



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4266

by Rep. Peter Breen

SYNOPSIS AS INTRODUCED:

755 ILCS 50/1-10
755 ILCS 50/5-5

was 755 ILCS 50/2
was 755 ILCS 50/3

Amends the Illinois Anatomical Gift Act. Provides that the term "decedent" includes a deceased individual organism of the species homo sapiens from fertilization until live birth. Provides that notwithstanding any other provision of the Act, if the decedent is a fetus upon whom an abortion, as that term is defined in the Illinois Abortion Law of 1975, has been performed, then no part of the decedent's body may be used for any purpose specified in the Act.

LRB099 13552 HEP 37495 b

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 Anatomical Gift Act is amended by
5 changing Sections 1-10 and 5-5 as follows:

6 (755 ILCS 50/1-10) (was 755 ILCS 50/2)

7 Sec. 1-10. Definitions.

8 "Close friend" means any person 18 years of age or older
9 who has exhibited special care and concern for the decedent and
10 who presents an affidavit to the decedent's attending
11 physician, or the hospital administrator or his or her
12 designated representative, stating that he or she (i) was a
13 close friend of the decedent, (ii) is willing and able to
14 authorize the donation, and (iii) maintained such regular
15 contact with the decedent as to be familiar with the decedent's
16 health and social history, and religious and moral beliefs. The
17 affidavit must also state facts and circumstances that
18 demonstrate that familiarity.

19 "Death" means, for the purposes of the Act, when, according
20 to accepted medical standards, there is (i) an irreversible
21 cessation of circulatory and respiratory functions; or (ii) an
22 irreversible cessation of all functions of the entire brain,
23 including the brain stem.

1 "Decedent" means a deceased individual and includes a
2 stillborn infant or fetus and a deceased fetus or unborn child,
3 as those terms are defined in subsection (6) of Section 2 of
4 the Illinois Abortion Law of 1975.

5 "Disinterested witness" means a witness other than the
6 spouse, child, parent, sibling, grandchild, grandparent, or
7 guardian of the individual who makes, amends, revokes, or
8 refuses to make an anatomical gift, or another adult who
9 exhibited special care and concern for the individual. The term
10 does not include a person to whom an anatomical gift could pass
11 under Section 5-12.

12 "Document of gift" means a donor card or other record used
13 to make an anatomical gift. The term includes a donor registry.

14 "Donee" means the individual designated by the donor as the
15 intended recipient or an entity which receives the anatomical
16 gift, including, but not limited to, a hospital; an accredited
17 medical school, dental school, college, or university; an organ
18 procurement organization; an eye bank; a tissue bank; for
19 research or education, a non-transplant anatomic bank; or other
20 appropriate person.

21 "Donor" means an individual whose body or part is the
22 subject of an anatomical gift.

23 "Hospital" means a hospital licensed, accredited or
24 approved under the laws of any state; and includes a hospital
25 operated by the United States government, a state, or a
26 subdivision thereof, although not required to be licensed under

1 state laws.

2 "Non-transplant anatomic bank" means any facility or
3 program operating or providing services in this State that is
4 accredited by the American Association of Tissue Banks and that
5 is involved in procuring, furnishing, or distributing whole
6 bodies or parts for the purpose of medical education. For
7 purposes of this Section, a non-transplant anatomic bank
8 operating under the auspices of a hospital, accredited medical
9 school, dental school, college or university, or federally
10 designated organ procurement organization is not required to be
11 accredited by the American Association of Tissue Banks.

12 "Organ" means a human kidney, liver, heart, lung, pancreas,
13 small bowel, or other transplantable vascular body part as
14 determined by the Organ Procurement and Transplantation
15 Network, as periodically selected by the U.S. Department of
16 Health and Human Services.

17 "Organ procurement organization" means the organ
18 procurement organization designated by the Secretary of the
19 U.S. Department of Health and Human Services for the service
20 area in which a hospital is located, or the organ procurement
21 organization for which the Secretary of the U.S. Department of
22 Health and Human Services has granted the hospital a waiver
23 pursuant to 42 U.S.C. 1320b-8(a).

24 "Part" means organs, tissues, eyes, bones, arteries,
25 blood, other fluids and any other portions of a human body.

26 "Person" means an individual, corporation, government or

1 governmental subdivision or agency, business trust, estate,
2 trust, partnership or association or any other legal entity.

