Conference Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
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CHAPTER 281

SENATE BILL 1099

AN ACT

AMENDING SECTION 28-3006, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 3; RELATING TO THE REVISED UNIFORM ANATOMICAL GIFT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-3006, Arizona Revised Statutes, is amended to read:

28-3006. Driver license and nonoperating identification license applications; organ donation preference; reimbursement

A. The director shall establish procedures:

1. To allow a person applying for a driver license, permit or nonoperating identification license pursuant to this chapter to indicate during the application process the person's preference to be an organ donor.

2. For the release of ~~name and address~~ information contained in the driving record of a person who indicates a preference to be an organ donor if the release is for the purpose of being registered in the ~~anatomical gift~~ DONOR registry maintained pursuant to section ~~36-842.01~~ 36-858.

B. The department shall not implement this section unless the organ procurement organization that is located in this state and that meets the requirements of section 371 of the public health service act (58 Stat. 682; 42 United States Code section 273) provides adequate funding to the department to cover the costs the department will incur in implementing this section.

Sec. 2. Repeal

Title 36, chapter 7, article 3, Arizona Revised Statutes, is repealed.

Sec. 3. Title 36, chapter 7, Arizona Revised Statutes, is amended by adding a new article 3, to read:

ARTICLE 3. REVISED UNIFORM ANATOMICAL GIFT ACT

36-841. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST EIGHTEEN YEARS OF AGE.

2. "AGENT" MEANS AN INDIVIDUAL WHO IS EITHER:

(a) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON THE PRINCIPAL'S BEHALF PURSUANT TO A HEALTH CARE POWER OF ATTORNEY.

(b) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON THE PRINCIPAL'S BEHALF PURSUANT TO ANY OTHER RECORD SIGNED BY THE PRINCIPAL.

3. "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A HUMAN BODY TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION.

4. "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT. DECEDENT INCLUDES A STILLBORN INFANT AND, SUBJECT TO RESTRICTIONS IMPOSED BY ANY OTHER LAW, A FETUS.

5. "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. DISINTERESTED WITNESS DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT COULD PASS PURSUANT TO SECTION 36-850.

6. "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE AN ANATOMICAL GIFT. DOCUMENT OF GIFT INCLUDES A STATEMENT OR SYMBOL ON A DRIVER LICENSE, IDENTIFICATION CARD OR DONOR REGISTRY.

7. "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.

8. "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS.

9. "DRIVER LICENSE" MEANS A LICENSE OR PERMIT ISSUED PURSUANT TO TITLE 28 TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR PERMIT.

10. "EYE BANK" MEANS A PERSON THAT IS LICENSED OR REGULATED UNDER FEDERAL OR STATE LAW OR IS ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES.

11. "GUARDIAN" MEANS A PERSON WHO IS APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH OR WELFARE OF AN INDIVIDUAL. GUARDIAN DOES NOT INCLUDE A GUARDIAN AD LITEM.

12. "HOSPITAL" MEANS A FACILITY THAT IS LICENSED AS A HOSPITAL UNDER THE LAWS OF ANY STATE OR THAT IS OPERATED AS A HOSPITAL BY THE UNITED STATES, A STATE OR A SUBDIVISION OF A STATE.

13. "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION.

14. "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.

15. "MINOR" MEANS AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE.

16. "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

17. "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED.

18. "PART" MEANS AN ORGAN, EYE OR TISSUE OF A HUMAN BEING. PART DOES NOT INCLUDE THE WHOLE BODY.

19. "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.

20. "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED AS A PHYSICIAN PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

21. "PRINCIPAL" MEANS A PERSON WHO IS THE SUBJECT OF A HEALTH CARE POWER OF ATTORNEY.

22. "PROCUREMENT ORGANIZATION" MEANS:

(a) AN ORGAN PROCUREMENT ORGANIZATION.

(b) A TISSUE BANK.

(c) AN EYE BANK.

