

Comparison of UAGA (2006) with existing Illinois Law

(Prepared 8/4/08 by Christina Cotter, ULC Law Clerk)

Legislative History of Illinois Anatomical Gift Act:

- The Illinois law is modeled after the 1968 version of UAGA.
- See 755 ILCS 50/1-1 et al.

UAGA (2006)	Illinois Law
<p>SECTION 1. SHORT TITLE. This [act] may be cited as the Revised Uniform Anatomical Gift Act.</p>	<p>§ 1-1. Short Title.</p> <p>This Act may be cited as the Illinois Anatomical Gift Act.</p>
	<p>§ 1-5. Purpose.</p> <p>Illinois recognizes that there is a critical shortage of human organs and tissues available to citizens in need of organ and tissue transplants. This shortage leads to the untimely death of many adults and children in Illinois and across the nation each year. This Act is intended to implement the public policy of encouraging timely donation of human organs and tissue in Illinois and facilitating transplants of those organs and tissue into patients in need of them. Through this Act, laws relating to organ and tissue donation and transplantation are consolidated and modified for the purpose of furthering this public policy.</p>
<p>SECTION 2. DEFINITIONS. In this [act]:</p> <p>(1) “Adult” means an individual who is at least [18] years of age.</p> <p>(2) “Agent” means an individual:</p> <p style="padding-left: 40px;">(A) authorized to make health-care decisions on the principal’s behalf by a power of attorney for health care; or</p> <p style="padding-left: 40px;">(B) expressly authorized to make an anatomical gift on the principal’s behalf by any other record signed by the principal.</p> <p>(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.</p> <p>(4) “Decedent” means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this [act], a fetus.</p>	<p>§ 1-10. Definitions.</p> <p>“Bank or storage facility” means a facility licensed, accredited or approved under the laws of any state for storage of human bodies or parts thereof.</p> <p>“Close friend” means any person 18 years of age or older who has exhibited special care and concern for the decedent and who presents an affidavit to the decedent’s attending physician, or the hospital administrator or his or her designated representative, stating that he or she (i) was a close friend of the decedent, (ii) is willing and able to consent to the donation, and (iii) maintained such regular contact with the decedent as to be familiar with the decedent’s health and social history, and religious and moral beliefs. The affidavit must also state facts and circumstances that demonstrate that</p>

<p>(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. The term does not include a person to which an anatomical gift could pass under Section 11.</p> <p>(6) “Document of gift” means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver’s license, identification card, or donor registry.</p> <p>(7) “Donor” means an individual whose body or part is the subject of an anatomical gift.</p> <p>(8) “Donor registry” means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.</p> <p>(9) “Driver’s license” means a license or permit issued by the [state department of motor vehicles] to operate a vehicle, whether or not conditions are attached to the license or permit.</p> <p>(10) “Eye bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.</p> <p>(11) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.</p> <p>(12) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.</p> <p>(13) “Identification card” means an identification card issued by the [state department of motor vehicles].</p> <p>(14) “Know” means to have actual knowledge.</p> <p>(15) “Minor” means an individual who is under [18] years of age.</p> <p>(16) “Organ procurement organization” means a person designated by the Secretary of</p>	<p>familiarity.</p> <p>“Death” means for the purposes of the Act, the irreversible cessation of total brain function, according to usual and customary standards of medical practice.</p> <p>“Decedent” means a deceased individual and includes a stillborn infant or fetus.</p> <p>“Donor” means an individual who makes a gift of all or parts of his body.</p> <p>“Federally designated organ procurement agency” means the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located, or the organ procurement agency for which the U.S. Secretary of Health and Human Services has granted the hospital a waiver pursuant to 42 U.S.C. 1320b-8(a).</p> <p>“Hospital” means a hospital licensed, accredited or approved under the laws of any state; and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.</p> <p>“Not available” for the giving of consent or refusal means:</p> <p>(1) the existence of the person is unknown to the hospital administrator or designee, organ procurement agency, or tissue bank and is not readily ascertainable through the examination of the decedent's hospital records and the questioning of any persons who are available for giving consent;</p> <p>(2) the administrator or designee, organ procurement agency, or tissue bank has unsuccessfully attempted to contact the person by telephone or in any other reasonable manner; or</p> <p>(3) the person is unable or unwilling to respond in a manner that indicates the person's refusal or consent.</p>
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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, an eye, or tissue of a human being. The term 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 authorized to practice medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under Section 7 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol,

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

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

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

"Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

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

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

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

"Tissue bank" means any facility or program operating in Illinois that is certified by the American Association of Tissue Banks, the Eye Bank Association of America, or the Association of Organ Procurement Organizations and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs or blood or blood products.

