



Senate

General Assembly

File No. 516

February Session, 2010

Senate Bill No. 250

Senate, April 13, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING ANATOMICAL GIFTS.

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

1 Section 1. (NEW) (*Effective October 1, 2010*) Sections 1 to 23,
2 inclusive, of this act, may be cited as the "Revised Uniform Anatomical
3 Gift Act."

4 Sec. 2. (NEW) (*Effective October 1, 2010*) As used in sections 2 to 23,
5 inclusive, of this act, unless the context otherwise requires:

6 (1) "Adult" means an individual who is at least eighteen years of
7 age.

8 (2) "Agent" means an individual:

9 (A) Authorized to make health-care decisions on the principal's
10 behalf by a power of attorney for health care; or

11 (B) Expressly authorized to make an anatomical gift on the
12 principal's behalf by any other record signed by the principal.

13 (3) "Anatomical gift" means a donation of all or part of a human
14 body to take effect after the donor's death for the purpose of
15 transplantation, therapy, research or education.

16 (4) "Decedent" means a deceased individual whose body or part is
17 or may be the source of an anatomical gift, including a stillborn infant
18 and, subject to restrictions imposed by law other than the provisions of
19 sections 2 to 23, inclusive, of this act, a fetus.

20 (5) "Disinterested witness" (A) means a witness other than the
21 spouse, child, parent, sibling, grandchild, grandparent or guardian of
22 the individual who makes, amends, revokes or refuses to make an
23 anatomical gift, or another adult who exhibited special care and
24 concern for the individual, and (B) does not include a person to whom
25 an anatomical gift could pass under section 11 of this act.

26 (6) "Document of gift" means a donor card or other record used to
27 make an anatomical gift, including a statement or symbol on an
28 operator's license or identification card or inclusion in a donor registry.

29 (7) "Donor" means an individual whose body or part is the subject of
30 an anatomical gift.

31 (8) "Donor registry" means the state donor registry maintained
32 pursuant to the provisions of section 14-42a of the general statutes, as
33 amended by this act, and includes any other database that identifies
34 donors and conforms with the provisions of section 20 of this act.

35 (9) "Eye bank" means a person that is licensed, accredited or
36 regulated under federal or state law to engage in the recovery,
37 screening, testing, processing, storage or distribution of human eyes or
38 portions of human eyes.

39 (10) "Guardian" (A) means a person appointed by a court to make
40 decisions regarding the support, care, education, health or welfare of
41 an individual, and (B) does not include a guardian ad litem.

42 (11) "Hospital" means a facility licensed as a hospital under chapter

43 368v of the general statutes or the law of any other state or a facility
44 operated as a hospital by the United States, a state or a subdivision of a
45 state.

46 (12) "Identification card" means an identification card issued by the
47 Department of Motor Vehicles.

48 (13) "Knows" or "knowingly" means to have actual knowledge.

49 (14) "Minor" means an individual who is under eighteen years of
50 age.

51 (15) "Operator's license" means a license or permit issued by the
52 Department of Motor Vehicles to operate a vehicle, whether or not
53 conditions are attached to such license or permit.

54 (16) "Organ procurement organization" means a person designated
55 by the Secretary of the United States Department of Health and
56 Human Services as an organ procurement organization.

57 (17) "Parent" means a parent whose parental rights have not been
58 terminated.

59 (18) "Part" (A) means an organ, an eye or tissue of a human being,
60 and (B) does not include the whole body.

61 (19) "Person" means an individual, corporation, business trust,
62 estate, trust, partnership, limited liability company, association, joint
63 venture, public corporation, government or governmental subdivision,
64 agency, or instrumentality, or any other legal or commercial entity.

65 (20) "Physician" means an individual authorized to practice
66 medicine or osteopathy under chapter 370 of the general statutes or the
67 law of any other state.

68 (21) "Procurement organization" means a person licensed,
69 accredited or approved under federal laws or the laws of any state, as a
70 nonprofit organ procurement organization, eye or tissue bank.

71 (22) "Prospective donor" means an individual, except for an
72 individual who has made a refusal, who is dead or near death and has
73 been determined by a procurement organization to have a part that
74 could be medically suitable for transplantation, therapy, research or
75 education.