1 (d) A STORAGE FACILITY THAT IS LICENSED, ACCREDITED OR APPROVED UNDER
2 FEDERAL LAW OR THE LAWS OF ANY STATE TO ENGAGE IN THE RECOVERY, SCREENING,
3 TESTING, PROCESSING, STORAGE OR DISTRIBUTION OF HUMAN BODIES OR PARTS.
4 23. "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR NEAR DEATH
5 AND WHO HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT
6 COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH OR
7 EDUCATION. PROSPECTIVE DONOR DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A
8 REFUSAL.
9 24. "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A PROCUREMENT
10 ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND ABLE TO ACT IN A TIMELY
11 MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA NECESSARY FOR THE MAKING OF
12 AN ANATOMICAL GIFT.
13 25. "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART
14 HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.
15 26. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
16 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN
17 PERCEIVABLE FORM.
18 27. "REFUSAL" MEANS A RECORD CREATED PURSUANT TO SECTION 36-846 THAT
19 EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL
20 GIFT OF AN INDIVIDUAL'S BODY OR PART.
21 28. "SIGN", WITH RESPECT TO THE PRESENT INTENT TO AUTHENTICATE OR ADOPT
22 A RECORD, MEANS EITHER:
23 (a) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL.
24 (b) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC
25 SYMBOL, SOUND OR PROCESS.
26 29. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
27 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS OR ANY TERRITORY OR
28 INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.
29 30. "TECHNICIAN" MEANS AN INDIVIDUAL WHO IS DETERMINED TO BE QUALIFIED
30 TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED OR
31 REGULATED UNDER FEDERAL OR STATE LAW OR IS ACCREDITED BY A NATIONALLY
32 RECOGNIZED ACCREDITING AGENCY. TECHNICIAN INCLUDES AN ENUCLEATOR.
33 31. "TISSUE" MEANS ALL OR A PORTION OF THE HUMAN BODY OTHER THAN BLOOD,
34 AN ORGAN OR AN EYE UNLESS THE BLOOD, ORGAN OR EYE IS DONATED FOR THE PURPOSE
35 OF RESEARCH OR EDUCATION.
36 32. "TISSUE BANK" MEANS A PERSON THAT IS LICENSED OR REGULATED UNDER
37 FEDERAL OR STATE LAW OR IS ACCREDITED AS A TISSUE BANK BY A NATIONALLY
38 RECOGNIZED ACCREDITING AGENCY TO ENGAGE IN THE RECOVERY, SCREENING, TESTING,
39 PROCESSING, STORAGE OR DISTRIBUTION OF TISSUE.
40 33. "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN
41 TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR
42 THE CARE OF TRANSPLANT PATIENTS.

36-842. Applicability

THIS ARTICLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION OF OR REFUSAL TO MAKE AN ANATOMICAL GIFT, WHENEVER MADE.

36-843. Who may make an anatomical gift before donor's death

SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, AN ANATOMICAL GIFT MAY BE MADE DURING THE LIFE OF THE DONOR FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION IN THE MANNER PROVIDED IN SECTION 36-844 BY:

1. THE DONOR, IF THE DONOR IS AN ADULT OR IS A MINOR WHO IS EITHER:

(a) EMANCIPATED.

(b) AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER LICENSE BECAUSE THE DONOR IS AT LEAST THE YOUNGEST AGE AT WHICH AN INDIVIDUAL MAY APPLY FOR ANY TYPE OF DRIVER LICENSE.

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. IF THE DONOR IS AN UNEMANCIPATED MINOR, A PARENT OF THE DONOR.

4. THE DONOR'S GUARDIAN.

36-844. Manner of making anatomical gift before donor's death

A. A DONOR MAY MAKE AN ANATOMICAL GIFT:

1. BY REGISTERING TO BE A DONOR ON THE DONOR REGISTRY ESTABLISHED BY SECTION 36-858.

2. IN A WILL.

3. DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR BY ANY FORM OF COMMUNICATION THAT IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.

4. AS PROVIDED IN SUBSECTION B OF THIS SECTION.

B. A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 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 ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE OTHER PERSON.

2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN PARAGRAPH 1 OF THIS SUBSECTION.