<p>sound, or process.</p> <p>(28) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.</p> <p>(29) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.</p> <p>(30) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.</p> <p>(31) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.</p> <p>(32) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.</p>	
<p>SECTION 3. APPLICABILITY. This [act] applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.</p>	
<p>SECTION 4. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR’S DEATH.</p> <p>Subject to Section 8, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 5 by:</p> <p>(1) the donor, if the donor is an adult or if the donor is a minor and is:</p> <p style="padding-left: 40px;">(A) emancipated; or</p> <p style="padding-left: 40px;">(B) authorized under state law to apply for a driver’s license because the donor is at least [insert the youngest age at which an individual may apply for any type of driver’s license] years of age;</p> <p>(2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an</p>	<p>§ 5-5. Persons who may execute an anatomical gift.</p> <p>(a) Any individual of sound mind who has attained the age of 18 may give all or any part of his or her body for any purpose specified in Section 5-10. Such a gift may be executed in any of the ways set out in Section 5-20, and shall take effect upon the individual's death without the need to obtain the consent of any survivor. An anatomical gift made by an agent of an individual, as authorized by the individual under the Powers of Attorney for Health Care Law, as now or hereafter amended, is deemed to be a gift by that individual and takes effect without the need to obtain the consent of any other person.</p> <p>....</p> <p>[755 ILCS 50/5-5 part (b) is located next to UAGA Section 9]</p>

<p>anatomical gift;</p> <ul style="list-style-type: none">(3) a parent of the donor, if the donor is an unemancipated minor; or(4) the donor's guardian.	
<p>SECTION 5. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.</p> <p>(a) A donor may make an anatomical gift:</p> <ul style="list-style-type: none">(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 two adults, at least one of whom is a disinterested witness; or(4) as provided in subsection (b). <p>(b) A donor or other person authorized to make an anatomical gift under Section 4 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:</p> <ul style="list-style-type: none">(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; and(2) state that it has been signed and witnessed as provided in paragraph (1). <p>(c) 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.</p> <p>(d) 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.</p>	

SECTION 6. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.

(a) Subject to Section 8, a donor or other person authorized to make an anatomical gift under Section 4 may amend or revoke an anatomical gift by:

- (1) a record signed by:
 - (A) the donor;
 - (B) the other person; or
 - (C) subject to subsection (b),

another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

- (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)(1)(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; and

- (2) state that it has been signed and witnessed as provided in paragraph (1).

(c) Subject to Section 8, a donor or other person authorized to make an anatomical gift under Section 4 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 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 provided in subsection (a).

SECTION 7. 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:

<p>(1) a record signed by:</p> <ul style="list-style-type: none"> (A) the individual; or (B) subject to subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign; <p>(2) the individual’s will, whether or not the will is admitted to probate or invalidated after the individual’s death; or</p> <p>(3) any form of communication made by the individual during the individual’s terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.</p> <p>(b) A record signed pursuant to subsection (a)(1)(B) must:</p> <ul style="list-style-type: none"> (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; and (2) state that it has been signed and witnessed as provided in paragraph (1). <p>(c) An individual who has made a refusal may amend or revoke the refusal:</p> <ul style="list-style-type: none"> (1) in the manner provided in subsection (a) for making a refusal; (2) by subsequently making an anatomical gift pursuant to Section 5 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. <p>(d) Except as otherwise provided in Section 8(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.</p>	
<p>SECTION 8. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION.</p> <p>(a) Except as otherwise provided in subsection (g) and subject to subsection (f), 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 of a donor’s body or part if the</p>	<p>§ 5-40. Amendment or Revocation of the Gift.</p> <p>(a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:</p> <ul style="list-style-type: none"> (1) the execution and delivery to the donee of a

donor made an anatomical gift of the donor's body or part under Section 5 or an amendment to an anatomical gift of the donor's body or part under Section 6.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 6 is not a refusal and does not bar another person specified in Section 4 or 9 from making an anatomical gift of the donor's body or part under Section 5 or 10.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 5 or an amendment to an anatomical gift of the donor's body or part under Section 6, another person may not make, amend, or revoke the gift of the donor's body or part under Section 10.

