

# **REVISED UNIFORM ANATOMICAL GIFT ACT\***

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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MEETING IN ITS ONE-HUNDRED-AND-FIFTEENTH YEAR  
HILTON HEAD, SOUTH CAROLINA

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## **REVISED UNIFORM ANATOMICAL GIFT ACT**

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## **REVISED UNIFORM ANATOMICAL GIFT ACT**

**SECTION 1. SHORT TITLE.** This [act] may be cited as the Revised Uniform Anatomical Gift Act.

**SECTION 2. DEFINITIONS.** In this [act]:

(1) “Agent” means an individual:

(A) authorized to make health-care decisions on the principal’s behalf by a power of attorney for health care; or

(B) expressly authorized to make an anatomical gift on the principal’s behalf by any other record signed by the principal.

(2) “Anatomical gift” means a donation of all or part of a human body to take effect after the donor’s death for the purposes of transplantation, therapy, research, or education.

(3) “Decedent” means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant, and, subject to restrictions imposed by law other than this [act], a fetus.

(4) “Disinterested witness” means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 11.

(5) “Document of gift” means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver’s license, identification card, or donor registry.

(6) “Donor” means an individual whose body or part is the subject of an anatomical gift.

(7) “Donor registry” means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(8) “Driver’s license” means a license or permit issued by the [state department of motor vehicles] to operate a vehicle whether or not conditions are attached to the license or permit.

(9) “Eye bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of

human eyes or portions of human eyes.

(10) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, and welfare of an individual. The term does not include a guardian ad litem.

(11) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(12) “Identification card” means an identification card issued by the [state department of motor vehicles].

(13) “Know” means to have actual knowledge.

(14) “Organ procurement organization” means a person designated by the United States Secretary of Health and Human Services as an organ procurement organization.

(15) “Parent” means a parent whose parental rights have not been terminated.

(16) “Part” means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(17) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(18) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.

(19) “Procurement organization” means an eye bank, organ procurement organization, or tissue bank.

(20) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(21) “Reasonably available” means able to be contacted by a procurement organization 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.

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

(23) “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.

(24) “Refusal” means a record created under Section 7 that expressly states an intent to bar other persons from making an anatomical gift of an individual’s body or part.

(25) “Sign” means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

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

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

(27) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(28) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for purposes of research or education.

(29) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(30) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

**SECTION 3. APPLICABILITY.** This [act] applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**SECTION 4. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR’S DEATH.** Subject to Section 8, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 5 by:

(1) the donor, if the donor is at least [18] years of age or is under [18] years of age and is:

(A) an emancipated minor; or

(B) authorized under state law to apply for a driver’s license because the donor is

at least [insert the youngest age at which an individual may apply for any type of driver's license] years of age;

(2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

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

(4) the donor's guardian.

## **SECTION 5. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.**

(a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) in a will; or

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness.

(b) A donor or other person authorized to make an anatomical gift under Section 4 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or the other person and must:

(1) be witnessed by at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in paragraph (1).

(c) Revocation, suspension, expiration, or cancellation of the driver's license or identification card issued to a donor does not invalidate an anatomical gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.



**SECTION 6. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.**

(a) Subject to Section 8, a donor or other person authorized to make an anatomical gift under Section 4 may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

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

(b) A record signed pursuant to subsection (a)(1)(C) must:

(1) be witnessed by at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in paragraph (1).

(c) Subject to Section 8, a donor or other person authorized to make an anatomical gift under Section 4 may revoke the gift by the destruction or cancellation of the document of gift, or a portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a).

**SECTION 7. REFUSAL TO MAKE ANATOMICAL GIFT AND EFFECT OF REFUSAL.**

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

(B) subject to subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness.

(b) A record signed pursuant to subsection (a)(1)(B) must:

(1) be witnessed by at least two other individuals who are at least [18] years of age, one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that it has been signed and witnessed as provided in paragraph (1).