C. REVOCATION, SUSPENSION, EXPIRATION OR CANCELLATION OF A DRIVER LICENSE OR AN IDENTIFICATION CARD ON WHICH AN ANATOMICAL GIFT IS INDICATED DOES NOT INVALIDATE THE GIFT.

D. AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON 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.

36-845. Amending or revoking anatomical gift before donor's death

A. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY AMEND OR REVOKE AN ANATOMICAL GIFT BY:

1. A RECORD SIGNED BY EITHER:

(a) THE DONOR.

(b) THE OTHER PERSON.

(c) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN.

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, PARAGRAPH 1, SUBDIVISION (c) MUST:

1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE OTHER PERSON.

2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION.

C. SUBJECT TO THE REQUIREMENTS OF SECTION 36-847, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 MAY REVOKE AN ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT OF GIFT, OR THE 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 THAT IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST 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 PRESCRIBED IN SUBSECTION A OF THIS SECTION.

36-846. Refusal to make anatomical gift; 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 EITHER:

(a) THE INDIVIDUAL.

(b) SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, 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.

3. ANY FORM OF COMMUNICATION MADE BY THE INDIVIDUAL DURING THE INDIVIDUAL'S TERMINAL ILLNESS OR INJURY THAT IS ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.

B. A RECORD SIGNED PURSUANT TO SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION MUST:

1. BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL.

2. STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PRESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION.

C. AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE REFUSAL:

1. IN THE MANNER PRESCRIBED IN SUBSECTION A OF THIS SECTION FOR MAKING A REFUSAL.

2. BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 THAT IS INCONSISTENT WITH THE REFUSAL.

3. BY DESTROYING OR CANCELING 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 PRESCRIBED IN SECTION 36-847, SUBSECTION H, 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 PART BARS ALL OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.

36-847. <u>Preclusive effect of anatomical gift, amendment or revocation</u>

A. EXCEPT AS OTHERWISE PRESCRIBED IN SUBSECTIONS G AND H OF THIS SECTION AND SUBJECT TO THE REQUIREMENTS OF SUBSECTION F OF THIS SECTION, 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 IF THE DONOR MADE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR AN AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845.

B. A DONOR'S REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845 IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN SECTION 36-843 OR 36-848 FROM MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR 36-849.

C. IF A PERSON OTHER THAN THE DONOR MAKES AN UNREVOKED ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR AN AMENDMENT TO AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845, ANOTHER PERSON MAY NOT MAKE, AMEND OR REVOKE THE GIFT PURSUANT TO SECTION 36-849.

D. A REVOCATION OF AN ANATOMICAL GIFT PURSUANT TO SECTION 36-845 BY A PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT PURSUANT TO SECTION 36-844 OR 36-849.

E. IN THE ABSENCE OF AN EXPRESS CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843, 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.

F. IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES DESCRIBED IN SECTION 36-843 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 PURSUANT TO SECTION 36-844 OR 36-849.

G. IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A PARENT OF THE DONOR WHO IS REASONABLY AVAILABLE MAY REVOKE OR AMEND AN ANATOMICAL GIFT.

H. IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A PARENT OF THE MINOR WHO IS REASONABLY AVAILABLE MAY REVOKE THE MINOR'S REFUSAL.

36-848. Who may make anatomical gift of decedent's body or part

A. SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS B AND C OF THIS SECTION, AND UNLESS BARRED PURSUANT TO SECTION 36-846 OR 36-847, AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION MAY BE MADE BY ANY MEMBER OF THE FOLLOWING CLASSES OF PERSONS WHO IS REASONABLY AVAILABLE, IN THE ORDER OF PRIORITY LISTED:

1. AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-843 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

2. THE DECEDENT'S SPOUSE.

3. THE DECEDENT'S ADULT CHILDREN.

4. THE DECEDENT'S PARENTS.

5. IF THE DECEDENT IS UNMARRIED, THE DECEDENT'S DOMESTIC PARTNER, IF ANOTHER PERSON HAD NOT ASSUMED FINANCIAL RESPONSIBILITY FOR THE DECEDENT.