(d) A revocation of an anatomical gift of a donor's body or part under Section 6 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 5 or 10.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 4, 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 Section 4, an anatomical gift of a part for one or more of the purposes set forth in Section 4 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 Section 5 or 10.

(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 of the donor's body or part.

(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.

signed statement witnessed and certified as provided in Section 5-20(b); or

(2) a signed card or document found on his person, or in his effects, executed at a date subsequent to the date the original gift was made and witnessed and certified as provided in Section 5-20(b).

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a).

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (a).

(d) 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.

SECTION 9. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.

(a) Subject to subsections (b) and (c) and unless barred by Section 7 or 8, an anatomical gift of a decedent's body or part for purpose of 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 under Section 4(2) immediately before the decedent's death;

(2) the spouse of the decedent;

(3) adult children of the decedent;

(4) parents of the decedent;

(5) adult siblings of the decedent;

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) an adult who exhibited special care and concern for the decedent;

(9) the persons who were acting as the [guardians] of the person of the decedent at the time of death; and

(10) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) 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 11 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 under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

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

[755 ILCS 50/5-5 part (a) is located next to UAGA section 4]

....

(b) If no gift has been executed under subsection (a), any of the following persons, in the order of priority stated in items (1) through (11) below, when persons in prior classes are not available for the giving of consent or refusal and in the absence of (i) actual notice of contrary intentions by the decedent and (ii) actual notice of opposition by any member within the same priority class, may consent to give all or any part of the decedent's body after or immediately before death to a person who may become a donee for any purpose specified in Section 5-10:

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

(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act,

(3) the guardian of the decedent's person at the time of death,

(4) the decedent's spouse,

(5) any of the decedent's adult sons or daughters,

(6) either of the decedent's parents,

(7) any of the decedent's adult brothers or sisters,

(8) any adult grandchild of the decedent,

(9) a close friend of the decedent,

(10) the guardian of the decedent's estate,

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

If the donee has actual notice of opposition to

	<p>the gift by the decedent or any person in the highest priority class in which an available person can be found, then no gift of all or any part of the decedent's body shall be accepted.</p> <p>(c) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.</p> <p>(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).</p> <p>(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.</p>
<p>SECTION 10. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.</p> <p>(a) A person authorized to make an anatomical gift under Section 9 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.</p> <p>(b) Subject to subsection (c), an anatomical gift by a person authorized under Section 9 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 under Section 9 may be:</p> <p>(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or</p> <p>(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.</p> <p>(c) A revocation under subsection (b) 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, or physician</p>	<p>§ 5-20. Manner of Executing Anatomical Gifts.</p> <p>(a) A gift of all or part of the body under Section 5-5(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.</p> <p>(b) A gift of all or part of the body under Section 5-5(a) may also be made by a written, signed document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card or a valid driver's license designed to be carried on the person, is effective without regard to the presence or signature of witnesses. Such a gift may also be made by properly executing the form provided by the Secretary of State on the reverse side of the donor's driver's license pursuant to subsection (b) of Section 6-110 of The Illinois Vehicle Code. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.</p> <p>(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</p>

or technician knows of the revocation.

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. 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.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. 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, and if made for any other purpose the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee.

(d) Notwithstanding Section 5-45(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 5-5(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

(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 agency, at its own expense, prior to making a donation request pursuant to Section 5-25. If the organ procurement agency does not locate a person authorized to consent to donation or consent to donation is denied, then procedures to preserve the decedent's body

	<p>shall be ceased and no donation shall be made. The organ procurement agency 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.</p>
<p>SECTION 11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT.</p> <p>(a) An anatomical gift may be made to the following persons named in the document of gift:</p> <ul style="list-style-type: none"> (1) a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education; (2) subject to subsection (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part; (3) an eye bank or tissue bank. <p>(b) If an anatomical gift to an individual under subsection (a)(2) cannot be transplanted into the individual, the part passes in accordance with subsection (g) in the absence of an express, contrary indication by the person making the anatomical gift.</p> <p>(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) but identifies the purpose for which an anatomical gift may be used, the following rules apply:</p> <ul style="list-style-type: none"> (1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank. (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank. (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ. (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization. <p>(d) For the purpose of subsection (c), if</p>	<p>§ 5-10. Persons Who May Become Donees; Purposes for Which Anatomical Gifts May be Made.</p> <p>The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:</p> <ul style="list-style-type: none"> (1) any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or (2) any accredited medical, chiropractic, mortuary or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or (3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or (4) any federally designated organ procurement agency or tissue bank, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or (5) any specified individual for therapy or transplantation needed by him or her, or for any other purpose.

there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth 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) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g).