(c) An individual may amend or revoke a refusal:

(1) in the manner provided in subsection (a) for making a refusal;

(2) by subsequently making an anatomical gift pursuant to Section 5 that is inconsistent with the refusal; or

(3) by the destruction or cancellation of the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in Section 8(g), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or a part bars all other persons from making an anatomical gift of the individual's body or the part.

## **SECTION 8. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION.**

(a) Except as otherwise provided in subsection (g), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or a part if the donor made an anatomical gift of the donor's body or the part under Section 5 or an amendment to an anatomical gift of the donor's body or the part under Section 6.

(b) A donor's revocation of an anatomical gift of the donor's body or a part under Section

6 is not a refusal and does not bar another person specified in Section 4 or 9 from making an anatomical gift of the donor's body or a part under Section 5 or 10.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or a part under Section 5 or an amendment to an anatomical gift of the donor's body or a part under Section 6, another person may not make, amend, or revoke the gift of the donor's body or part under Section 10.

(d) A revocation of an anatomical gift of the donor's body or a part under Section 6 by a person other than the donor does not bar another person from making an anatomical gift of the body or a part under Section 5 or 10.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 4:

(1) an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person under Section 5 or 10; and

(2) an anatomical gift of a part for one or more of the purposes set forth in Section 4 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 5 or 10.

(f) If a donor who is an unemancipated minor dies under [18] years of age, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(g) If an unemancipated minor who signed a refusal dies under [18] years of age, a parent of the individual who is reasonably available may revoke the individual's refusal.

## **SECTION 9. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.**

(a) Subject to subsections (b) and (c) and unless barred by subsection (d), an anatomical gift of a decedent's body or part for purposes of transplantation, therapy, research, or education may be made, in the order of priority listed, by any member of the following classes of persons who is reasonably available:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 4(2) immediately before the decedent's death;

(2) the spouse of the decedent;  
(3) adult children of the decedent;  
(4) parents of the decedent;  
(5) adult siblings of the decedent;  
(6) adult grandchildren of the decedent;  
(7) grandparents of the decedent;  
(8) an adult who exhibited special care and concern for the decedent;  
(9) the persons who were acting as the [guardian] of the person of the decedent at the time of death; and

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

(b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift can pass under Section 11 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) No person may make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

(d) An anatomical gift may not be made if doing so is barred by Section 7 or 8.

**SECTION 10. MANNER OF MAKING, AMENDING, OR REVOKING  
ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.**

(a) A person authorized to make an anatomical gift under Section 9 may make an anatomical gift by a document of gift signed by the person making the gift or that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c), an anatomical gift by a person authorized under Section 9 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift may be amended or revoked only if a majority of the reasonably available members object to the amending or revoking of the gift or they are equally divided as to whether to amend or revoke an

anatomical gift.

(c) A revocation under subsection (b) is effective only if the procurement organization or transplant hospital or the physician or technician knows of the revocation before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient.

**SECTION 11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;  
PURPOSE OF ANATOMICAL GIFT.**

(a) An anatomical gift of a body or part may be made to the following persons:

(1) a named hospital, accredited medical school, dental school, college, university, or organ procurement organization, or other appropriate person for research or education;

(2) a named individual designated by the person making the anatomical gift if the individual is the recipient of the part; or, if the part for any reason cannot be transplanted into the individual, the part passes in accordance with subsection (f) in the absence of an express, contrary indication by the person making the anatomical gift;

(3) a named eye bank or tissue bank.

(b) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(c) For the purpose of subsection (b), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift

must be used for transplantation or therapy if suitable for those purposes and, if the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(d) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) and does not identify the purpose of the gift, the decedent's parts may be used only for transplantation or therapy, and the gift passes in accordance with subsection (f).

(e) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the decedent's parts may be used only for transplantation or therapy, and the gift passes in accordance with subsection (f).

