



General Assembly

**Substitute Bill No. 5407**

February Session, 2004

\*            HB05407TRA            041604            \*

**AN ACT CONCERNING ORGAN DONATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2004*) (a) The Commissioner of  
2 Motor Vehicles and the Chief Information Officer of the Department of  
3 Information Technology shall enter into an agreement with one or  
4 more federally-designated organ and tissue procurement  
5 organizations to provide to such organizations access to the names,  
6 dates of birth and other pertinent information of holders of operator's  
7 licenses who have registered with the Department of Motor Vehicles  
8 an intent to become organ and tissue donors. Such access shall be  
9 provided in a manner and form to be determined by the commissioner  
10 and Chief Information Officer, following consultation with such  
11 organizations, and may include electronic transmission of initial  
12 information and periodic updating of information. The commissioner  
13 shall not charge a fee for such access pursuant to section 14-50a of the  
14 general statutes, as amended, but may charge such organizations  
15 reasonable administrative costs. Information provided to such  
16 organizations shall be used solely for identifying such license holders  
17 as organ and tissue donors.

18       (b) The Commissioner of Motor Vehicles shall include in regulations  
19 adopted pursuant to section 14-36f of the general statutes, a  
20 requirement that a description of the purposes and procedures of

21 procurement organizations, as defined in section 19a-279a of the  
22 general statutes, as amended by this act, be included in driver  
23 education programs.

24 Sec. 2. Subsection (f) of section 14-10 of the general statutes, as  
25 amended by section 7 of public act 03-265, is repealed and the  
26 following is substituted in lieu thereof (*Effective October 1, 2004*):

27 (f) The commissioner may disclose personal information from a  
28 motor vehicle record to:

29 (1) Any federal, state or local government agency in carrying out its  
30 functions or to any individual or entity acting on behalf of any such  
31 agency, or

32 (2) Any individual, organization or entity that signs and files with  
33 the commissioner, under penalty of false statement as provided in  
34 section 53a-157b, a statement on a form approved by the  
35 commissioner, together with such supporting documentation or  
36 information as the commissioner may require, that such information  
37 will be used for any of the following purposes:

38 (A) In connection with matters of motor vehicle or driver safety and  
39 theft, motor vehicle emissions, motor vehicle product alterations,  
40 recalls or advisories, performance monitoring of motor vehicles and  
41 dealers by motor vehicle manufacturers and removal of nonowner  
42 records from the original owner records of motor vehicle  
43 manufacturers to implement the provisions of the federal Automobile  
44 Information Disclosure Act, 15 USC 1231 et seq., the Clean Air Act, 42  
45 USC 7401 et seq., and 49 USC Chapters 301, 305 and 321 to 331,  
46 inclusive, as amended from time to time, and any provision of the  
47 general statutes enacted to attain compliance with said federal acts;

48 (B) In the normal course of business by the requesting party, but  
49 only to confirm the accuracy of personal information submitted by the  
50 individual to the requesting party;

51 (C) In connection with any civil, criminal, administrative or arbitral  
52 proceeding in any court or government agency or before any self-  
53 regulatory body, including the service of process, an investigation in  
54 anticipation of litigation by an attorney-at-law or any individual acting  
55 on behalf of an attorney-at-law and the execution or enforcement of  
56 judgments and orders, or pursuant to an order of any court provided  
57 the requesting party is a party in interest to such proceeding;

58 (D) In connection with matters of motor vehicle or driver safety and  
59 theft, motor vehicle emissions, motor vehicle product alterations,  
60 recalls or advisories, performance monitoring of motor vehicles and  
61 motor vehicle parts and dealers, motor vehicle market research  
62 activities including survey research, motor vehicle product and service  
63 communications, and removal of nonowner records from the original  
64 owner records of motor vehicle manufacturers, provided the personal  
65 information is not published, disclosed or used to contact individuals  
66 except as permitted under subparagraph (A) of this subdivision;

67 (E) By any insurer or insurance support organization or by a self-  
68 insured entity or its agents, employees or contractors, in connection  
69 with the investigation of claims arising under insurance policies,  
70 antifraud activities, rating or underwriting;

71 (F) In providing any notice required by law to owners or lienholders  
72 named in the certificate of title of towed, abandoned or impounded  
73 motor vehicles;