(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 in accordance with subsection (g).

(g) For purposes of subsections (b), (e), and (f) the following rules apply:

(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 appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) 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 under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 5 or 10 or if the person knows that the decedent made a refusal under Section 7 that was not revoked. For purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or

<p>any refusal to make an anatomical gift on the same document of gift.</p> <p>(k) Except as otherwise provided in subsection (a)(2), nothing in this [act] affects the allocation of organs for transplantation or therapy.</p>	
	<p>§ 5-45. Rights and Duties at Death.</p> <p>(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, unless a person named in subsection (b) of Section 5-5 has requested, prior to the final disposition by the donee, that the remains of said body be returned to his or her custody for the purpose of final disposition. Such request shall be honored by the donee if the terms of the gift are silent on how final disposition is to take place. If the gift is of a part of the body, the donee or technician designated by him upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation and without undue delay in the release of the body for the purposes of final disposition. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body, in the order or priority listed in subsection (b) of Section 5-5 of this Act.</p> <p>(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.</p> <p>(c) A person who acts in good faith in accord with the terms of this Act, the Illinois Vehicle Code, and the AIDS Confidentiality Act, or the anatomical gift laws of another state or a foreign country, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act. Any person that participates in good faith and according to the usual and customary standards of medical practice in the preservation, removal, or</p>

	<p>transplantation of any part of a decedent's body pursuant to an anatomical gift made by the decedent under Section 5-20 of this Act or pursuant to an anatomical gift made by an individual as authorized by subsection (b) of Section 5-5 of this Act shall have immunity from liability, civil, criminal, or otherwise, that might result by reason of such actions. For the purpose of any proceedings, civil or criminal, the validity of an anatomical gift executed pursuant to Section 5-20 of this Act shall be presumed and the good faith of any person participating in the removal or transplantation of any part of a decedent's body pursuant to an anatomical gift made by the decedent or by another individual authorized by the Act shall be presumed.</p> <p>(d) This Act is subject to the provisions of “An Act to revise the law in relation to coroners”, approved February 6, 1874, as now or hereafter amended, to the laws of this State prescribing powers and duties with respect to autopsies, and to the statutes, rules, and regulations of this State with respect to the transportation and disposition of deceased human bodies.</p> <p>(e) If the donee is provided information, or determines through independent examination, that there is evidence that the gift was exposed to the human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS), the donee may reject the gift and shall treat the information and examination results as a confidential medical record; the donee may disclose only the results confirming HIV exposure, and only to the physician of the deceased donor. The donor's physician shall determine whether the person who executed the gift should be notified of the confirmed positive test result.</p>
	<p>§ 5-15. Disability of recipient.</p> <p>(a) No hospital, physician and surgeon, bank or storage facility, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by</p>

	<p>a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.</p> <p>(b) Subsection (a) shall apply to each part of the organ transplant process.</p> <p>(c) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this Section.</p> <p>(d) This Section shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants.</p> <p>(e) As used in this Section “disability” has the same meaning as in the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be amended from time to time.</p>
<p>SECTION 12. SEARCH AND NOTIFICATION.</p> <p>(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:</p> <p>(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and</p> <p>(2) if no other source of the information is immediately available, a hospital, as soon as practical after the individual’s arrival at the hospital.</p> <p>(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a)(1) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.</p> <p>(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.</p>	<p>§ 5-25. Notification; consent.</p> <p>(a) When, based upon generally accepted medical standards, an inpatient in a general acute care hospital with more than 100 beds is a suitable candidate for organ or tissue donation and the patient has not made an anatomical gift of all or any part of his or her body pursuant to Section 5-20 of this Act, the hospital shall proceed in accordance with the requirements of 42 CFR 482.45 or any successor provisions of federal statute or regulation, as may be amended from time to time, and the written agreement between the hospital and the applicable organ procurement agency executed thereunder.</p> <p>(b) In making a request for organ or tissue donation, the hospital or the hospital's federally designated organ procurement agency or tissue bank shall request any of the following persons, in the order of priority stated in items (1) through (11) below, when persons in prior classes are not available and in the absence of (i) actual notice of contrary intentions by the decedent, (ii) actual notice of opposition by any</p>

member within the same priority class, and (iii) reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, to consent to the gift of all or any part of the decedent's body for any purpose specified in Section 5-10 of this Act:

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

(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act;

(3) the guardian of the decedent's person at the time of death;

(4) the decedent's spouse;

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

(6) either of the decedent's parents;

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

(8) any adult grandchild of the decedent;

(9) a close friend of the decedent;

(10) the guardian of the decedent's estate; or

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

(c) If (1) the hospital, the applicable organ procurement agency, or the tissue bank has actual notice of opposition to the gift by the decedent or any person in the highest priority class in which an available person can be found, or (2) there is reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, or (3) the Director of Public Health has adopted a rule signifying his or her determination that the need for organs and tissues for donation has been adequately met, then the gift of all or any part of the decedent's body shall not be requested. If a donation is requested, consent or refusal may be obtained

	<p>only from the person or persons in the highest priority class available. If the hospital administrator, or his or her designated representative, the designated organ procurement agency, or the tissue bank is unable to obtain consent from any of the persons named in items (1) through (11) of subsection (b) of this Section, the decedent's body shall not be used for an anatomical gift unless a valid anatomical gift document was executed under this Act.</p> <p>(d) When there is a suitable candidate for organ donation, as described in subsection (a), or if consent to remove organs and tissues is granted, the hospital shall notify the applicable federally designated organ procurement agency. The federally designated organ procurement agency shall notify any tissue bank specified by the hospital of the suitable candidate for tissue donation. The organ procurement agency shall collaborate with all tissue banks in Illinois to maximize tissue procurement in a timely manner.</p>
<p>SECTION 13. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE.</p> <p>(a) A document of gift need not be delivered during the donor's lifetime to be effective.</p> <p>(b) Upon 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 under Section 11.</p>	<p>§ 5-35. Delivery of Document of Gift.</p> <p>If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.</p>
<p>SECTION 14. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS.</p> <p>(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 [state department of motor vehicles] and any donor registry that it knows exists for the geographical area in which the</p>	<p>§ 5-27. Notification of patient; family rights and options.</p> <p>(a) In this Section, "donation after cardiac death" means the donation of organs from a ventilated patient without a certification of brain death and with a do-not-resuscitate order, if a decision has been reached by the physician and the family to withdraw life support and if</p>

<p>individual resides to ascertain whether the individual has made an anatomical gift.</p> <p>(b) A procurement organization must be allowed reasonable access to information in the records of the [state department of motor vehicles] to ascertain whether an individual at or near death is a donor.</p> <p>(c) When a hospital refers an individual at or near death to a procurement organization, the organization 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.</p> <p>(d) 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 11 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.</p> <p>(e) Unless prohibited by law other than this [act], an examination under subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.</p> <p>(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.</p> <p>(g) Upon referral by a hospital under subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 9 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.</p> <p>(h) Subject to Sections 11(i) and 23, the rights of the person to which a part passes under</p>	<p>the donation does not occur until after the declaration of cardiac death.</p> <p>(b) If (i) a potential organ donor, or an individual given authority under subsection (b) of Section 5-25 to consent to an organ donation, expresses an interest in organ donation, (ii) there has not been a certification of brain death for the potential donor, and (iii) the potential donor is a patient at a hospital that does not allow donation after cardiac death, then the organ procurement agency shall inform the patient or the individual given authority to consent to organ donation that the hospital does not allow donation after cardiac death.</p> <p>(c) In addition to providing oral notification, the organ procurement agency shall develop a written form that indicates to the patient or the individual given authority to consent to organ donation, at a minimum, the following information:</p> <p>(1) That the patient or the individual given authority to consent to organ donation has received literature and has been counseled by (representative's name) of the (organ procurement agency name).</p> <p>(2) That all organ donation options have been explained to the patient or the individual given authority to consent to organ donation, including the option of donation after cardiac death.</p> <p>(3) That the patient or the individual given authority to consent to organ donation is aware that the hospital where the potential donor is a patient does not allow donation after cardiac death.</p> <p>(4) That the patient or the individual given authority to consent to organ donation has been informed of the right to request a patient transfer to a facility allowing donation after cardiac death.</p> <p>(5) That the patient or the individual given authority to consent to organ donation has been informed of another hospital that will allow</p>
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<p>Section 11 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 that 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 11, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.</p> <p>(i) 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.</p> <p>(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.</p>	<p>donation after cardiac death and will accept a patient transfer for the purpose of donation after cardiac death; and that the cost of transferring the patient to that other hospital will be covered by the organ procurement agency, with no additional cost to the patient or the individual given authority to consent to organ donation.</p> <p>The form required under this subsection must include a place for the signatures of the patient or the individual given authority to consent to organ donation and the representative of the organ procurement agency and space to provide the date that the form was signed.</p>
<p>SECTION 15. COORDINATION OF PROCUREMENT AND USE. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.</p>	
<p>SECTION 16. SALE OR PURCHASE OF PARTS PROHIBITED.</p> <p>(a) Except as otherwise provided in subsection (b), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a [[felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both][class[] felony].</p> <p>(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.</p>	<p>§ 5-50. Payment for gift.</p> <p>(a) Except as provided in subsection (b), any person who knowingly pays or offers to pay any financial consideration to a donor or to any of the persons listed in subsection (b) of Section 5-5 for making or consenting to an anatomical gift shall be guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.</p> <p>(b) This Section does not prohibit reimbursement for reasonable costs associated with the removal, storage or transportation of a human body or part thereof pursuant to an anatomical gift executed pursuant to this Act.</p>