6. THE DECEDENT'S ADULT SIBLINGS.

7. THE DECEDENT'S ADULT GRANDCHILDREN.

8. THE DECEDENT'S GRANDPARENTS.

9. AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT.

10. THE PERSONS WHO WERE ACTING AS THE GUARDIANS OF THE PERSON OF THE DECEDENT AT THE TIME OF DEATH.

11. ANY OTHER PERSON WHO HAS THE AUTHORITY TO DISPOSE OF THE DECEDENT'S BODY.

B. IF THERE IS MORE THAN ONE MEMBER OF A CLASS THAT IS LISTED IN SUBSECTION A, PARAGRAPH 1, 3, 4, 5, 6, 7, 8 OR 10 OF THIS SECTION WHO IS 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 MAY PASS PURSUANT TO SECTION 36-850 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. A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASS PURSUANT TO SUBSECTION A OF THIS SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN ANATOMICAL GIFT.

D. IF THE DECEDENT'S BODY IS NOT WITHIN THE CUSTODY OF THE COUNTY MEDICAL EXAMINER, THE COUNTY HEALTH OFFICER MAY RELEASE AND PERMIT THE REMOVAL OF ANY PART FROM THE BODY IN THE COUNTY HEALTH OFFICER'S CUSTODY FOR TRANSPLANTATION, THERAPY, EDUCATION OR RESEARCH IF THE REQUIREMENTS OF SECTION 36-860, SUBSECTION A, ARE MET.

36-849. Manner of making, amending or revoking anatomical gift of decedent's body or part

A. A PERSON WHO IS AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-848 MAY MAKE AN ANATOMICAL GIFT BY A DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING THE GIFT OR BY THAT PERSON'S ORAL COMMUNICATION THAT IS ELECTRONICALLY RECORDED OR THAT IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND THAT IS SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.

B. SUBJECT TO THE REQUIREMENTS OF SUBSECTION C OF THIS SECTION, AN ANATOMICAL GIFT BY A PERSON WHO IS AUTHORIZED PURSUANT TO SECTION 36-848 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 MADE BY A PERSON AUTHORIZED PURSUANT TO SECTION 36-848 MAY BE EITHER:

1. AMENDED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS AGREE TO THE AMENDING OF THE GIFT.

2. REVOKED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS AGREE TO THE REVOKING OF THE GIFT OR IF THEY ARE EQUALLY DIVIDED AS TO WHETHER TO REVOKE THE GIFT.

C. A REVOCATION PURSUANT TO SUBSECTION B OF THIS SECTION IS EFFECTIVE ONLY IF, 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, THE PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.

36-850. Persons who may receive anatomical gifts; purpose of anatomical gift

A. AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING NAMED IN THE DOCUMENT OF GIFT:

1. AN ORGAN PROCUREMENT ORGANIZATION.

2. A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE, UNIVERSITY, PROCUREMENT ORGANIZATION OR ANY OTHER APPROPRIATE PERSON, FOR RESEARCH OR EDUCATION.

3. SUBJECT TO THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION, AN INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT IF THE INDIVIDUAL IS THE RECIPIENT OF THE PART.

4. AN EYE BANK OR A TISSUE BANK.

B. IF AN ANATOMICAL GIFT TO AN INDIVIDUAL PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE PART PASSES PURSUANT TO SUBSECTION G OF THIS SECTION IN THE ABSENCE OF AN EXPRESS CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.

C. 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 OF THIS SECTION BUT THAT IDENTIFIES THE PURPOSE FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE GIFT PASSES:

1. TO THE APPROPRIATE EYE BANK IF THE PART IS AN EYE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

2. TO THE APPROPRIATE TISSUE BANK IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

3. TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY.

4. TO THE APPROPRIATE PROCUREMENT ORGANIZATION IF THE PART IS AN ORGAN, AN EYE OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR EDUCATION.