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

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

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

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

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

90 (A) To execute or adopt a tangible symbol; or

91 (B) To attach to or logically associate with the record an electronic
92 symbol, sound or process.

93 (28) "State" means a state of the United States, the District of
94 Columbia, Puerto Rico, the United States Virgin Islands, or any
95 territory or insular possession subject to the jurisdiction of the United
96 States.

97 (29) "Technician" means an individual, including an enucleator,
98 determined to be qualified to remove or process parts by an
99 appropriate organization that is licensed, accredited or regulated

100 under federal or state law.

101 (30) "Tissue" means a portion of the human body other than an
102 organ or an eye, and excludes blood unless such blood is donated for
103 the purpose of research or education.

104 (31) "Tissue bank" means a person that is licensed, accredited or
105 regulated under federal or state law to engage in the recovery,
106 screening, testing, processing, storage or distribution of tissue.

107 (32) "Transplant hospital" means a hospital that furnishes organ
108 transplants and other medical and surgical specialty services required
109 for the care of transplant patients.

110 Sec. 3. (NEW) (*Effective October 1, 2010*) The provisions of sections 1
111 to 23, inclusive, of this act, and section 14-42 of the general statutes, as
112 amended by this act, apply to an anatomical gift or amendment to,
113 revocation of, or refusal to make an anatomical gift, whenever made.

114 Sec. 4. (NEW) (*Effective October 1, 2010*) Subject to the provisions of
115 section 8 of this act, an anatomical gift of a donor's body or part may
116 be made during the life of the donor for the purpose of transplantation,
117 therapy, research or education in the manner provided in section 5 of
118 this act by: (1) The donor, if the donor is an adult or if the donor is a
119 minor and is: (A) Emancipated; or (B) authorized under state law to
120 apply for an operator's license or identification card; (2) an agent of the
121 donor, including, but not limited to, a health care representative
122 appointed under section 19a-576 of the general statutes, unless the
123 power of attorney for health care or other record prohibits the agent
124 from making an anatomical gift; (3) a parent of the donor, if the donor
125 is an unemancipated minor; or (4) the donor's guardian.

126 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) A donor may make an
127 anatomical gift: (1) By authorizing donor designation in a donor
128 registry; (2) by means of a will; (3) during a terminal illness or injury of
129 the donor, by any form of communication addressed to at least two
130 adults, at least one of whom is a disinterested witness; or (4) through

131 execution of a record pursuant to subsection (b) of this section.

132 (b) A donor or other person authorized to make an anatomical gift
133 under section 4 of this act may make a gift by a donor card or other
134 record signed by the donor or other person making the gift or by
135 authorizing that a statement or symbol indicating that the donor has
136 made an anatomical gift be included on a donor registry. If the donor
137 or other person is physically unable to sign a record, the record may be
138 signed by another individual at the direction of the donor or other
139 person and shall: (1) Be witnessed by at least two adults, at least one of
140 whom is a disinterested witness, who have signed at the request of the
141 donor or the other person; and (2) state that it has been signed and
142 witnessed as provided in subdivision (1) of this subsection.

143 (c) Revocation, suspension, expiration or cancellation of an
144 operator's license or identification card issued to a donor shall not
145 invalidate an anatomical gift.

146 (d) An anatomical gift made by will takes effect upon the donor's
147 death whether or not the will is probated. Invalidation of the will after
148 the donor's death shall not invalidate the gift.

149 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Subject to the provisions
150 of section 8 of this act, a donor or other person authorized to make an
151 anatomical gift under section 4 of this act, may amend or revoke an
152 anatomical gift by: (1) A record signed by (A) the donor; (B) the other
153 person; or (C) subject to subsection (b) of this section, another
154 individual acting at the direction of the donor or the other person if the
155 donor or other person is physically unable to sign; or (2) a
156 subsequently executed document of gift that amends or revokes a
157 previous anatomical gift or portion of an anatomical gift, either
158 expressly or by inconsistency.

159 (b) A record signed pursuant to subparagraph (C) of subdivision (1)
160 of subsection (a) of this section shall: (1) Be witnessed by at least two
161 adults, at least one of whom is a disinterested witness, who have
162 signed at the request of the donor or the other person; and (2) state that

163 such record has been signed and witnessed as provided for in
164 subsection (a) of this section.