<p>SECTION 17. OTHER PROHIBITED ACTS. A person that, 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 commits a [[felony] and upon conviction is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both] [class[] felony].</p>	
<p>SECTION 18. IMMUNITY.</p> <p>(a) A person that acts in accordance with this [act] or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.</p> <p>(b) Neither the person making an anatomical gift nor the donor’s estate is liable for any injury or damage that results from the making or use of the gift.</p> <p>(c) In determining whether an anatomical gift has been made, amended, or revoked under this [act], a person may rely upon representations of an individual listed in Section 9(a)(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.</p>	
<p>SECTION 19. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY.</p> <p>(a) A document of gift is valid if executed in accordance with:</p> <ul style="list-style-type: none"> (1) this [act]; (2) the laws of the state or country where it was executed; or (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. <p>(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.</p> <p>(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person</p>	

<p>knows that it was not validly executed or was revoked.</p>	
<p>SECTION 20. DONOR REGISTRY.</p> <p>(a) The [insert name of appropriate state agency] may establish or contract for the establishment of a donor registry.</p> <p>(b) The [state department of motor vehicles] shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.</p> <p>(c) A donor registry must:</p> <ul style="list-style-type: none">(1) allow a donor or other person authorized under Section 4 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;(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, amended, or revoked an anatomical gift; and(3) be accessible for purposes of paragraphs (1) and (2) seven days a week on a 24-hour basis. <p>(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 that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.</p> <p>(e) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (c) and (d).</p>	

SECTION 21. EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH-CARE DIRECTIVE.

(a) In this section:

(1) “Advance health-care directive” means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor’s direction concerning a health-care decision for the prospective donor.

(2) “Declaration” means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) “Health-care decision” means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health-care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability a part for transplantation or therapy, the prospective donor’s attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor’s declaration or directive, or if none or the agent is not reasonably available, another person authorized by law other than this [act] to make health-care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 9. 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, the measures is not contraindicated by appropriate end-of-life care.

SECTION 22. COOPERATION BETWEEN [CORONER] [MEDICAL EXAMINER] AND PROCUREMENT ORGANIZATION.

(a) A [coroner] [medical examiner] shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

(b) If a [coroner] [medical examiner] receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the [coroner] [medical examiner] and a post-mortem examination is going to be performed, unless the [coroner] [medical examiner] denies recovery in accordance with Section 23, the [coroner] [medical examiner] or designee shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a [coroner] [medical examiner] for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the [coroner] [medical examiner] may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a [coroner] [medical examiner] from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the [coroner] [medical examiner].

SECTION 23. FACILITATION OF ANATOMICAL GIFT FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF [CORONER] [MEDICAL EXAMINER].

(a) Upon request of a procurement organization, a [coroner] [medical examiner] shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the [coroner] [medical examiner]. If the decedent's body or

part is medically suitable for transplantation, therapy, research, or education, the [coroner] [medical examiner] shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the [coroner] [medical examiner] only if relevant to transplantation or therapy.

(b) The [coroner] [medical examiner] may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the [coroner] [medical examiner] which the [coroner] [medical examiner] determines may be relevant to the investigation.