D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, IF THERE IS MORE THAN ONE PURPOSE OF AN ANATOMICAL GIFT STATED IN THE DOCUMENT OF GIFT BUT THE PURPOSES ARE NOT STATED IN ANY PRIORITY, THE GIFT MUST BE USED FOR TRANSPLANTATION OR THERAPY, IF SUITABLE. IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, THE GIFT MAY BE USED FOR RESEARCH OR EDUCATION.

E. 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 OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT MAY BE USED ONLY FOR TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO SUBSECTION G OF THIS SECTION.

F. 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 GIFT MAY BE USED ONLY FOR TRANSPLANTATION OR THERAPY AND THE GIFT PASSES PURSUANT TO SUBSECTION G OF THIS SECTION.

G. FOR THE PURPOSES OF SUBSECTIONS B, E AND F OF THIS SECTION:

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 ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.

H. AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION OR THERAPY, OTHER THAN AN ANATOMICAL GIFT PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.

I. IF AN ANATOMICAL GIFT DOES NOT PASS PURSUANT TO SUBSECTION A, B, C, D, E, F, G OR H OF THIS SECTION 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 WHO IS UNDER AN OBLIGATION TO DISPOSE OF THE BODY OR PART PURSUANT TO SECTION 36-831.

J. A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT THE GIFT WAS NOT EFFECTIVELY MADE PURSUANT TO SECTION 36-844 OR 36-849 OR IF THE PERSON KNOWS THAT THE DECEDENT MADE A REFUSAL PURSUANT TO SECTION 36-846 THAT WAS NOT REVOKED. FOR THE PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS THAT AN ANATOMICAL GIFT WAS MADE IN A DOCUMENT OF GIFT, THE PERSON IS DEEMED TO KNOW OF ANY AMENDMENT OF THE GIFT, REVOCATION OF THE GIFT OR REFUSAL TO MAKE AN ANATOMICAL GIFT IN THE SAME DOCUMENT OF GIFT.

K. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION A, PARAGRAPH 3 OF THIS SECTION, THIS ARTICLE DOES NOT AFFECT THE ALLOCATION OF ORGANS FOR TRANSPLANTATION OR THERAPY.

36-851. 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. ON 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 PURSUANT TO SECTION 36-850.

36-852. Rights and duties of procurement organizations and others

A. WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO AN ORGAN PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF THE RECORDS OF ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES TO DETERMINE IF THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT.

B. A PROCUREMENT ORGANIZATION MUST BE ALLOWED REASONABLE ACCESS TO INFORMATION IN THE RECORDS OF THE DONOR REGISTRY TO DETERMINE IF AN INDIVIDUAL AT OR NEAR DEATH IS A DONOR.

C. WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO AN ORGAN PROCUREMENT ORGANIZATION, THE ORGAN PROCUREMENT ORGANIZATION OR THE APPROPRIATE EYE BANK OR TISSUE BANK 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 OTHERWISE PROHIBITED BY LAW, AT ANY TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES PURSUANT TO SECTION 36-850 MAY CONDUCT ANY REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.

