

Public Law 91-268

AN ACT

May 26, 1970
[S. 2999]

To authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

D.C.
Anatomical
gifts.

DEFINITIONS; SHORT TITLE

SECTION 1. (a) As used in this Act, the term—

(1) "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;

(2) "decedent" means a deceased individual and includes a stillborn infant or fetus;

(3) "donor" means an individual who makes a gift of all or part of his body;

(4) "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;

(5) "part" includes organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of a human body, and "part" includes "parts";

(6) "person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity;

(7) "physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any State; and

(8) "State" includes any State, district, Commonwealth, territory, insular possession, the District of Columbia, and any other area subject to the legislative authority of the United States of America.

Short title.

(b) Sections 1 through 8 of this Act shall be known as the "District of Columbia Anatomical Gift Act".

PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT

SEC. 2. (a) Any individual of sound mind and eighteen years of age or more may give all or any part of his body for any purposes specified in section 3, the gift to take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in section 3:

(1) the spouse,

(2) an adult son or daughter,

(3) either parent,

(4) an adult brother or sister,

(5) a guardian of the person of the decedent at the time of his death, or

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

(c) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member

of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after death or immediately before death.

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

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d).

PERSONS WHO MAY BECOME DONEES, AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE

SEC. 3. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

- (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 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 specified individual for therapy or transplantation needed by him.

MANNER OF EXECUTING ANATOMICAL GIFTS

SEC. 4. (a) A gift of all or part of the body under section 2(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.

Gift by will.

(b) (1) A gift of all or part of the body under section 2(a) may also be made by document other than a will. The gift becomes effective upon death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

Other document.

Uniform donor card form.

(2) Any such document referred to in paragraph (1) of this subsection may be in the following form and contain the following information:

UNIFORM DONOR CARD

of

print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

I give: (a)—any needed organs or parts

(b)—only the following organs or parts

specify the organ (s) or part (s)

for the purposes of transplantation, therapy, medical research, or education;

(c)—my body for anatomical study if needed.

Limitations or special wishes, if any :

(Other side of card)

Signed by the donor and the following two witnesses in the presence of each other :

Signature of donor

Date of birth of donor

Date signed

City and State

Witness

Witness

This is a legal document under the District of Columbia Anatomical Gift Act or similar laws.

Donee provisions.

(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, 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. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

Surgeon or physician, designation.

(d) Notwithstanding section 7(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.

Recorded message.

(e) Any gift by a person designated in section 2(b) shall be made by a document signed by him, or made by his telegraphic, recorded telephonic, or other recorded message.

DELIVERY OF DOCUMENT OF GIFT

SEC. 5. If the gift is made by the donor to a specified donee, the will, card, or other document, or any executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death, but 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 them 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.

AMENDMENT OR REVOCATION OF THE GIFT

SEC. 6. (a) If the will, card, or other document of executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by—

- (1) the execution and delivery to the donee of a signed statement, or
- (2) an oral statement made in the presence of two persons and communicated to the donee, or
- (3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or
- (4) a signed card or document found on his person or in his effects.

(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) or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(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).

RIGHTS AND DUTIES AT DEATH

SEC. 7. (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. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. 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.

(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. This physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this Act, or under the anatomical gift laws of another State is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Act are subject to the laws of the District of Columbia prescribing powers and duties with respect to autopsies.

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Time of death.

Liability.

Autopsies.

UNIFORMITY OF INTERPRETATION

SEC. 8. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those States which enacted it.

SEC. 9. (a) That part of section 3 of the District of Columbia Tissue Bank Act (D.C. Code, sec. 2-252) which follows the definition of the term "Commissioners" is amended to read as follows:

"'Donor' means any person who, in accordance with the provisions of the District of Columbia Anatomical Gift Act, bequeaths or donates his tissue for removal after death in furtherance of the purposes of such Act, and also means any deceased person whose tissue is donated or disposed of for the purposes of this Act, the District of Columbia Anatomical Gift Act, or sections 675, 676, and 683 of the Act of March 3, 1901, as amended (D.C. Code, sec. 27-119a and sec. 27-125).

"'Tissue' means any body of a dead human or any portion thereof, including organs, tissues, eyes, bones, arteries, blood, and other fluids.

"'Tissue bank' means a facility for procuring, removing, and disposing of tissue for the purposes set forth in the District of Columbia Anatomical Gift Act, and for the purposes of reconstructive medicine and surgery, and research and teaching in reconstructive medicine and surgery."

(b) Subsection (b) of section 4 of the District of Columbia Tissue Bank Act is amended by striking out "prescribing, without limitation," and inserting in lieu thereof "to carry out the purposes of this Act and the District of Columbia Anatomical Gift Act, including, without limitation, rules and regulations prescribing."

(c) Sections 6, 7, and 8 of the District of Columbia Tissue Bank Act are hereby repealed.

(d) Subsection (b) of section 9 of the District of Columbia Tissue Bank Act is amended to read as follows:

"(b) The Coroner of the District of Columbia may, in his discretion, allow tissue to be removed from any dead human body in his custody or under his jurisdiction, if such tissue removal shall not interfere with other functions of the Office of the Coroner, and the person who, in accordance with section 2(b) of the District of Columbia Anatomical Gift Act, is authorized to donate tissue therefrom, shall first authorize such tissue removal."

(e) Section 683 of the Act of March 8, 1901 (D.C. Code, sec. 27-125), is amended by deleting "may be removed by or under the supervision of a person licensed under the authority of section 4 of such Act for preservation in a tissue bank operating pursuant to such Act," and inserting in lieu thereof the following: "or the District of Columbia Anatomical Gift Act may be removed by or under the supervision of a person licensed under the authority of section 4 of the District of Columbia Tissue Bank Act for preservation in a tissue bank operating pursuant to such Act, or for use in accordance with the provisions of the District of Columbia Anatomical Gift Act,".

(f) Sections 675 and 676 of the Act of March 3, 1901 (D.C. Code, sec. 27-119a), is amended by inserting immediately after "such Act" the following: "or the District of Columbia Anatomical Gift Act".

Approved May 26, 1970.

Human tissue banks.
Definitions.
76 Stat. 534.

Ante, p. 266.

64 Stat. 904;
31 Stat. 1298;
76 Stat. 536, 537.

Licenses and regulations.
76 Stat. 535.
D.C. Code 2-253.

Repeals.
D.C. Code 2-255
to 2-257.

Tissue removal, authorization.
D.C. Code 2-258.

64 Stat. 904;
76 Stat. 536.