74 (G) By an employer or its agent or insurer to obtain or verify  
75 information relating to a holder of a passenger endorsement or  
76 commercial driver's license required under 49 USC Chapter 313, and  
77 sections 14-44 to 14-44m, inclusive, as amended;

78 (H) In connection with any lawful purpose of a labor organization,  
79 as defined in section 31-77, provided (i) such organization has entered  
80 into a contract with the commissioner, on such terms and conditions as  
81 the commissioner may require, and (ii) the information will be used  
82 only for the purposes specified in the contract other than campaign or

83 political purposes;

84 (I) For bulk distribution for surveys, marketing or solicitations  
85 provided the commissioner has obtained the express consent of the  
86 individual to whom such personal information pertains;

87 (J) For the purpose of preventing fraud by verifying the accuracy of  
88 personal information contained in a motor vehicle record, including an  
89 individual's photograph or computerized image, as submitted by an  
90 individual to a legitimate business or an agent, employee or contractor  
91 of a legitimate business, provided the individual has provided express  
92 consent in accordance with subdivision (5) of subsection (a) of this  
93 section;

94 (K) Inclusion of personal information about persons who have  
95 indicated consent to become organ and tissue donors in an organ  
96 donor registry established by a procurement organization, as defined  
97 in section 19a-279a, as amended by this act.

98 Sec. 3. Section 19a-279a of the general statutes is repealed and the  
99 following is substituted in lieu thereof (*Effective October 1, 2004*):

100 As used in sections 19a-279a to 19a-279l, inclusive, as amended by  
101 this act:

102 (1) "Anatomical gift" means a donation of all or part of a human  
103 body to take effect upon or after death.

104 (2) "Decedent" means a deceased person and includes a stillborn  
105 infant or fetus.

106 (3) "Document of gift" means [a card] an organ and tissue donor  
107 card, inclusion in an organ donor registry, a statement attached to or  
108 imprinted on a motor vehicle operator's or chauffeur's license, a will or  
109 other writing used to make an anatomical gift.

110 (4) "Donor" means a person who makes an anatomical gift of all or  
111 part of his or her body.

112 (5) "Hospital" means a hospital licensed under chapter 368v or  
113 licensed, accredited or approved as a hospital under the law of any  
114 state or a facility operated as a hospital by the United States  
115 government, a state or a subdivision of a state.

116 (6) "Organ donor registry" means an electronic database developed  
117 and maintained by any procurement organization to identify donors.

118 [(6)] (7) "Part" means an organ, tissue, eye, bone, artery, blood, fluid  
119 or other portion of a human body.

120 [(7)] (8) "Person" means an individual, corporation, limited liability  
121 company, business trust, estate, trust, partnership, joint venture,  
122 association, government, governmental subdivision or agency or any  
123 other legal or commercial entity.

124 [(8)] (9) "Physician" or "surgeon" means a person licensed to practice  
125 medicine and surgery under chapter 370 or the law of any other state.

126 [(9)] (10) "Procurement organization" means a person licensed,  
127 accredited or approved under federal law or the laws of any state as a  
128 nonprofit organ and tissue procurement organization for procurement,  
129 distribution or storage of human bodies or parts.

130 [(10)] (11) "State" means a state, territory or possession of the United  
131 States, the District of Columbia or the Commonwealth of Puerto Rico.

132 [(11)] (12) "Technician" means a technician of an organ or tissue  
133 procurement organization which meets the requirements of the  
134 American Association of Tissue Banks or the Eyebank Association of  
135 America.

136 Sec. 4. Section 19a-279b of the general statutes is repealed and the  
137 following is substituted in lieu thereof (*Effective October 1, 2004*):

138 (a) A person who is at least eighteen years of age may (1) make an  
139 anatomical gift for any of the purposes stated in subsection (a) of  
140 section 19a-279f, (2) limit an anatomical gift to one or more of such

141 purposes, or (3) refuse to make an anatomical gift.

142 (b) An anatomical gift may be made by a document of gift signed by  
143 the donor. If the donor cannot sign, the document of gift shall be  
144 signed by another person and by two witnesses, all of whom have  
145 signed at the direction and in the presence of the donor and of each  
146 other, and state that it has been so signed. In the absence of a  
147 revocation or amendment of any document of gift, health care  
148 providers licensed in this state and procurement organizations shall  
149 act in accordance with the donor's intention and may take appropriate  
150 actions to effect the anatomical gift.

