

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Vehicle Code is amended by changing Section 6-117 as follows:

(625 ILCS 5/6-117) (from Ch. 95 1/2, par. 6-117)

Sec. 6-117. Records to be kept by the Secretary of State.

(a) The Secretary of State shall file every application for a license or permit accepted under this Chapter, and shall maintain suitable indexes thereof. The records of the Secretary of State shall indicate the action taken with respect to such applications.

(b) The Secretary of State shall maintain appropriate records of all licenses and permits refused, cancelled, disqualified, revoked, or suspended and of the revocation, suspension, and disqualification of driving privileges of persons not licensed under this Chapter, and such records shall note the reasons for such action.

(c) The Secretary of State shall maintain appropriate records of convictions reported under this Chapter. Records of conviction may be maintained in a computer processible medium.

(d) The Secretary of State may also maintain appropriate records of any accident reports received.

(e) The Secretary of State shall also maintain appropriate records of any disposition of supervision or records relative to a driver's referral to a driver remedial or rehabilitative program, as required by the Secretary of State or the courts. Such records shall only be available for use by the Secretary, the driver licensing administrator of any other state, law enforcement agencies, the courts, and the affected driver or, upon proper verification, such affected driver's attorney.

(f) The Secretary of State shall also maintain or contract to maintain appropriate records of all photographs and signatures obtained in the process of issuing any driver's license, permit, or identification card. The record shall be confidential and shall not be disclosed except to those entities listed under Section 6-110.1 of this Code.

(g) The Secretary of State may establish a First Person Consent organ and tissue donor registry in compliance with subsection (b-1) of Section 5-20 of the Illinois Anatomical Gift Act, as follows:

(1) The Secretary shall offer, to each applicant for issuance or renewal of a driver's license or identification card who is 16 ~~18~~ years of age or older, the opportunity to have his or her name included in the First Person Consent organ and tissue donor registry. The Secretary must advise the applicant or licensee that he or she is under no compulsion to have his or her name included in the registry. An individual who agrees to having his or her

name included in the First Person Consent organ and tissue donor registry has given full legal consent to the donation of any of his or her organs or tissue upon his or her death. A brochure explaining this method of executing an anatomical gift must be given to each applicant for issuance or renewal of a driver's license or identification card. The brochure must advise the applicant or licensee (i) that he or she is under no compulsion to have his or her name included in this registry and (ii) that he or she may wish to consult with family, friends, or clergy before doing so.

(2) The Secretary of State may establish additional methods by which an individual may have his or her name included in the First Person Consent organ and tissue donor registry.

(3) When an individual has agreed to have his or her name included in the First Person Consent organ and tissue donor registry, the Secretary of State shall note that agreement in the First Person consent organ and tissue donor registry. Representatives of federally designated organ procurement agencies and tissue banks and the offices of Illinois county coroners and medical examiners may inquire of the Secretary of State whether a potential organ donor's name is included in the First Person Consent organ and tissue donor registry, and the Secretary of State may provide that information to the representative.

(4) An individual may withdraw his or her consent to be listed in the First Person Consent organ and tissue donor registry maintained by the Secretary of State by notifying the Secretary of State in writing, or by any other means approved by the Secretary, of the individual's decision to have his or her name removed from the registry.

(5) The Secretary of State may undertake additional efforts, including education and awareness activities, to promote organ and tissue donation.

(6) In the absence of gross negligence or willful misconduct, the Secretary of State and his or her employees are immune from any civil or criminal liability in connection with an individual's consent to be listed in the organ and tissue donor registry.

(Source: P.A. 94-75, eff. 1-1-06; 95-382, eff. 8-23-07; 95-1034, eff. 2-17-09.)

Section 10. The Illinois Anatomical Gift Act is amended by changing Sections 5-5, 5-7, 5-20, 5-43, and 5-47 as follows:

(755 ILCS 50/5-5) (was 755 ILCS 50/3)

Sec. 5-5. Persons who may execute an anatomical gift.

(a) An anatomical gift of a donor's body or part that is to be carried out upon the donor's death may be made during the life of the donor for the purpose of transplantation, therapy, research, or education by:

(1) the donor, if the donor is an adult, ~~or if the donor is~~ an emancipated minor, or 16 or 17 years of age and registered in the First Person Consent organ and tissue donor registry under subsection (g) of Section 6-117 of the Illinois Vehicle Code;

(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 an unemancipated minor; or

(4) the donor's guardian.

