

1 AN ACT concerning organ transplantation.

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

4 Section 5. The Uniform Anatomical Gift Act is amended by
5 changing Section 3 as follows:

6 (755 ILCS 50/3) (from Ch. 110 1/2, par. 303)

7 Sec. 3. Persons who may execute an anatomical gift.

8 (a) Any individual of sound mind who has attained the
9 age of 18 may give all or any part of his or her body for any
10 purpose specified in Section 4. Such a gift may be executed
11 in any of the ways set out in Section 5, and shall take
12 effect upon the individual's death without the need to obtain
13 the consent of any survivor. An anatomical gift made by an
14 agent of an individual, as authorized by the individual under
15 the Powers of Attorney for Health Care Law, as now or
16 hereafter amended, is deemed to be a gift by that individual
17 and takes effect without the need to obtain the consent of
18 any other person.

19 (b) If no gift has been executed under subsection (a),
20 any of the following persons, in the order of priority stated
21 in items (1) through (11) ~~(6)~~ below, when persons in prior
22 classes are not available and in the absence of (i) actual
23 notice of contrary intentions by the decedent and (ii) actual
24 notice of opposition by any member within the same priority
25 class, may give all or any part of the decedent's body after
26 or immediately before death for any purpose specified in
27 Section 4:

28 (1) the decedent's agent under a power of attorney
29 for health care,

30 (2) the decedent's surrogate decision maker under
31 the Health Care Surrogate Act,

- 1 (3) the decedent's guardian of the decedent,
- 2 (4) (1) the decedent's spouse,
- 3 (5) (2) the decedent's adult sons or daughters,
- 4 (6) (3) either of the decedent's parents,
- 5 (7) (4) any of the decedent's adult brothers or
- 6 sisters,
- 7 (8) any adult grandchild of the decedent,
- 8 (9) a close friend of the decedent,
- 9 (10) (5) the guardian of the decedent's estate
- 10 ~~decedent-at-the-time-of-his-or-her-death,~~
- 11 (11) (6) any person authorized or under obligation
- 12 to dispose of the body.

13 If the donee has actual notice of opposition to the gift
 14 by the decedent or any person in the highest priority class
 15 in which an available person can be found, then no gift of
 16 all or any part of the decedent's body shall be accepted.

17 (c) For the purposes of this Act, a person will not be
 18 considered "available" for the giving of consent or refusal
 19 if:

- 20 (1) the existence of the person is unknown to the
- 21 donee and is not readily ascertainable through the
- 22 examination of the decedent's hospital records and the
- 23 questioning of any persons who are available for giving
- 24 consent;
- 25 (2) the donee has unsuccessfully attempted to
- 26 contact the person by telephone or in any other
- 27 reasonable manner;
- 28 (3) the person is unable or unwilling to respond in
- 29 a manner which indicates the person's refusal or consent.

30 (d) A gift of all or part of a body authorizes any
 31 examination necessary to assure medical acceptability of the
 32 gift for the purposes intended.

33 (e) The rights of the donee created by the gift are
 34 paramount to the rights of others except as provided by

1 Section 8 (d).

2 (f) If no gift has been executed under this Section,
3 then no part of the decedent's body may be used for any
4 purpose specified in Section 4 of this Act, except in
5 accordance with the Organ Donation Request Act or the Corneal
6 Transplant Act.

7 (g) As used in this Section, "close friend" means any
8 person 18 years of age or older who has exhibited special
9 care and concern for the decedent and who presents an
10 affidavit to a representative of the hospital's designated
11 organ procurement agency or tissue bank stating that he or
12 she (i) is a close friend of the decedent, (ii) is willing
13 and able to become involved in the decedent's health care,
14 and (iii) has maintained sufficient regular contact with the
15 decedent to be familiar with the decedent's activities,
16 health, and religious and moral beliefs. The affidavit must
17 also state facts and circumstances that demonstrate that
18 familiarity.

19 (Source: P.A. 86-736.)

20 Section 10. The Illinois Corneal Transplant Act is
21 amended by changing Section 2 as follows:

22 (755 ILCS 55/2) (from Ch. 110 1/2, par. 352)

23 Sec. 2. (a) Objection to the removal of corneal tissue
24 may be made known to the coroner or county medical examiner
25 or authorized individual acting for the coroner or county
26 medical examiner by the individual during his lifetime or by
27 the following persons, in the order of priority stated, after
28 the decedent's death:

29 (1) The decedent's agent under a power of attorney
30 for health care;

31 (2) If there is no agent, the decedent's surrogate
32 decision maker under the Health Care Surrogate Act;

1 (3) If there is no agent and no surrogate decision
2 maker, the decedent's guardian of the person;