3 "Physician" or "surgeon" means a physician or surgeon
4 licensed or authorized to practice medicine in all of its
5 branches under the laws of any state.

6 "Procurement organization" means an organ procurement
7 organization or a tissue bank.

8 "Reasonably available for the giving of consent or refusal"
9 means being able to be contacted by a procurement organization
10 without undue effort and being willing and able to act in a
11 timely manner consistent with existing medical criteria
12 necessary for the making of an anatomical gift.

13 "Recipient" means an individual into whose body a donor's
14 part has been or is intended to be transplanted.

15 "State" includes any state, district, commonwealth,
16 territory, insular possession, and any other area subject to
17 the legislative authority of the United States of America.

18 "Technician" means an individual trained and certified to
19 remove tissue, by a recognized medical training institution in
20 the State of Illinois.

21 "Tissue" means eyes, bones, heart valves, veins, skin, and
22 any other portions of a human body excluding blood, blood
23 products or organs.

24 "Tissue bank" means any facility or program operating in
25 Illinois that is accredited by the American Association of
26 Tissue Banks, the Eye Bank Association of America, or the

1 Association of Organ Procurement Organizations and is involved
2 in procuring, furnishing, donating, or distributing corneas,
3 bones, or other human tissue for the purpose of injecting,
4 transfusing, or transplanting any of them into the human body
5 or for the purpose of research or education. "Tissue bank" does
6 not include a licensed blood bank. For the purposes of this
7 Act, "tissue" does not include organs or blood or blood
8 products.

9 (Source: P.A. 98-172, eff. 1-1-14; 98-756, eff. 7-16-14.)

10 (755 ILCS 50/5-5) (was 755 ILCS 50/3)

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

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

16 (1) the donor, if the donor is an adult or if the donor
17 is an emancipated minor;

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

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

23 (4) the donor's guardian.

24 (b) If no gift has been executed under subsection (a), an
25 anatomical gift of a decedent's body or part for the purpose of

1 transplantation, therapy, research, or education may be made at
2 the time of the decedent's death, or when death is imminent, by
3 a member of the following classes of persons who is reasonably
4 available for the giving of authorization or refusal, in the
5 order of priority listed, when persons in prior classes are not
6 available for the giving of authorization or refusal and in the
7 absence of actual notice of contrary intentions by the
8 decedent:

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

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

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

13 (4) an adult child of the decedent;

14 (5) a parent of the decedent;

15 (6) an adult sibling of the decedent;

16 (7) an adult grandchild of the decedent;

17 (8) a grandparent of the decedent;

18 (9) a close friend of the decedent;

19 (10) the guardian of the estate of the decedent; and

20 (11) any other person authorized or under legal
21 obligation to dispose of the body.

22 (b-5) If there is more than one member of a class listed in
23 item (2), (4), (5), (6), or (7) of subsection (b) of this
24 Section entitled to make an anatomical gift, an anatomical gift
25 may be made by a member of the class unless that member or a
26 person to which the gift may pass under Section 5-12 knows of

1 an objection by another member of the class. If an objection is
2 known, the gift may be made only by a majority of the members
3 of the class who are reasonably available for the giving of
4 authorization or refusal.

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

9 (c) A gift of all or part of a body authorizes any blood or
10 tissue test or minimally invasive examination necessary to
11 assure medical acceptability of the gift for the purposes
12 intended. The hospital shall, to the extent possible and in
13 accordance with any agreement with the organ procurement
14 organization or tissue bank, take measures necessary to
15 maintain the medical suitability of the part until the
16 procurement organization has had the opportunity to advise the
17 applicable persons as set forth in this Act of the option to
18 make an anatomical gift or has ascertained that the individual
19 expressed a contrary intent and has so informed the hospital.
20 The results of tests and examinations under this subsection
21 shall be used or disclosed only for purposes of evaluating
22 medical suitability for donation, to facilitate the donation
23 process, and as required or permitted by existing law.

24 (d) The rights of the donee created by the gift are
25 paramount to the rights of others except as provided by Section
26 5-45(d).

1 (e) If no gift has been executed under this Act, then no
2 part of the decedent's body may be used for any purpose
3 specified in this Act. Notwithstanding any other provision of
4 this Act, if (i) the decedent is a fetus; and (ii) an abortion,
5 as that term is defined in subsection (4) of Section 2 of the
6 Illinois Abortion Law of 1975, has been performed on the
7 decedent, then no part of the decedent's body may be used for
8 any purposes specified in this Act.

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