1 E. UNLESS OTHERWISE PROHIBITED BY LAW, AN EXAMINATION PURSUANT TO
2 SUBSECTION C OR D OF THIS SECTION MAY INCLUDE AN EXAMINATION OF ALL MEDICAL
3 AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.
4 F. ON THE DEATH OF A MINOR WHO WAS A DONOR OR WHO HAD SIGNED A
5 REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED,
6 THE APPROPRIATE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH
7 FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO
8 REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.
9 G. ON REFERRAL BY A HOSPITAL PURSUANT TO SUBSECTION A OF THIS SECTION,
10 THE APPROPRIATE PROCUREMENT ORGANIZATION MUST MAKE A REASONABLE SEARCH FOR
11 ANY PERSON LISTED IN SECTION 36-848 WHO HAS PRIORITY TO MAKE AN ANATOMICAL
12 GIFT ON BEHALF OF A PROSPECTIVE DONOR. IF A PROCUREMENT ORGANIZATION
13 RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE,
14 AMENDED OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT
15 INFORMATION.
16 H. SUBJECT TO THE REQUIREMENTS OF SECTION 36-850, SUBSECTION I AND
17 SECTION 36-861, THE RIGHTS OF THE PERSON TO WHICH A PART PASSES PURSUANT TO
18 SECTION 36-850 ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE
19 PART. THE PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN
20 PART. SUBJECT TO THE TERMS OF THE DOCUMENT OF GIFT AND THIS ARTICLE, A
21 PERSON WHO ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING,
22 BURIAL OR CREMATION AND USE OF REMAINS IN A FUNERAL SERVICE. IF THE GIFT IS
23 OF A PART, THE PERSON TO WHICH THE PART PASSES PURSUANT TO SECTION 36-850, ON
24 THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL OR CREMATION, SHALL CAUSE
25 THE PART TO BE REMOVED WITHOUT UNNECESSARY MUTILATION.
26 I. THE PHYSICIAN WHO ATTENDS THE DECEDENT AT DEATH AND THE PHYSICIAN
27 WHO DETERMINES THE TIME OF THE DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE
28 PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.
29 J. A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY
30 OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.
31 36-853. Coordination of procurement and use
32 A. EACH HOSPITAL IN THIS STATE SHALL ENTER INTO ONE OR MORE AGREEMENTS
33 OR AFFILIATIONS WITH PROCUREMENT ORGANIZATIONS FOR COORDINATION OF
34 PROCUREMENT AND USE OF ANATOMICAL GIFTS.
35 B. IF THERE HAS BEEN AN ANATOMICAL GIFT, THE INSTITUTION WHERE THE
36 REMOVAL OF ANY DONATED PARTS OCCURS SHALL NOTIFY THE FUNERAL DIRECTOR OR THE
37 PERSON ACTING IN THAT CAPACITY WHO FIRST ASSUMES CUSTODY OF THE BODY ABOUT
38 THE REMOVAL OF THE BODY PARTS.
39 36-854. Sale or purchase of parts; classification
40 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B, A PERSON WHO FOR
41 VALUABLE CONSIDERATION KNOWINGLY PURCHASES OR SELLS A PART FOR
42 TRANSPLANTATION OR THERAPY, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS
43 INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, IS GUILTY OF A CLASS 3
44 FELONY.

B. THIS SECTION DOES NOT PREVENT A PERSON FROM CHARGING A REASONABLE AMOUNT FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPORTATION, IMPLANTATION OR DISPOSAL OF A PART.

36-855. Prohibited acts; classification

A PERSON WHO, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES OR OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT OR A REFUSAL OF GIFT IS GUILTY OF A CLASS 6 FELONY.

36-856. Immunity

A. A PERSON IS NOT SUBJECT TO CIVIL LIABILITY, CRIMINAL PROSECUTION OR ADMINISTRATIVE PROCEEDINGS FOR GOOD FAITH ACTS OR OMISSIONS RELATED TO PROCUREMENT OF PARTS IN COMPLIANCE WITH THIS ARTICLE. ALL ACTS AND OMISSIONS ARE PRESUMED TO BE IN GOOD FAITH UNLESS THE ACTS OR OMISSIONS ARE DONE WITH INTENT TO MALICIOUSLY CAUSE INJURY.

B. A PERSON WHO MAKES AN ANATOMICAL GIFT AND THE DONOR'S ESTATE ARE NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY FOR ANY INJURY OR DAMAGE THAT RESULTS FROM THE MAKING OR USE OF THE GIFT.

C. IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED OR REVOKED PURSUANT TO THIS ARTICLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN INDIVIDUAL LISTED PURSUANT TO SECTION 36-848, SUBSECTION A, PARAGRAPH 2, 3, 4, 5, 6, 7 OR 8 RELATING TO THE INDIVIDUAL'S RELATIONSHIP TO THE DONOR OR PROSPECTIVE DONOR UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.

36-857. Choice of law; presumption of validity

A. A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:

1. THIS ARTICLE.

2. THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED.

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 LAWS OF THIS STATE GOVERN 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.