3 (4) (1) If there is no agent, no surrogate decision
4 maker, and no guardian of the person, the decedent's
5 spouse;

6 (5) (2) If there is no agent, no surrogate decision
7 maker, no guardian of the person, and no spouse, any of
8 the decedent's adult sons or daughters;

9 (6) (3) If there is no agent, no surrogate decision
10 maker, no guardian of the person, no spouse, and no adult
11 sons or daughters, either of the decedent's parents;

12 (7) (4) If there is no agent, no surrogate decision
13 maker, no guardian of the person, no spouse, no adult
14 sons or daughters, and no parents, any of the decedent's
15 adult brothers or sisters;

16 (8) If there is no agent, no surrogate decision
17 maker, no guardian of the person, no spouse, no adult
18 sons or daughters, no parents, and no adult brothers or
19 sisters, any adult grandchild of the decedent;

20 (9) If there is no agent, no surrogate decision
21 maker, no guardian of the person, no spouse, no adult
22 sons or daughters, no parents, no adult brothers or
23 sisters, and no adult grandchildren, a close friend of
24 the decedent;

25 (10) (5) If there is no agent, no surrogate
26 decision maker, no guardian of the person, no spouse, no
27 adult sons or daughters, no parents, and no adult
28 brothers or sisters, no adult grandchildren, and no close
29 friend, the guardian of the decedent's estate; decedent
30 at-the-time-of-his-or-her-death.

31 (11) If there is no agent, no surrogate decision
32 maker, no guardian of the person, no spouse, no adult
33 sons or daughters, no parents, no adult brothers or
34 sisters, no adult grandchildren, no close friend, and no

1 guardian of the decedent's estate, any person authorized
2 or under obligation to dispose of the body.

3 (b) If the coroner or county medical examiner or any
4 authorized individual acting for the coroner or county
5 medical examiner has actual notice of any contrary
6 indications by the decedent or actual notice that any member
7 within the same class specified in subsection (a), paragraphs
8 (1) through (11) ~~(5)~~ of this Section, in the same order of
9 priority, objects to the removal, the coroner or county
10 medical examiner shall not approve the removal of corneal
11 tissue.

12 (c) As used in this Section, "close friend" means any
13 person 18 years of age or older who has exhibited special
14 care and concern for the decedent and who presents an
15 affidavit to a representative of the hospital's designated
16 organ procurement agency or tissue bank stating that he or
17 she (i) is a close friend of the decedent, (ii) is willing
18 and able to become involved in the decedent's health care,
19 and (iii) has maintained sufficient regular contact with the
20 decedent to be familiar with the decedent's activities,
21 health, and religious and moral beliefs. The affidavit must
22 also state facts and circumstances that demonstrate that
23 familiarity.

24 (Source: P.A. 87-633.)

25 Section 15. The Organ Donation Request Act is amended by
26 changing Section 2 as follows:

27 (755 ILCS 60/2) (from Ch. 110 1/2, par. 752)

28 Sec. 2. Notification; consent; definitions.

29 (a) When, based upon generally accepted medical
30 standards, an inpatient in a general acute care hospital with
31 more than 100 beds is a suitable candidate for organ or
32 tissue donation and such patient has not made an anatomical

1 gift of all or any part of his or her body pursuant to
 2 Section 5 of the Uniform Anatomical Gift Act, the hospital
 3 administrator, or his or her designated representative,
 4 shall, if the candidate is suitable for the donation of
 5 organs at the time of or after notification of death, notify
 6 the hospital's federally designated organ procurement agency.
 7 The organ procurement agency shall request a consent for
 8 organ donation according to the priority and conditions
 9 established in subsection (b). In the case of a candidate
 10 suitable for donation of tissue only, the hospital
 11 administrator or his or her designated representative or
 12 tissue bank shall, at the time of or shortly after
 13 notification of death, request a consent for tissue donation
 14 according to the priority need conditions established in
 15 subsection (b). Alternative procedures for requesting
 16 consent may be implemented by mutual agreement between a
 17 hospital and a federally designated organ procurement agency
 18 or tissue bank.