151 (c) If a document of gift is attached to or imprinted on a donor's  
152 motor vehicle operator's license, the document of gift shall comply  
153 with subsection (b) of this section. Revocation, suspension, expiration  
154 or cancellation of the license shall not invalidate the anatomical gift.

155 (d) A document of gift may designate a particular physician or  
156 surgeon to carry out the appropriate procedures. In the absence of a  
157 designation or if the designee is not available, the donee or other  
158 person authorized to accept the anatomical gift may employ or  
159 authorize any physician or surgeon to carry out the appropriate  
160 procedure.

161 (e) An anatomical gift by will shall take effect upon the death of the  
162 testator, whether or not the will is probated. If, after death, the will is  
163 declared invalid for testamentary purposes, the validity of the  
164 anatomical gift is unaffected.

165 (f) A donor may amend or revoke an anatomical gift, not made by  
166 will, [only] by: (1) A signed statement, [or] (2) the delivery of a signed  
167 statement to a specified donee to whom a document of gift had been  
168 delivered, or (3) any form of communication during a terminal illness  
169 or injury addressed to a physician.

170 (g) The donor of an anatomical gift made by will may amend or  
171 revoke the gift in the manner provided for amendment or revocation

172 of wills, or as provided in subsection (f) of this section.

173 (h) An anatomical gift that is not revoked by the donor before death  
174 is irrevocable and shall not require the consent or concurrence of any  
175 person after the death of the donor.

176 (i) A person may refuse to make an anatomical gift of [his] such  
177 person's body or part by (1) a writing signed in the same manner as a  
178 document of gift, or (2) [a statement attached to or imprinted on a  
179 donor's motor vehicle operator's or chauffeur's license or (3)] any other  
180 writing used to identify the person as refusing to make an anatomical  
181 gift. During a terminal illness or injury, the refusal may be an oral  
182 statement or other form of communication addressed to a physician.

183 (j) In the absence of contrary indications by the donor, an anatomical  
184 gift of a part is neither a refusal to give other parts nor a limitation on  
185 an anatomical gift under section 19a-279c or on a removal or release of  
186 other parts under section 19a-279d.

187 (k) In the absence of contrary indications by the donor, a revocation  
188 or amendment of an anatomical gift is not a refusal to make another  
189 anatomical gift. If the donor intends a revocation to be a refusal to  
190 make an anatomical gift, the donor shall make the refusal pursuant to  
191 subsection (i) of this section.

192 Sec. 5. Section 19a-279e of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective October 1, 2004*):

194 (a) If, at or near the time of death of a patient, there is no [medical  
195 record] document of gift or other record that the patient has made or  
196 refused to make an anatomical gift, the hospital administrator or a  
197 representative designated by the administrator shall discuss the option  
198 to make or refuse to make an anatomical gift and request the making  
199 of an anatomical gift pursuant to subsection (a) of section 19a-279c. The  
200 request shall be made with reasonable discretion and sensitivity to the  
201 circumstances of the family. A request is not required if the gift is not  
202 suitable, based upon accepted medical standards, for a purpose

203 specified in section 19a-279f. An entry shall be made in the medical  
204 record of the patient stating the name and affiliation of the person  
205 making the request, and the name, response and relationship to the  
206 patient of the person to whom the request was made.

207 (b) The following persons shall make a reasonable search for a  
208 document of gift or other information identifying the bearer as a donor  
209 or as a person who has refused to make an anatomical gift: (1) A law  
210 enforcement officer, fireman, paramedic or other emergency rescuer  
211 finding a person who the searcher believes is dead or near death; [and]  
212 (2) a hospital, upon the admission of a person at or near the time of  
213 death, if there is not immediately available any other source of that  
214 information; and (3) a procurement organization.

215 (c) If a document of gift or evidence of refusal to make an  
216 anatomical gift is located by the search required by subdivision (1) of  
217 subsection (b) of this section, and the person or body to whom it  
218 relates is taken to a hospital, the hospital shall be notified of the  
219 contents and the document or other evidence shall be sent to the  
220 hospital.