165 (c) Subject to the provisions of section 8 of this act, a donor or other
166 person authorized to make an anatomical gift under section 4 of this
167 act may revoke an anatomical gift by the destruction or cancellation of
168 the document of gift, or the portion of the document of gift used to
169 make the gift, with the intent to revoke the gift.

170 (d) A donor may amend or revoke an anatomical gift that was not
171 made in a will by any form of communication during a terminal illness
172 or injury addressed to at least two adults, at least one of whom is a
173 disinterested witness.

174 (e) A donor who makes an anatomical gift in a will may amend or
175 revoke the gift in the manner provided for amendment or revocation
176 of wills or as provided in subsection (a) of this section.

177 Sec. 7. (NEW) (*Effective October 1, 2010*) (a) An individual may refuse
178 to make an anatomical gift of the individual's body or part by: (1) A
179 record signed by: (A) The individual; or (B) subject to the provisions of
180 subsection (b) of this section, another individual acting at the direction
181 of the individual if the individual is physically unable to sign; (2) the
182 individual's will, whether or not the will is admitted to probate or
183 invalidated after the individual's death; or (3) any form of
184 communication made by the individual during the individual's
185 terminal illness or injury addressed to at least two adults, at least one
186 of whom is a disinterested witness.

187 (b) A record signed pursuant to subparagraph (B) of subdivision (1)
188 of subsection (a) of this section shall: (1) Be witnessed by at least two
189 adults, at least one of whom is a disinterested witness, who have
190 signed at the request of the individual; and (2) state that such record
191 has been signed and witnessed as provided for in subsection (a) of this
192 section.

193 (c) An individual who has made a refusal may amend or revoke

194 such refusal: (1) In the manner provided in subsection (a) of this
195 section for making a refusal; (2) by subsequently making an anatomical
196 gift pursuant to section 5 of this act that is inconsistent with the refusal;
197 or (3) by destroying or canceling the record evidencing the refusal, or
198 the portion of the record used to make the refusal, with the intent to
199 revoke the refusal.

200 (d) Except as otherwise provided in subsection (g) of section 8 of
201 this act, in the absence of an express, contrary indication by the
202 individual set forth in the refusal, an individual's unrevoked refusal to
203 make an anatomical gift of the individual's body or part bars all other
204 persons from making an anatomical gift of the individual's body or
205 part.

206 Sec. 8. (NEW) (*Effective October 1, 2010*) (a) Except as provided in
207 subsection (g) of this section and subject to the provisions of subsection
208 (f) of this section, in the absence of an express, contrary indication by
209 the donor, a person other than the donor is barred from making,
210 amending or revoking an anatomical gift of a donor's body or part if
211 the donor made an anatomical gift of the donor's body or part under
212 section 5 of this act or an amendment to an anatomical gift of the
213 donor's body or part under section 6 of this act.

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

218 (c) If a person other than the donor makes an unrevoked anatomical
219 gift of the donor's body or part under section 5 of this act or an
220 amendment to an anatomical gift of the donor's body or part under
221 section 6 of this act, another person may not make, amend or revoke
222 the gift of the donor's body or part under section 10 of this act.

223 (d) A revocation of an anatomical gift of a donor's body or part
224 under section 6 of this act by a person other than the donor shall not
225 preclude another person from making an anatomical gift of the body

226 or part under section 5 or 10 of this act.

227 (e) In the absence of an express, contrary indication by the donor or
228 other person authorized to make an anatomical gift under section 4 of
229 this act, (1) an anatomical gift of a part is neither a refusal to give
230 another part nor a limitation on the making of an anatomical gift of
231 another part at a later time by the donor or another person; and (2) an
232 anatomical gift of a part for one or more of the purposes set forth in
233 section 4 of this act is not a limitation on the making of an anatomical
234 gift of the part for any of the other purposes by the donor or any other
235 person under section 5 or 10 of this act.

236 (f) If a donor who is an unemancipated minor dies, a parent of the
237 donor who is reasonably available may revoke or amend an
238 anatomical gift of the donor's body or part.