19 (b) In making a request for organ or tissue donation,
 20 the hospital administrator or his or her designated
 21 representative or the hospital's federally designated organ
 22 procurement agency or tissue bank shall request any of the
 23 following persons, in the order of priority stated in items
 24 (1) through (11) ~~(7)~~ below, when persons in prior classes are
 25 not available and in the absence of (i) actual notice of
 26 contrary intentions by the decedent, (ii) actual notice of
 27 opposition by any member within the same priority class, and
 28 (iii) reason to believe that an anatomical gift is contrary
 29 to the decedent's religious beliefs, to consent to the gift
 30 of all or any part of the decedent's body for any purpose
 31 specified in Section 4 of the Uniform Anatomical Gift Act:

- 32 (1) the decedent's agent under a power of attorney
- 33 for health care ~~the-Powers-of-Attorney--for--Health--Care~~
- 34 ~~Law;~~

1 (2) the decedent's surrogate decision maker under
2 the Health Care Surrogate Act;

3 (3) the decedent's guardian of the person;

4 (4) (3) the decedent's spouse;

5 (5) (4) the decedent's adult sons or daughters;

6 (6) (5) either of the decedent's parents;

7 (7) (6) any of the decedent's adult brothers or
8 sisters;

9 (8) any adult grandchild of the decedent;

10 (9) a close friend of the decedent;

11 (10) (7) the guardian of the decedent's estate;
12 decedent-at-the-time-of-his-or-her-death.

13 (11) any person authorized or under obligation to
14 dispose of the body.

15 (b-1) As used in this Section, "close friend" means any
16 person 18 years of age or older who has exhibited special
17 care and concern for the decedent and who presents an
18 affidavit to a representative of the hospital's designated
19 organ procurement agency or tissue bank stating that he or
20 she (i) is a close friend of the decedent, (ii) is willing
21 and able to become involved in the decedent's health care,
22 and (iii) has maintained sufficient regular contact with the
23 decedent to be familiar with the decedent's activities,
24 health, and religious and moral beliefs. The affidavit must
25 also state facts and circumstances that demonstrate that
26 familiarity.

27 (c) If (1) the hospital administrator, or his or her
28 designated representative, the organ procurement agency, or
29 the tissue bank has actual notice of opposition to the gift
30 by the decedent or any person in the highest priority class
31 in which an available person can be found, or (2) there is
32 reason to believe that an anatomical gift is contrary to the
33 decedent's religious beliefs, or (3) the Director of Public
34 Health has adopted a rule signifying his determination that

1 the need for organs and tissues for donation has been
 2 adequately met, then such gift of all or any part of the
 3 decedent's body shall not be requested. If a donation is
 4 requested, consent or refusal may only be obtained from the
 5 person or persons in the highest priority class available.
 6 If the hospital administrator, or his or her designated
 7 representative, the designated organ procurement agency, or
 8 the tissue bank is unable to obtain consent from any of the
 9 persons named in items (1) through ~~(11)~~ ~~(7)~~ of subsection (b)
 10 ~~(a)~~ of this Section, the decedent's body shall not be used
 11 for an anatomical gift unless a valid anatomical gift
 12 document was executed under the Uniform Anatomical Gift Act
 13 or the Corneal Transplant Act.

14 (d) For the purposes of this Act, a person will not be
 15 considered "available" for the giving of consent or refusal
 16 if:

17 (1) the existence of the person is unknown to the
 18 hospital administrator or designee, organ procurement
 19 agency, or tissue bank and is not readily ascertainable
 20 through the examination of the decedent's hospital
 21 records and the questioning of any persons who are
 22 available for giving consent;

23 (2) the administrator or designee, organ
 24 procurement agency, or tissue bank has unsuccessfully
 25 attempted to contact the person by telephone or in any
 26 other reasonable manner;

27 (3) the person is unable or unwilling to respond in
 28 a manner which indicates the person's refusal or consent.

29 (e) For the purposes of this Act, "federally designated
 30 organ procurement agency" means the organ procurement agency
 31 designated by the Secretary of the U.S. Department of Health
 32 and Human Services for the service area in which a hospital
 33 is located; except that in the case of a hospital located in
 34 a county adjacent to Wisconsin which currently contracts with

1 an organ procurement agency located in Wisconsin that is not
2 the organ procurement agency designated by the U.S. Secretary
3 of Health and Human Services for the service area in which
4 the hospital is located, if the hospital applies for a waiver
5 pursuant to 42 USC 1320b-8(a), it may designate an organ
6 procurement agency located in Wisconsin to be thereafter
7 deemed its federally designated organ procurement agency for
8 the purposes of this Act.

9 (f) For the purposes of this Act, "tissue bank" means
10 any facility or program operating in Illinois that is
11 certified by the American Association of Tissue Banks or the
12 Eye Bank Association of America and is involved in procuring,
13 furnishing, donating, or distributing corneas, bones, or
14 other human tissue for the purpose of injecting, transfusing,
15 or transplanting any of them into the human body. "Tissue
16 bank" does not include a licensed blood bank.

17 For the purposes of this Act, "tissue" does not include
18 organs.

19 (g) Nothing in Public Act 89-393 ~~this-amendatory-Act-of~~
20 1995 alters any agreements or affiliations between tissue
21 banks and hospitals.

22 (Source: P.A. 89-393, eff. 8-20-95; revised 2-23-00.)