(b) If no gift has been executed under subsection (a), an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made at the time of the decedent's death, or when death is imminent, by a member of the following classes of persons who is reasonably available for the giving of authorization or refusal, in the order of priority listed, when persons in prior classes are not available for the giving of authorization or refusal and in the absence of actual notice of contrary intentions by the decedent:

(1) an individual acting as the decedent's agent under a power of attorney for health care;

(2) the guardian of the person of the decedent;

(3) the spouse or civil union partner of the decedent;

(4) an adult child of the decedent;

- (5) a parent of the decedent;
- (6) an adult sibling of the decedent;
- (7) an adult grandchild of the decedent;
- (8) a grandparent of the decedent;
- (9) a close friend of the decedent;
- (10) the guardian of the estate of the decedent; and
- (11) any other person authorized or under legal obligation to dispose of the body.

(b-5) If there is more than one member of a class listed in item (2), (4), (5), (6), or (7) of subsection (b) of this Section 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 under Section 5-12 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 for the giving of authorization or refusal.

(b-10) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a higher priority class under subsection (b) of this Section is reasonably available for the giving of authorization or refusal.

(c) A gift of all or part of a body authorizes any blood or tissue test or minimally invasive examination necessary to assure medical acceptability of the gift for the purposes intended. The hospital shall, to the extent possible and in accordance with any agreement with the organ procurement

organization or tissue bank, take measures necessary to maintain the medical suitability of the part until the procurement organization has had the opportunity to advise the applicable persons as set forth in this Act of the option to make an anatomical gift or has ascertained that the individual expressed a contrary intent and has so informed the hospital. The results of tests and examinations under this subsection shall be used or disclosed only for purposes of evaluating medical suitability for donation, to facilitate the donation process, and as required or permitted by existing law.

(d) The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 5-45(d).

(e) If no gift has been executed under this Act, then no part of the decedent's body may be used for any purpose specified in this Act.

(Source: P.A. 98-172, eff. 1-1-14.)

(755 ILCS 50/5-7)

Sec. 5-7. Preclusive effect of anatomical gift, amendment, or revocation.

(a) Subject to subsection (f) of this Section and except as provided in subsection (a-5) of this Section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from changing, amending, or revoking an anatomical gift of a donor's body or part if the donor made

an anatomical gift of the donor's body or part under Section 5-20 or an amendment to an anatomical gift of the donor's body or part under Section 5-42.

(a-5) Upon the death of a donor who is an unemancipated minor, a parent or guardian of the donor may amend or revoke an anatomical gift of the donor's body made under subsection (b-1) of Section 5-20 of this Act.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 5-42 is not a refusal and does not bar another person specified in subsection (a) or (b) of Section 5-5 from making an anatomical gift of the donor's body or part under subsection (a), (b), (e), or (e-5) of Section 5-20.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under subsection (a) or (b) of Section 5-20, or an amendment to an anatomical gift of the donor's body or part under Section 5-42, another person may not make, amend, or revoke the gift of the donor's body or part under subsection (e) or (e-5) of Section 5-20.

(d) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift, a revocation of an anatomical gift of a donor's body or part under Section 5-42 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under subsection (a), (b), (e), or (e-5) of Section 5-20.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under subsection (a) of Section 5-5, 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 under subsection (a) of Section 5-5, an anatomical gift of a part for one or more of the purposes set forth in subsection (a) of Section 5-5 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 subsection (a), (b), (b-5), (b-10), (e), or (e-5) of Section 5-20.

(Source: P.A. 98-172, eff. 1-1-14.)

(755 ILCS 50/5-20) (was 755 ILCS 50/5)

Sec. 5-20. Manner of Executing Anatomical Gifts.

(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;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least one of whom is a disinterested witness; or

(4) as provided in subsection (b) and (b-1) of this Section.

(b) A donor or other person authorized to make an anatomical gift under subsection (a) of Section 5-5 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 other person and must:

(1) be witnessed by at least 2 adults, at least 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) of this subsection (b).