239 (g) If an unemancipated minor who signed a refusal dies, a parent of
240 the minor who is reasonably available may revoke the minor's refusal.

241 Sec. 9. (NEW) (*Effective October 1, 2010*) (a) Subject to the provisions
242 of subsections (b) and (c) of this section and unless precluded by
243 section 7 or 8 of this act, an anatomical gift of a decedent's body or part
244 for purpose of transplantation, therapy, research or education may be
245 made by any member of the following classes of persons who is
246 reasonably available, in the order of priority listed:

247 (1) An agent of the decedent who could have made an anatomical
248 gift under subdivision (2) of section 4 of this act immediately before
249 the decedent's death;

250 (2) The spouse of the decedent;

251 (3) A person designated by the decedent pursuant to section 1-56r of
252 the general statutes, as amended by this act;

253 (4) Adult children of the decedent;

254 (5) Parents of the decedent;

- 255 (6) Adult siblings of the decedent;
- 256 (7) Adult grandchildren of the decedent;
- 257 (8) Grandparents of the decedent;
- 258 (9) An adult who exhibited special care and concern for the
259 decedent;
- 260 (10) The persons who were acting as the guardians or conservator of
261 the person of the decedent at the time of death; and
- 262 (11) Any other person having the authority to dispose of the
263 decedent's body.

264 (b) If there is more than one member of a class listed in subdivision
265 (1), (3), (4), (5), (6), (7), (8) or (10) of subsection (a) of this section
266 entitled to make an anatomical gift, an anatomical gift may be made by
267 any member of the class unless that member or a person to which the
268 gift may pass under section 11 of this act knows of an objection by any
269 other member of the class. If an objection is known, the gift may be
270 made only by a majority of the members of the class who are
271 reasonably available.

272 (c) A person may not make an anatomical gift if, at the time of the
273 decedent's death, a person in a higher priority class under subsection
274 (a) of this section is reasonably available to make or to object to the
275 making of an anatomical gift.

276 Sec. 10. (NEW) (*Effective October 1, 2010*) (a) A person authorized to
277 make an anatomical gift under section 9 of this act may make an
278 anatomical gift by a document of gift signed by the person making the
279 gift or by that person's oral communication that is electronically
280 recorded or is contemporaneously reduced to a record and signed by
281 the individual receiving the oral communication.

282 (b) Subject to the provisions of subsection (c) of this section, an
283 anatomical gift by a person authorized under section 9 of this act may

284 be amended or revoked orally or in a record by any member of a
285 higher priority class under subsection (a) of section 9 of this act, who is
286 reasonably available. If more than one member of such higher priority
287 class is reasonably available, the gift made by a person authorized
288 under section 9 of this act may be: (1) Amended, only if a majority of
289 the reasonably available higher priority class members agree to the
290 amending of the gift; or (2) revoked, only if a majority of the
291 reasonably available higher priority class members agree to the
292 revoking of the gift or they are equally divided as to whether to revoke
293 the gift.

294 (c) A revocation under subsection (b) of this section is effective only
295 if the procurement organization, transplant hospital or physician or
296 technician knows of the revocation before an incision has been made to
297 remove a part from the donor's body or before invasive procedures
298 have begun to prepare the recipient.

299 Sec. 11. (NEW) (*Effective October 1, 2010*) (a) An anatomical gift may
300 be made to the following persons named in the document of gift: (1) A
301 hospital; accredited medical school, dental school, college or
302 university; organ procurement organization; or other appropriate
303 person, for research or education; (2) subject to the provisions of
304 subsection (b) of this section, a named individual designated by the
305 person making the anatomical gift if the individual is the recipient of
306 the part; or (3) an eye bank or tissue bank.

307 (b) If an anatomical gift to an individual under subdivision (2) of
308 subsection (a) of this section cannot be transplanted into the
309 individual, the part passes in accordance with the provisions of
310 subsection (g) of this section in the absence of an express, contrary
311 indication by the person making the anatomical gift.