36-858. Donor registry

A. AN ORGAN PROCUREMENT ORGANIZATION SHALL ESTABLISH A DONOR REGISTRY IN THIS STATE.

B. THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT OF TRANSPORTATION SHALL COOPERATE WITH THE ORGAN PROCUREMENT ORGANIZATION THAT ADMINISTERS A DONOR REGISTRY TO TRANSFER TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING OF AN ANATOMICAL GIFT.

C. A DONOR REGISTRY MUST:

1. ALLOW A DONOR OR OTHER PERSON AUTHORIZED PURSUANT TO SECTION 36-843 TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE ANATOMICAL GIFT WAS MADE BY THE DONOR.

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 AN ANATOMICAL GIFT.

3. BE ACCESSIBLE SEVEN DAYS A WEEK ON A TWENTY-FOUR HOUR BASIS FOR PURPOSES OF PARAGRAPHS 1 AND 2.

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 PERSON WHO MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT OR NEAR DEATH OF THE DONOR OR PROSPECTIVE DONOR, IF THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED OR REVOKED AN ANATOMICAL GIFT.

E. THIS SECTION DOES NOT PROHIBIT ANY PERSON FROM ESTABLISHING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THIS STATE. ANY SUCH REGISTRY MUST COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS C AND D OF THIS SECTION.

36-859. <u>Effect of anatomical gift on health care directive; definitions</u>

A. IF THE TERMS OF A PROSPECTIVE DONOR'S LIVING WILL OR HEALTH CARE DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF AN ANATOMICAL GIFT MADE BY THE PROSPECTIVE DONOR, OR MADE BY ANY OTHER PERSON, APPEAR TO BE IN CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART FOR TRANSPLANTATION OR THERAPY, APPROPRIATE CONSULTATION SHALL OCCUR TO DETERMINE THE PROSPECTIVE DONOR'S ACTUAL OR LIKELY INTENT IN RESOLVING THAT CONFLICT. RESOLUTION OF THE CONFLICT SHALL OCCUR AS EXPEDITIOUSLY AS POSSIBLE. IF THE PROSPECTIVE DONOR IS UNABLE TO RESOLVE THE CONFLICT, ANOTHER PERSON AUTHORIZED BY LAW TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR SHALL RESOLVE THE CONFLICT. BEFORE RESOLUTION OF THE CONFLICT, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE PART MAY NOT BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR IF WITHHOLDING OR WITHDRAWING OF THE MEASURES IS NOT CONTRAINDICATED BY APPROPRIATE END OF LIFE CARE.

B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, APPROPRIATE CONSULTATION MUST INCLUDE THE PROSPECTIVE DONOR'S ATTENDING PHYSICIAN, THE HOSPITAL'S ETHICS COMMITTEE OR, IF NONE, A DESIGNATED REPRESENTATIVE OF THE HOSPITAL, AND THE AGENT ACTING UNDER THE PROSPECTIVE DONOR'S HEALTH CARE DIRECTIVE OR, IF NONE, ANY OTHER INDIVIDUAL AUTHORIZED BY LAW TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR AND MAY INCLUDE THE APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT PURSUANT TO SECTION 36-848. IF THE APPROPRIATE CONSULTATION DOES NOT RESOLVE THE CONFLICT, THE AGENT ACTING UNDER THE PROSPECTIVE DONOR'S HEALTH CARE DIRECTIVE OR, IF NONE, ANY OTHER INDIVIDUAL AUTHORIZED BY LAW TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR, OR THE MAJORITY OF SUCH INDIVIDUALS, IS EMPOWERED TO MAKE THE FINAL DECISION OF HOW TO PROCEED.

C. FOR THE PURPOSES OF THIS SECTION:

1. "HEALTH CARE DECISION" MEANS ANY DECISION MADE REGARDING THE HEALTH CARE OF THE PROSPECTIVE DONOR.

2. "HEALTH CARE DIRECTIVE" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3201.

3. "LIVING WILL" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3201.

