in the [coroner's][medical examiner's] jurisdiction if the release will not interfere with an [examination or investigation][autopsy].

(i) If an anatomical gift of eyes or tissue has been made, a [coroner] [medical examiner] shall permit the timely removal of eyes and tissue from a decedent for purposes of transplantation or therapy by a procurement organization.

(j) This section does not authorize the making of an anatomical gift by any person. No parts may be removed from the body of a deceased individual in the jurisdiction of a [coroner] [medical examiner] for transplantation, therapy, research, or education unless that part or body is the subject of an anatomical gift. The body of a deceased individual within the jurisdiction of the [coroner] [medical examiner] may not be delivered to a donee

of the body for research or education unless the body is the subject of an anatomical gift.

~~SECTION 5. ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.~~

~~—(a) On or before admission to a hospital, or as soon as possible thereafter, a person designated by the hospital shall ask each patient who is at least [18] years of age: "Are you an organ or tissue donor?" If the answer is affirmative the person shall request a copy of the document of gift. If the answer is negative or there is no answer and the attending physician consents, the person designated shall discuss with the patient the option to make or refuse to make an anatomical gift. The answer to the question, an available copy of any document of gift or refusal to make an anatomical gift, and any other relevant information, must be placed in the patient's medical record.~~

~~—(b) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital [administrator] or a representative designated by the [administrator] shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to Section 3(a). The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in Section 6. An entry must be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The [Commissioner of Health] shall [establish guidelines] [adopt regulations] to implement this subsection.~~

SECTION 9. SEARCH AND NOTIFICATION.

~~—(e)~~

(a) The following persons shall make a reasonable search for a document of gift or other

information identifying ~~the bearer as a donor or~~ an individual as an individual who has made or refused to make an anatomical gift or on whose behalf an anatomical gift has been made:

(1) a law enforcement officer, fireman, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital, upon the admission of ~~an~~the individual at or near the time of death, if there is not immediately available any other source of that information.

~~(d)~~ (db) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by subsection ~~(ea)~~(1), and the individual or ~~body~~deceased individual to whom it ~~relates~~is related is taken to a hospital, the ~~hospital must be notified of the contents and the document or other evidence must be sent to the hospital~~ by the person who located the document of gift or evidence.

~~(e) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to Section 3(a) or a release and removal of a part has been permitted pursuant to Section 4, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.~~

~~(f)~~ (fc) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to ~~appropriate~~ administrative sanctions.

SECTION 6-~~10~~. PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.

(a) For purposes of this section, “appropriate procurement organization” means a procurement organization for the part to be used for transplantation or therapy which

serves the geographical area in which the decedent died.

(a) The following persons may ~~become~~ be designated as donees of anatomical gifts ~~for the purposes stated:~~

~~_____ (1) a hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science~~ (1) an individual designated by the person making the anatomical gift if the anatomical gift is of a part for transplantation or therapy needed by the individual;

(2) an appropriate procurement organization selected by the donor; and

(3) a hospital, accredited medical or dental school, college, or university for education, research, advancement of medical or dental science; or research or any other person participating in education or research involving the use of human bodies or parts.

~~_____ (3) a designated individual for transplantation or therapy needed by that individual.~~ (c) If an anatomical gift is made under Section 3 of one or more parts in a document of gift that does not designate a donee, the donee is the appropriate procurement organization for each part.

(d) If a document of gift made pursuant to Section 3 specifies only a general intent to make an anatomical gift by such phrases as “organ donor” or “body donor,” decedent’s parts may only be used for transplantation or therapy. For this purpose the donee is the appropriate procurement organization for each part.

—————(b) 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 (e) If a donee determined under subsections (b) through (d) is not available to accept an anatomical gift or rejects the anatomical gift, the donee of the anatomical gift may be accepted by any hospital is any appropriate procurement organization or hospital, accredited medical or dental school, college, or university for education, or research or any other person participating in education or research involving the use of human bodies or parts.

—————(c) If the

(f) Custody of a decedent's body if there is no donee or of decedent's parts not used by the donee for transplantation, therapy, research, or education vests in the person under obligation to dispose of the body.

(g) If the donee actually 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 under Section 3(a), the donee may not accept the anatomical gift.

(h) This [act] does not affect the allocation of parts by any person acting under the authority of federal law relating to the allocation of parts for transplantation.

SECTION 7.—11. DELIVERY OF DOCUMENT OF GIFT.

(a) Delivery of a document of gift during the donor's lifetime of the individual whose body or part is the subject of the anatomical gift is not required for the validity of an anatomical gift.

—————(b) 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 death.

