

SB0868



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0868

Introduced 2/7/2017, by Sen. Mattie Hunter - Pamela J. Althoff
- James F. Clayborne, Jr. - Karen McConnaughay, Jacqueline Y.
Collins, et al.

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-117	from Ch. 95 1/2, par. 6-117
755 ILCS 50/5-5	was 755 ILCS 50/3
755 ILCS 50/5-7	
755 ILCS 50/5-20	was 755 ILCS 50/5
755 ILCS 50/5-43	
755 ILCS 50/5-47	

Amends the Illinois Vehicle Code. Provides that the Secretary of State shall offer to each applicant for issuance or renewal of a driver's license or identification card who is 16 years of age or older (rather than 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. Amends the Illinois Anatomical Gift Act. Makes conforming changes. Provides that upon the death of a donor who is an unemancipated minor, the parent or guardian of the donor may amend or revoke the anatomical gift of the donor's body.

LRB100 08111 AXK 18205 b

A BILL FOR

1 AN ACT concerning civil law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (Source: P.A. 94-75, eff. 1-1-06; 95-382, eff. 8-23-07;
16 95-1034, eff. 2-17-09.)

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

19 (755 ILCS 50/5-5) (was 755 ILCS 50/3)

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

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

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

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

9 (3) a parent of the donor, if the donor is an
10 unemancipated minor; or

11 (4) the donor's guardian.

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

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

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

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

26 (4) an adult child of the decedent;

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

9 (b-5) If there is more than one member of a class listed in
10 item (2), (4), (5), (6), or (7) of subsection (b) of this
11 Section entitled to make an anatomical gift, an anatomical gift
12 may be made by a member of the class unless that member or a
13 person to which the gift may pass under Section 5-12 knows of
14 an objection by another member of the class. If an objection is
15 known, the gift may be made only by a majority of the members
16 of the class who are reasonably available for the giving of
17 authorization or refusal.

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

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

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

11 (d) The rights of the donee created by the gift are
12 paramount to the rights of others except as provided by Section
13 5-45(d).

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

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

18 (755 ILCS 50/5-7)

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

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

1 an anatomical gift of the donor's body or part under Section
2 5-20 or an amendment to an anatomical gift of the donor's body
3 or part under Section 5-42.

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

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

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

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

1 (e) In the absence of an express, contrary indication by
2 the donor or other person authorized to make an anatomical gift
3 under subsection (a) of Section 5-5, an anatomical gift of a
4 part is neither a refusal to give another part nor a limitation
5 on the making of an anatomical gift of another part at a later
6 time by the donor or another person.

7 (f) In the absence of an express, contrary indication by
8 the donor or other person authorized to make an anatomical gift
9 under subsection (a) of Section 5-5, an anatomical gift of a
10 part for one or more of the purposes set forth in subsection
11 (a) of Section 5-5 is not a limitation on the making of an
12 anatomical gift of the part for any of the other purposes by
13 the donor or any other person under subsection (a), (b), (b-5),
14 (b-10), (e), or (e-5) of Section 5-20.

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

16 (755 ILCS 50/5-20) (was 755 ILCS 50/5)

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

18 (a) A donor may make an anatomical gift:

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

22 (2) in a will;

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

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

3 (b) A donor or other person authorized to make an
4 anatomical gift under subsection (a) of Section 5-5 may make a
5 gift by a donor card or other record signed by the donor or
6 other person making the gift or by authorizing that a statement
7 or symbol indicating that the donor has made an anatomical gift
8 be included on a donor registry. If the donor or other person
9 is physically unable to sign a record, the record may be signed
10 by another individual at the direction of the donor or other
11 person and must:

12 (1) be witnessed by at least 2 adults, at least one of
13 whom is a disinterested witness, who have signed at the
14 request of the donor or the other person; and

15 (2) state that it has been signed and witnessed as
16 provided in paragraph (1) of this subsection (b).