36-860. County medical examiners; authorization

A. THE MEDICAL EXAMINER OR INDIVIDUAL LEGALLY DELEGATED THAT AUTHORITY MAY RELEASE AND PERMIT THE REMOVAL OF A PART FROM OR ALL OF A BODY WITHIN THE CUSTODY OF THAT OFFICIAL FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION PURSUANT TO TITLE 11, CHAPTER 3, ARTICLE 12 IF THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT AND:

1. A REQUEST HAS BEEN RECEIVED FROM A PROCUREMENT ORGANIZATION.

2. THE ORGAN PROCUREMENT ORGANIZATION HAS MADE A REASONABLE EFFORT, TAKING INTO ACCOUNT THE USEFUL LIFE OF THE PART, TO LOCATE AND EXAMINE THE DECEDENT'S MEDICAL RECORDS AND, IF THE DECEDENT HAS NOT EXECUTED A DOCUMENT OF GIFT OR HAS NOT REFUSED TO MAKE AN ANATOMICAL GIFT, INFORM PERSONS LISTED IN SECTION 36-848, SUBSECTION A, OF THE PERSON'S OPTION TO MAKE OR OBJECT TO MAKING AN ANATOMICAL GIFT.

3. THE OFFICIAL DOES NOT KNOW OF A REFUSAL BY THE DECEDENT OR AN OBJECTION BY A PERSON HAVING PRIORITY TO ACT AS LISTED IN SECTION 36-848, SUBSECTION A.

4. THE REMOVAL WILL BE BY A PHYSICIAN, SURGEON OR TRAINED TECHNICIAN.

5. THE REMOVAL WILL BE IN ACCORDANCE WITH ACCEPTED MEDICAL STANDARDS.

6. THE REMOVAL WILL NOT INTERFERE WITH ANY DEATH INVESTIGATION.

7. COSMETIC RESTORATION WILL BE DONE, IF APPROPRIATE.

B. AN OFFICIAL WHO RELEASES AND PERMITS 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.

36-861. Medical examiner; release of information

A. THE COUNTY MEDICAL EXAMINER OR INDIVIDUAL LEGALLY DELEGATED THAT AUTHORITY SHALL RELEASE THE NAME, CONTACT INFORMATION AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE MEDICAL EXAMINER TO:

1. THE DESIGNATED PROCUREMENT ORGANIZATION, HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE OR UNIVERSITY OF AN ANATOMICAL GIFT EXECUTED PURSUANT TO SECTION 36-844.

2. ANY PROCUREMENT ORGANIZATION UNDER PROCEDURES ADOPTED BY THE MEDICAL EXAMINER FOR COORDINATION OF THE PROCUREMENT OF ANATOMICAL GIFTS.

B. IF THE DECEDENT'S BODY OR PART IS MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH OR EDUCATION, THE MEDICAL EXAMINER, OR INDIVIDUAL LEGALLY DELEGATED THAT AUTHORITY, SHALL RELEASE POSTMORTEM EXAMINATION RESULTS TO A PROCUREMENT ORGANIZATION. THE PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF THE POSTMORTEM EXAMINATION

RESULTS OR OTHER INFORMATION RECEIVED FROM THE MEDICAL EXAMINER ONLY IF RELEVANT TO TRANSPLANTATION OR THERAPY.

36-862. Uniformity of application and construction

IN APPLYING AND CONSTRUING THIS ARTICLE, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

36-863. 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, BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE SECTION 101(a) OF THAT ACT (15 UNITED STATES CODE SECTION 7001) OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(b) OF THAT ACT (15 UNITED STATES CODE SECTION 7003(b)).

Sec. 4. Transfer of Records

The donor registry records containing information regarding persons who have executed a document of gift pursuant to section 36-842.01, Arizona Revised Statutes, as repealed by this act, are transferred to an organ procurement organization that is located in this state, meets the requirements of section 371 of the Public Health Service Act, 42 United States Code, section 273, and which maintains a donor registry established pursuant to section 36-858, Arizona Revised Statutes, as added by this act.

Sec. 5. Short title

Title 36, chapter 7, article 3, Arizona Revised Statutes, as added by this act, may be cited as the "Revised Uniform Anatomical Gift Act".

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.