(f) For purposes of subsections (a)(2), (c), and (d), the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(g) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(h) If an anatomical gift does not pass pursuant to subsections (a) through (g) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(i) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 5 or 10 or if the person knows that the decedent made a refusal under Section 7 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(j) Except as otherwise provided in subsection (a)(2), nothing in this [act] affects the allocation of organs for transplantation or therapy.

## **SECTION 12. SEARCH AND NOTIFICATION.**

(a) The following persons shall make a reasonable search of an individual who the searcher reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a)(1) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

### **SECTION 13. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE.**

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 11.

### **SECTION 14. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS.**

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of any donor registry and records of the [state department of motor vehicles] that it knows exist for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the [state department of motor vehicles] to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this [act], at any time after a donor's death, the person to which a part passes under Section 11 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this [act], an examination under subsection (c) or (d) may include an examination of all medical records of the donor or prospective donor.

(f) If a donor, at the time of death, is under [18] years of age, a procurement organization shall conduct a reasonable search for the parents of the donor and, unless the procurement organization knows the donor is an emancipated minor, provide the parents with an opportunity to revoke or amend the anatomical gift or revoke a refusal.

(g) A procurement organization shall make a reasonable search for any person listed in Section 9 having priority to make an anatomical gift on behalf of a prospective donor.

(h) If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(i) Subject to Sections 11(h) and 23, the rights of the person to which a part passes under Section 11 are superior to rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this [act], a person that accepts an anatomical gift of an entire body may allow embalming or cremation and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 11, upon the death of the donor and before embalming or cremation, shall cause the part to be removed without unnecessary mutilation.

(j) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or



transplanting a part from the decedent.

(k) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**SECTION 15. COORDINATION OF PROCUREMENT AND USE.** Each hospital in this state, after consultation with procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

**SECTION 16. SALE OR PURCHASE OF PARTS PROHIBITED.**

(a) Except as otherwise provided in subsection (b), a person that knowingly, for valuable consideration, purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a [[felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both]] [class [ ] felony].

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**SECTION 17. PENALTY.** Any person that intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal in order to obtain a financial gain commits a [[felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both] [class [ ] felony].

**SECTION 18. IMMUNITY.**

(a) A person that acts in accordance with this [act] or with the applicable anatomical gift law of another state or attempts in good faith to do so is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) A person who documents the making, amending, or revoking of an anatomical gift under this [act] may rely upon representations of the individuals listed in Section 9(a)(2), (3), (4), (5), (6), (7), and (8) relating to their relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**SECTION 19. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO**

## **EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY.**

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

(1) this [act];

(2) the laws of the state or country where it was executed; or

(3) the laws of the state or country where 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) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

## **SECTION 20. DONOR REGISTRY.**

(a) The [insert name of appropriate state agency] may establish or contract for the establishment of a donor registry.

(b) The [state department of motor vehicles] shall cooperate with any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(c) A donor registry must:

(1) provide a database that allows a donor or other person authorized under Section 4 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) be accessible for purposes of paragraphs (1) and (2) seven days a week on a 24-hour basis.

(d) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor,

or the person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(e) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. However, the registry must comply with subsections (c) and (d).

***Legislative Note:*** *If the state has an existing donor registry statute, it should consider whether this section is necessary. It should also consider whether subsections (c) and (d), and Section 14(h), should be incorporated into its existing statute. Subsection (b) may be deleted if the state department of motor vehicles is the agency specified in subsection (a).*

## **SECTION 21. EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH-CARE DIRECTIVE.**

(a) In this section:

(1) “Advance health-care directive” means a record signed by a prospective donor containing the prospective donor’s direction concerning a health-care decision for the prospective donor or a power of attorney for health care.

(2) “Declaration” means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn.

(3) “Health-care decision” means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health-care directive, unless it expressly provides to the contrary, measures necessary to insure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor.