(c) A person that has any information requested by a [coroner] [medical examiner] pursuant to subsection (b) shall provide that information as expeditiously as possible to allow the [coroner] [medical examiner] to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the [coroner] [medical examiner] and a post-mortem examination is not required, or the [coroner] [medical examiner] determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the [coroner] [medical examiner] and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the [coroner] [medical examiner] has been or might be made, but the [coroner] [medical examiner] initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the [coroner] [medical

examiner] shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the [coroner] [medical examiner] may allow the recovery.

(f) Following the consultation under subsection (e), in the absence of mutually agreed-upon protocols to resolve conflict between the [coroner] [medical examiner] and the procurement organization, if the [coroner] [medical examiner] intends to deny recovery, the [coroner] [medical examiner] or designee, at the request of the procurement organization, shall attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the [coroner] [medical examiner] or designee may allow recovery by the procurement organization to proceed, or, if the [coroner] [medical examiner] or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(g) If the [coroner] [medical examiner] or designee denies recovery under subsection (f), the [coroner] [medical examiner] or designee shall:

(1) explain in a record the specific reasons for not allowing recovery of the part;

(2) include the specific reasons in the records of the [coroner] [medical examiner]; and

(3) provide a record with the specific reasons to the procurement organization.

(h) If the [coroner] [medical examiner] or designee allows recovery of a part under subsection (d), (e), or (f), the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the [coroner] [medical examiner] with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the post-mortem examination.

(i) If a [coroner] [medical examiner] or designee is required to be present at a removal

<p>procedure under subsection (f), upon request the procurement organization requesting the recovery of the part shall reimburse the [coroner] [medical examiner] or designee for the additional costs incurred in complying with subsection (f).</p>	
<p>SECTION 24. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.</p>	
<p>SECTION 25. 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, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).</p>	
<p>SECTION 26. REPEALS. The following acts and parts of acts are repealed:</p> <ul style="list-style-type: none"> (1) [Uniform Anatomical Gift Act]; (2) (3) 	
<p>SECTION 27. EFFECTIVE DATE. This [act] takes effect ____.</p>	
	<p>§ 5-30. Corneal Transplants.</p> <p>(a) Upon request by a physician licensed to practice medicine in all its branches, or by an eye bank certified by the Eye Bank Association of America, and approved by the coroner or county medical examiner, in any case in which a patient is in need of corneal tissue for a transplant, a coroner or county medical examiner who orders the performance of an autopsy may provide corneal tissue of a decedent whenever all of the following conditions are met:</p> <ul style="list-style-type: none"> (1) The decedent from whom the tissue is taken is under the jurisdiction of the coroner or

	<p>county medical examiner.</p> <p>(2) There has been a reasonable and good faith effort by the coroner or county medical examiner or any authorized individual acting for the coroner or county medical examiner to contact an appropriate person as set forth in subsection (b) of this Section.</p> <p>(3) No objection by the decedent or, after the decedent's death, by an appropriate person as set forth in subsection (b) of this Section is known to the coroner or county medical examiner or authorized individual acting for the coroner or county medical examiner prior to removal of the corneal tissue.</p> <p>(4) The person designated to remove the tissue is qualified to do so under this Act.</p> <p>(5) Removal of the tissue will not interfere with the subsequent course of an investigation or autopsy.</p> <p>(6) The individual when living did not make known in writing his or her objection on religious grounds to the removal of his or her corneal tissue.</p> <p>(b) Objection to the removal of corneal tissue may be made known to the coroner or county medical examiner or authorized individual acting for the coroner or county medical examiner by the individual during his or her lifetime or by the following persons, in the order of priority stated, after the decedent's death:</p> <p>(1) an individual acting as the decedent's agent under a power of attorney for health care;</p> <p>(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act;</p> <p>(3) the guardian of the decedent's person at the time of death;</p> <p>(4) the decedent's spouse;</p>
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(5) any of the decedent's adult sons or daughters;

(6) either of the decedent's parents;

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

(8) any adult grandchild of the decedent;

(9) a close friend of the decedent;

(10) the guardian of the decedent's estate; or

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

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

(d) The coroner or county medical examiner or any authorized individual acting for the coroner or county medical examiner authorizing the removal of corneal tissue, or the persons or organizations listed in subsection (a) of this Section, shall not be liable in any civil or criminal action for removing corneal tissue from a decedent and using the same for transplant purposes if there has been compliance with the provisions of this Section.