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

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

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

6 (b-10) An anatomical gift made by will takes effect upon
7 the donor's death whether or not the will is probated.
8 Invalidation of the will after the donor's death does not
9 invalidate the gift.

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

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

18 (e) A person authorized to make an anatomical gift under
19 subsection (b) of Section 5-5 may make an anatomical gift by a
20 document of gift signed by the person making the gift or by
21 that person's oral communication that is electronically
22 recorded or is contemporaneously reduced to a record and signed
23 by the individual receiving the oral communication.

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

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

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

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

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

18 (f) When there is a suitable candidate for organ donation
19 and a donation or consent to donate has not yet been given,
20 procedures to preserve the decedent's body for possible organ
21 and tissue donation may be implemented under the authorization
22 of the applicable organ procurement organization, at its own
23 expense, prior to making a donation request pursuant to Section
24 5-25. If the organ procurement organization does not locate a
25 person authorized to consent to donation or consent to donation
26 is denied, then procedures to preserve the decedent's body

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

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

8 (755 ILCS 50/5-43)

9 Sec. 5-43. Refusal to make anatomical gift; effect of
10 refusal.

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

13 (1) a record signed by:

14 (A) the individual; or

15 (B) subject to subsection (b) of this Section,
16 another individual acting at the direction of the
17 individual if the individual is physically unable to
18 sign;

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

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

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

3 (1) be witnessed by at least 2 adults, at least one of
4 whom is a disinterested witness, who have signed at the
5 request of the individual; and

6 (2) state that it has been signed and witnessed as
7 provided in paragraph (1) of this subsection (b).

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

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

12 (2) by subsequently making an anatomical gift under
13 subsection (a), (b), (b-1), (b-5), or (b-10) of Section
14 5-20 that is inconsistent with the refusal; or

15 (3) by destroying or canceling the record evidencing
16 the refusal, or the portion of the record used to make the
17 refusal, with the intent to revoke the refusal.

18 (d) In the absence of an express, contrary indication by
19 the individual set forth in the refusal, an individual's
20 unrevoked refusal to make an anatomical gift of the
21 individual's body or part bars all other persons from making an
22 anatomical gift of the individual's body or part.

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

24 (755 ILCS 50/5-47)

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

1 and others.

2 (a) When a hospital refers an individual at or near death
3 to a procurement organization, the organization shall make a
4 reasonable search of the records of the Secretary of State and
5 any donor registry that it knows exists for the geographical
6 area in which the individual resides to ascertain whether the
7 individual has made an anatomical gift.

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

16 (c) Unless prohibited by law other than this Act, at any
17 time after a donor's death, the person to which a part passes
18 under Section 5-12 may conduct any reasonable examination
19 necessary to ensure the medical suitability of the body or part
20 for its intended purpose.

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

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

1 reasonable search for any person listed in subsection (b) of
2 Section 5-5 having priority to make an anatomical gift on
3 behalf of a prospective donor. If a procurement organization
4 receives information that an anatomical gift to any other
5 person was made, amended, or revoked, it shall promptly advise
6 the other person of all relevant information.

7 (f) Subject to subsection (i) of Section 5-12, the rights
8 of the person to which a part passes under Section 5-12 are
9 superior to the rights of all others with respect to the part.
10 The person may accept or reject an anatomical gift in whole or
11 in part. Subject to the terms of the document of gift and this
12 Act, a person who accepts an anatomical gift of an entire body
13 may allow embalming, burial or cremation, and use of remains in
14 a funeral service. If the gift is of a part, the person to
15 which the part passes under Section 5-12, upon the death of the
16 donor and before embalming, burial, or cremation, shall cause
17 the part to be removed without unnecessary mutilation.

18 (g) Neither the physician who attends the decedent at death
19 nor the physician who determines the time of the decedent's
20 death may participate in the procedures for removing or
21 transplanting a part from the decedent.

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

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