## **SECTION 22. COOPERATION BETWEEN [CORONER][MEDICAL EXAMINER] AND PROCUREMENT ORGANIZATION.**

(a) A [coroner] [medical examiner] and a procurement organization shall cooperate to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(b) If a [coroner] [medical examiner] receives notice from a procurement organization

that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the [coroner][medical examiner] and a post-mortem examination is going to be performed, unless the [coroner][medical examiner] denies recovery in accordance with Section 23, the [coroner][medical examiner] or designee shall conduct a post-mortem examination of the body or the part in a manner and within a time period compatible with its preservation for the purposes of the gift.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a [coroner] [medical examiner] for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the [coroner] [medical examiner] may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a [coroner][medical examiner] from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the [coroner][medical examiner].

**SECTION 23. FACILITATION OF ANATOMICAL GIFT FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF [CORONER][MEDICAL EXAMINER].**

(a) Upon request of a procurement organization, a [coroner][medical examiner] shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the [coroner][medical examiner]. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the [coroner] [medical examiner] shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the [corner][medical examiner] only if relevant to transplantation or therapy.

(b) The [coroner][medical examiner] may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a prospective donor or a donor whose body is under the jurisdiction of the [coroner][medical examiner] which the [coroner] [medical examiner] determines may be relevant to the investigation.

(c) A person that has any information requested by a [coroner] [medical examiner] pursuant to subsection (b) shall provide that information as expeditiously as possible to allow the

[coroner] [medical examiner] to conduct the medicolegal investigation within a period compatible with the preservation of parts for purposes of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the [coroner][medical examiner] and a post-mortem examination is not required, or the [coroner] [medical examiner] determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the [coroner] [medical examiner] and procurement organization shall cooperate in the timely removal of the part from the decedent for purposes of transplantation, therapy, research, or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the [coroner][medical examiner] has been or might be made, but the [coroner] [medical examiner] initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the [coroner] [medical examiner] shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the [coroner][medical examiner] may allow recovery.

(f) Following the consultation under subsection (e), in the absence of mutually agreed upon protocols to resolve conflict between the [coroner] [medical examiner] and the procurement organization, if the [coroner] [medical examiner] intends to deny recovery, the [coroner] [medical examiner] or designee, at the request of the procurement organization, shall attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the [coroner] [medical examiner] or designee may allow recovery by the procurement organization to proceed, or, if the [coroner][medical examiner] or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(g) If the [coroner] [medical examiner] or designee denies recovery under subsection (f), the [coroner][medical examiner] or designee shall:

(1) explain in a record the specific reasons for not allowing recovery of the part;

(2) include the specific reasons in the records of the [coroner] [medical examiner]; and

(3) provide a record with the specific reasons to the procurement organization.

(h) If the [coroner][medical examiner] or designee allows recovery of a part under subsection (d), (e), or (f), upon request the procurement organization shall cause the physician or technician who removes the part to provide the [coroner][medical examiner] with a record describing the condition of the part, a biopsy, photograph, and any other information and observations that would assist in the post-mortem examination.

(i) If a [coroner] [medical examiner] or designee is required to be present at a removal procedure under subsection (f), upon request the procurement organization requesting the recovery of the part shall reimburse the [coroner][medical examiner] or designee for the additional costs incurred in complying with subsection (f).

***Legislative Note:** Section 23 could be incorporated into the provisions of the state's code where the provisions relating to a [coroner][medical examiner] are codified rather than included in this [act]. If codified in that manner, the definitions in Section 2 of "anatomical gift", "donor", "eye bank", "organ procurement organization", "part", "procurement organization", "prospective donor"(first sentence only), "tissue", and "tissue bank" also should be included.*

**SECTION 24. 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 25. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** 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 26. REPEALS.** The following acts and parts of acts are repealed:

(1) [Uniform Anatomical Gift Act];

(2)

(3)

**SECTION 27. EFFECTIVE DATE.** This [act] takes effect \_\_\_\_.