~~The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person~~ **(b) Upon or after a decedent's death, any person in possession of a document of gift or a record evidencing a refusal to make an anatomical gift with respect to the decedent shall allow any person who is authorized to make or object to the making of an anatomical gift under this [act]** to examine or copy the document of gift.

SECTION 8-12. RIGHTS AND DUTIES AT DEATH. OF PROCUREMENT ORGANIZATIONS AND DONEES.

(a) A procurement organization may conduct any reasonable examination necessary to assure the medical suitability of a part that is the subject of a prospective anatomical gift for transplantation or therapy after a referral from a hospital.

(b) The donee of an anatomical gift may conduct any reasonable examination necessary to assure the medical or other suitability of the body or part for its intended purposes at any time after the decedent's death.

~~_____ (a) Rights of a donee created by~~ **(c) An examination under subsection (a) or (b) includes an examination of all medical records of the individual whose body or part is the subject of an anatomical gift or a prospective anatomical gift.**

(d) Subject to Section 8, rights of a donee of an anatomical gift are superior to rights of others ~~except with respect to autopsies under Section 11(b).~~ A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift **or to this [act]**, 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 decedent and before embalming, shall cause the part to be removed without unnecessary mutilation. ~~After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.~~ (b) ~~The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death.~~

(e) Neither the physician or surgeon who attends the donor decedent at death nor the physician or surgeon who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to Section 2(d).

(e) If there has been an anatomical gift, a 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 or surgeon. from the decedent.

~~SECTION 9.~~ 13. COORDINATION OF PROCUREMENT AND USE. §

Each hospital in this State state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

~~SECTION 10.~~ 14. SALE OR PURCHASE OF PARTS PROHIBITED.

~~(a) A~~ (a) Except as otherwise provided in subsection (b), if removal of a part from a decedent is intended to occur after the decedent's death, a person may 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.~~

~~(b) Valuable consideration does not include~~ (b) A person may make reasonable

payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(c) A person who violates this section is guilty of a [felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both.

SECTION 11. EXAMINATION, AUTOPSY,
SECTION 15. LIABILITY.

~~(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.~~

~~(b) The provisions of this [Act] are subject to the laws of this State governing autopsies.~~

(a) Subject to subsection (c) ~~A hospital, physician, surgeon, [coroner], [medical examiner], [local public health officer], enucleator, technician, or other person,~~ **a person** who acts in accordance with this [~~Act~~**act**] or with the applicable anatomical gift law of another state [or a foreign country] or attempts in good faith to do so is not liable for ~~that~~**the** act in a civil action or criminal proceeding, **or subject to discipline for unprofessional conduct.**

~~(d) An individual who makes~~ **(b) Neither the person making** an anatomical gift pursuant to Section 2 or 3 and the individual **nor the decedent**'s estate ~~are not~~**is** liable for any injury or damage that may result from the making or the use of ~~the~~ **an** anatomical gift.

(c) Subsection (a) does not apply to a donee to which a document of gift has been delivered if the donee has actual knowledge that the anatomical gift has been revoked or amended or that a refusal to make an anatomical gift was made pursuant to Section 5 and the donee's actions are inconsistent with the revocation, amendment, or refusal. For this purpose, if the donee actually knows that a document of gift is on a particular donor registry, the donee

is deemed to have actual knowledge of any amendment or revocation of that document of gift or any refusal to make an anatomical gift that is on the same donor registry.

~~—SECTION 12. TRANSITIONAL PROVISIONS. This [Act] 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 making an anatomical gift before, on, or after the effective date of this [Act].~~

~~—SECTION 13. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.~~

~~—SECTION 14. SEVERABILITY. If any provision of this [Act] or its application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.~~

~~—SECTION 15. SHORT TITLE. This [Act] may be cited as the "Uniform Anatomical Gift Act (1987)."~~

SECTION 16. CHOICE OF LAW.

(a) A document of gift is valid if executed in accordance with:

_____ (1) this [act]

_____ (2) the laws of the place where it was executed; or

_____ (3) the laws of the place that the person making the anatomical gift was

domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) A person may assume that a document of gift is valid unless that person has actual knowledge that it was not validly executed or was revoked.

SECTION 17. TRANSITIONAL PROVISIONS.. This [act] applies to a document of gift, revocation, or refusal to make an anatomical gift made before, on, or after [the effective date of this [act]].

SECTION 18. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 19. ELECTRONIC RECORDS AND SIGNATURES.. This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et. seq.) but does not modify, limit, or supersede Section 101(a) of that act (15 U.S. C. Section 7001) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

SECTION 20. REPEALS. § The following acts and parts of acts are repealed:

- (1)
- (2)
- (3)

SECTION 17. ~~21~~. EFFECTIVE DATE. § This [~~Act~~act] takes effect

_____.