312 (c) If an anatomical gift of one or more specific parts or of all parts is
313 made in a document of gift that does not name a person described in
314 subsection (a) of this section but identifies the purpose for which an
315 anatomical gift may be used, the following provisions shall apply: (1)
316 If the part is an eye and the gift is for the purpose of transplantation or

317 therapy, the gift passes to the appropriate eye bank; (2) if the part is
318 tissue and the gift is for the purpose of transplantation or therapy, the
319 gift passes to the appropriate tissue bank; (3) if the part is an organ and
320 the gift is for the purpose of transplantation or therapy, the gift passes
321 to the appropriate organ procurement organization as custodian of the
322 organ; and (4) if the part is an organ, an eye or tissue and the gift is for
323 the purpose of research or education, the gift passes to the appropriate
324 procurement organization.

325 (d) For purposes of subsection (c) of this section, if there is more
326 than one purpose of an anatomical gift set forth in the document of gift
327 but such purposes are not set forth in any priority, the gift shall be
328 used for transplantation or therapy, if suitable for those purposes, if
329 the gift cannot be used for transplantation or therapy, the gift may be
330 used for research or education.

331 (e) If an anatomical gift of one or more specific parts is made in a
332 document of gift that does not name a person described in subsection
333 (a) of this section and does not identify the purpose of the gift, the gift
334 passes in accordance with the provisions of subsection (g) of this
335 section and the parts shall be used for transplantation or therapy, if
336 suitable, and if not suitable for those purposes, may be used for
337 research or education.

338 (f) If a document of gift specifies only a general intent to make an
339 anatomical gift by words such as "donor", "organ donor" or "body
340 donor", or by a symbol or statement of similar import, the gift passes in
341 accordance with the provisions of subsection (g) of this section and the
342 parts shall be used for transplantation or therapy, if suitable, and if not
343 suitable for those purposes, may be used for research or education.

344 (g) In accordance with subsections (b), (e) and (f) of this section, the
345 following provisions shall apply: (1) If the part is an eye, the gift passes
346 to the appropriate eye bank; (2) if the part is tissue, the gift passes to
347 the appropriate tissue bank; and (3) if the part is an organ, the gift
348 passes to the appropriate organ procurement organization as
349 custodian of the organ.

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

354 (i) If an anatomical gift does not pass pursuant to the provisions of
355 subsections (a) to (h), inclusive, of this section or the decedent's body
356 or part is not used for transplantation, therapy, research or education,
357 custody of the body or part passes to the person under obligation to
358 dispose of the body or part.

359 (j) A person may not accept an anatomical gift if the person knows
360 that the gift was not effectively made under section 5 or 10 of this act,
361 or if the person knows that the decedent made a refusal under section
362 7 of this act that was not revoked. For purposes of this subsection, if a
363 person knows that an anatomical gift was made on a document of gift,
364 the person is deemed to know of any amendment or revocation of the
365 gift or any refusal to make an anatomical gift on the same document of
366 gift.

367 (k) Except as otherwise provided in subdivision (2) of subsection (a)
368 of this section, nothing in this section shall affect the allocation of
369 organs for transplantation or therapy.

370 Sec. 12. (NEW) (*Effective October 1, 2010*) (a) The following persons
371 shall make a reasonable search of an individual who the person
372 reasonably believes is dead or near death for a document of gift or
373 other information identifying the individual as a donor or as an
374 individual who made a refusal: (1) A law enforcement officer,
375 firefighter, paramedic or other emergency rescuer finding the
376 individual; and (2) if no other source of the information is immediately
377 available, a hospital, as soon as practical after the individual's arrival at
378 the hospital.

379 (b) If a document of gift or a refusal to make an anatomical gift is
380 located as a result of the search required pursuant to subsection (a) of
381 this section and the individual or deceased individual to whom such

382 search relates is taken to a hospital, the person responsible for
383 conducting such search shall send the document of gift or refusal to
384 the hospital.

385 (c) A person shall not be subject to criminal or civil liability for
386 failing to discharge the duties imposed by this section, but may be
387 subject to administrative sanctions.

388 Sec. 13. (NEW) (*Effective October 1, 2010*) (a) A document of gift need
389 not be delivered during the donor's lifetime to be effective.

390 (b) Upon or after an individual's death, a person in possession of a
391 document of gift or a refusal to make an anatomical gift with respect to
392 the individual shall allow examination and copying of the document of
393 gift or refusal by a person authorized to make or object to the making
394 of an anatomical gift with respect to the individual or by a person to
395 which the gift could pass under section 11 of this act.