(b-1) A gift under Section 5-5 (a) may also be made by an individual consenting to have his or her name included in the First Person Consent organ and tissue donor registry maintained by the Secretary of State under Section 6-117 of the Illinois Vehicle Code. An individual's consent to have his or her name included in the First Person Consent organ and tissue donor registry constitutes full legal authority for the donation of any of his or her organs or tissue for purposes of transplantation, therapy, or research. Consenting to be included in the First Person Consent organ and tissue donor

registry is effective without regard to the presence or signature of witnesses.

(b-5) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(b-10) 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.

(c) The anatomical gift may be made to a specified donee or without specifying a donee. If the gift is made to a specified donee who is not available at the time and place of death, then if made for the purpose of transplantation, it shall be effectuated in accordance with Section 5-25.

(d) The donee or other person authorized to accept the gift pursuant to Section 5-12 may employ or authorize any qualified technician, surgeon, or physician to perform the recovery.

(e) A person authorized to make an anatomical gift under subsection (b) of Section 5-5 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 is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(e-5) An anatomical gift by a person authorized under subsection (b) of Section 5-5 may be amended or revoked orally or in a record by a member of a prior class who is reasonably

available for the giving of authorization or refusal. If more than one member of the prior class is reasonably available for the giving of authorization or refusal, the gift made by a person authorized under subsection (b) of Section 5-5 may be:

(1) amended only if a majority of the class members reasonably available for the giving of authorization or refusal agree to the amending of the gift; or

(2) revoked only if a majority of the class members reasonably available for the giving of authorization or refusal agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(e-10) A revocation under subsection (e-5) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have been commenced to prepare the recipient, the procurement organization, non-transplant anatomic bank, transplant hospital, or physician or technician knows of the revocation.

(f) When there is a suitable candidate for organ donation and a donation or consent to donate has not yet been given, procedures to preserve the decedent's body for possible organ and tissue donation may be implemented under the authorization of the applicable organ procurement organization, at its own expense, prior to making a donation request pursuant to Section 5-25. If the organ procurement organization does not locate a person authorized to consent to donation or consent to donation is denied, then procedures to preserve the decedent's body

shall be ceased and no donation shall be made. The organ procurement organization shall respect the religious tenets of the decedent, if known, such as a pause after death, before initiating preservation services. Nothing in this Section shall be construed to authorize interference with the coroner in carrying out an investigation or autopsy.

(Source: P.A. 98-172, eff. 1-1-14.)

(755 ILCS 50/5-43)

Sec. 5-43. 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:

(A) the individual; or

(B) subject to 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; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least 2 adults, at least one of whom is a disinterested witness.

(b) A record signed under subdivision (a)(1)(B) of this Section must:

(1) be witnessed by at least 2 adults, at least 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) of this subsection (b).

(c) An individual who has made a refusal may amend or revoke the refusal:

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

(2) by subsequently making an anatomical gift under subsection (a), (b), (b-1), (b-5), or (b-10) of Section 5-20 that is inconsistent with the refusal; or

(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) 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.

(Source: P.A. 98-172, eff. 1-1-14.)

(755 ILCS 50/5-47)

Sec. 5-47. Rights and duties of procurement organizations

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 the records of the Secretary of State and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization shall be allowed reasonable access to information in the records of the Secretary of State to ascertain whether an individual at or near death is a donor. If the individual is a donor who is an unemancipated minor, the procurement organization shall conduct a reasonable search for a parent or guardian of the donor and shall provide the parent or guardian with an opportunity to amend or revoke the anatomical gift of the donor's body.

(c) 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 5-12 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(d) Unless prohibited by law other than this Act, an examination under subsection (c) may include an examination of all medical and dental records of the donor or prospective donor.

(e) Upon referral by a hospital under subsection (a) of this Section, a procurement organization shall make a

reasonable search for any person listed in subsection (b) of Section 5-5 having priority to make an anatomical gift on behalf of a prospective donor. 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.

(f) Subject to subsection (i) of Section 5-12, the rights of the person to which a part passes under Section 5-12 are superior to the 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 who accepts an anatomical gift of an entire body may allow embalming, burial 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 5-12, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(g) 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.

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

(Source: P.A. 98-172, eff. 1-1-14.)