221 (d) If, at or near the time of death of a patient, a hospital knows that  
222 an anatomical gift has been made pursuant to subsection (b) of section  
223 19a-279b, as amended by this act, and subsection (a) of section 19a-279c  
224 or a release and removal of a part has been permitted pursuant to  
225 section 19a-279d, or that a patient or a person identified as in transit to  
226 the hospital is a donor, the hospital shall notify the donee if one is  
227 named and known to the hospital; if not, it shall notify an appropriate  
228 procurement organization. The hospital shall cooperate in the  
229 implementation of the anatomical gift or release and removal of a part.

230 (e) A person who fails to discharge the duties imposed by this  
231 section shall not be subject to criminal or civil liability but shall be  
232 subject to appropriate administrative sanctions.

233 Sec. 6. Subsection (a) of section 19a-279j of the general statutes is  
234 repealed and the following is substituted in lieu thereof (*Effective*

235 October 1, 2004):

236 (a) An anatomical gift shall authorize any reasonable examination  
237 necessary to assure medical acceptability of the gift for the purposes  
238 intended, including, but not limited to, serological and compatibility  
239 testing. Notwithstanding any provision of the general statutes, a  
240 procurement organization maintaining an organ donor registry that  
241 includes the potential donor, may access and review the medical  
242 record of the potential donor for purposes of assessing donor  
243 suitability.

244 Sec. 7. Section 19a-583 of the general statutes is repealed and the  
245 following is substituted in lieu thereof (*Effective October 1, 2004*):

246 (a) No person who obtains confidential HIV-related information  
247 may disclose or be compelled to disclose such information, except to  
248 the following:

249 (1) The protected individual, his legal guardian or a person  
250 authorized to consent to health care for such individual;

251 (2) Any person who secures a release of confidential HIV-related  
252 information;

253 (3) A federal, state or local health officer when such disclosure is  
254 mandated or authorized by federal or state law;

255 (4) A health care provider or health facility when knowledge of the  
256 HIV-related information is necessary to provide appropriate care or  
257 treatment to the protected individual or a child of the individual or  
258 when confidential HIV-related information is already recorded in a  
259 medical chart or record and a health care provider has access to such  
260 record for the purpose of providing medical care to the protected  
261 individual;

262 (5) A medical examiner to assist in determining the cause or  
263 circumstances of death;

264 (6) Health facility staff committees or accreditation or oversight  
265 review organizations which are conducting program monitoring,  
266 program evaluation or service reviews;

267 (7) A health care provider or other person in cases where such  
268 provider or person in the course of his occupational duties has had a  
269 significant exposure to HIV infection, provided the following criteria  
270 are met: (A) The worker is able to document significant exposure  
271 during performance of his occupation, (B) the worker completes an  
272 incident report within forty-eight hours of exposure, identifying the  
273 parties to the exposure, witnesses, time, place and nature of the event,  
274 (C) the worker submits to a baseline HIV test within seventy-two  
275 hours of the exposure and is negative on that test for the presence of  
276 the AIDS virus, (D) the patient's or person's physician or, if the patient  
277 or person does not have a personal physician or if the patient's or  
278 person's physician is unavailable, another physician or health care  
279 provider has approached the patient or person and sought voluntary  
280 consent to disclosure and the patient or person refuses to consent to  
281 disclosure, except in an exposure where the patient or person is  
282 deceased, (E) the worker would be able to take meaningful immediate  
283 action as defined in regulations adopted pursuant to section 19a-589  
284 which could not otherwise be taken, (F) an exposure evaluation group  
285 determines that the criteria specified in subparagraphs (A), (B), (C), (D)  
286 and (E) of this subdivision are met and that a worker has a significant  
287 exposure to the blood of a patient or person and the patient or person  
288 or the patient's or person's legal guardian refuses to consent to release  
289 of the information. No member of the exposure evaluation group who  
290 determines that a worker has sustained a significant exposure and  
291 authorizes the disclosure of confidential HIV-related information nor  
292 the health facility, correctional facility or other institution nor any  
293 person in a health facility, correctional facility or other institution who  
294 relies in good faith on the group's determination and discloses the  
295 result shall have any liability as a result of his action carried out under  
296 this section, unless such persons acted in bad faith. If the information is  
297 not held by a health facility, correctional facility or other institution, a

298 physician not directly involved in the exposure has certified in writing  
299 that the criteria specified in subparagraphs (A), (B), (C), (D) and (E) of  
300 this subdivision are met and that a significant exposure has occurred;

301 (8) Employees of hospitals for mental illness operated by the  
302 Department of Mental Health and Addiction Services if the infection  
303 control committee of the hospital determines that the behavior of the  
304 patient poses a significant risk of transmission to another patient of the  
305 hospital. Disclosure shall only be allowed if it is likely to prevent or  
306 reduce the risk of transmission and no reasonable alternatives exist  
307 that will achieve the same goal and also preserve the confidentiality of  
308 the information. Such "reasonable alternatives" include counseling the  
309 patient concerning behaviors that pose a risk of transmission and other  
310 efforts to prevent or address the behaviors that pose a significant risk  
311 of transmission without disclosing the patient's HIV status or other  
312 confidential HIV-related information. Disclosure shall be limited to as  
313 few employees as possible and only to those employees with a direct  
314 need to receive the information to achieve the purpose authorized by  
315 this subdivision;

316 (9) Employees of facilities operated by the Department of Correction  
317 to provide services related to HIV infection or if the medical director  
318 and chief administrator of the facility determine that the behavior of an  
319 inmate poses significant risk of transmission to another inmate or has  
320 resulted in a significant exposure of another inmate of the facility. Such  
321 a disclosure shall only be made if it is specifically required to enable  
322 the inmate to receive such services or is likely to prevent or reduce the  
323 risk of transmission and no reasonable alternatives exist that will  
324 achieve the same goal and also preserve the confidentiality of the  
325 information. Such "reasonable alternatives" include counseling the  
326 inmate concerning behaviors that pose a risk of transmission or other  
327 efforts to prevent or address the behaviors that pose a significant risk  
328 of transmission without disclosing the patient's HIV status or other  
329 confidential HIV-related information. Disclosure shall be limited to as  
330 few employees as possible and only to those employees with a direct  
331 need to receive the information to achieve a purpose authorized by this

332 subdivision;

333 (10) Any person allowed access to such information by a court order  
334 which is issued in compliance with the following provisions: (A) No  
335 court of this state shall issue such order unless the court finds a clear  
336 and imminent danger to the public health or the health of a person and  
337 that the person has demonstrated a compelling need for the test results  
338 which cannot be accommodated by other means. In assessing  
339 compelling need, the court shall weigh the need for disclosure against  
340 the privacy interest of the test subject and the public interest which  
341 may be disserved by disclosure which deters future testing or which  
342 may lead to discrimination. (B) Pleadings pertaining to disclosure of  
343 confidential HIV-related information shall substitute a pseudonym for  
344 the true name of the subject of the test. The disclosure to the parties of  
345 the subject's true name shall be communicated confidentially, in  
346 documents not filed with the court. (C) Before granting any such order,  
347 the court shall provide the individual whose test result is in question  
348 with notice and a reasonable opportunity to participate in the  
349 proceedings if he is not already a party. (D) Court proceedings as to  
350 disclosure of confidential HIV-related information shall be conducted  
351 in camera unless the subject of the test agrees to a hearing in open  
352 court or unless the court determines that a public hearing is necessary  
353 to the public interest and the proper administration of justice. (E) Upon  
354 the issuance of an order to disclose test results, the court shall impose  
355 appropriate safeguards against unauthorized disclosure, which shall  
356 specify the persons who may have access to the information, the  
357 purposes for which the information shall be used, and appropriate  
358 prohibitions on future disclosure;

359 (11) Life and health insurers, government payers and health care  
360 centers and their affiliates, reinsurers, and contractors, except agents  
361 and brokers, in connection with underwriting and claim activity for  
362 life, health, and disability benefits; [and]

363 (12) Any health care provider specifically designated by the  
364 protected individual to receive such information received by a life or

365 health insurer or health care center pursuant to an application for life,  
366 health or disability insurance; and

367 (13) A procurement organization, for the purposes of assessing  
368 donor suitability pursuant to section 19a-279j, as amended by this act.

369 (b) No person, except the protected individual, his legal guardian or  
370 a person authorized to consent to health care for such individual, to  
371 whom confidential HIV-related information is disclosed may further  
372 disclose such information, except as provided in this section and  
373 sections 19a-584 and 19a-585.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

**PH**            *Joint Favorable Subst.*

**TRA**           *Joint Favorable*