396 Sec. 14. (NEW) (*Effective October 1, 2010*) (a) When a hospital refers
397 an individual at or near death to a procurement organization, the
398 organization shall make a reasonable search of the records of the
399 Department of Motor Vehicles and any donor registry that it knows
400 exists for the geographical area in which the individual resides to
401 ascertain whether the individual has made an anatomical gift.

402 (b) A procurement organization shall be allowed reasonable access
403 to information contained in records maintained by the Department of
404 Motor Vehicles in accordance with the provisions of subsection (f) of
405 section 14-10 of the general statutes, as amended by this act, to
406 ascertain whether an individual at or near death is a donor.

407 (c) When a hospital refers an individual at or near death to a
408 procurement organization, the organization may conduct any
409 reasonable examination necessary to assess the medical suitability of a
410 part that is or could be the subject of an anatomical gift for
411 transplantation, therapy, research or education from a donor or a
412 prospective donor. During such examination period, measures

413 necessary to maintain the potential medical suitability of the part may
414 not be withdrawn unless the hospital or procurement organization
415 knows that the individual expressed a contrary intent.

416 (d) Unless otherwise prohibited by law, at any time after a donor's
417 death, the person to which a part passes under section 11 of this act
418 may conduct any reasonable examination necessary to assess the
419 medical suitability of the body or part for its intended purpose.

420 (e) Unless otherwise prohibited by law, an examination undertaken
421 pursuant to subsection (c) or (d) of this section may include an
422 examination of all medical and dental records of the donor or
423 prospective donor.

424 (f) Upon the death of a minor who was a donor or had signed a
425 refusal, unless a procurement organization knows the minor is
426 emancipated, the procurement organization shall conduct a reasonable
427 search for the parents of the minor and provide the parents with an
428 opportunity to revoke or amend the anatomical gift or revoke the
429 refusal.

430 (g) Upon referral by a hospital pursuant to subsection (a) of this
431 section, a procurement organization shall make a reasonable search for
432 any person listed in section 9 of this act having priority to make an
433 anatomical gift on behalf of a prospective donor. If a procurement
434 organization receives information that an anatomical gift to any other
435 person was made, amended or revoked, the procurement organization
436 shall promptly advise the other person of all relevant information.

437 (h) Subject to the provisions of subsection (i) of section 11 of this act,
438 the rights of any person to which a part passes under section 11 of this
439 act shall be superior to the rights of all others with respect to the part.
440 Such person may accept or reject an anatomical gift in whole or in part.
441 Subject to the terms of the document of gift and sections 1 to 23,
442 inclusive, of this act, a person that accepts an anatomical gift of an
443 entire body may allow embalming, burial or cremation, and use of
444 remains in a funeral service. If the gift is of a part, the person to which

445 the part passes under section 11 of this act, upon the death of the
446 donor and before embalming, burial or cremation, shall cause the part
447 to be removed without unnecessary mutilation.

448 (i) Neither the physician who attends the decedent at death nor the
449 physician who determines the time of the decedent's death may
450 participate in the procedures for removing or transplanting a part from
451 the decedent.

452 (j) A licensed physician or technician possessing the requisite skills
453 and qualifications may remove a donated part from the body of a
454 donor.

455 Sec. 15. (NEW) (*Effective October 1, 2010*) Each hospital in this state
456 shall enter into agreements or affiliations with procurement
457 organizations for coordination of procurement and use of anatomical
458 gifts.

459 Sec. 16. (NEW) (*Effective October 1, 2010*) (a) Except as provided in
460 subsection (b) of this section, a person that for valuable consideration,
461 knowingly purchases or sells a part for transplantation or therapy if
462 removal of a part from an individual is intended to occur after the
463 individual's death shall be guilty of a class A misdemeanor.

464 (b) A person may charge a reasonable amount for the removal,
465 processing, preservation, quality control, storage, transportation,
466 implantation or disposal of a part.

467 Sec. 17. (NEW) (*Effective October 1, 2010*) A person that, in order to
468 obtain a financial gain, intentionally falsifies, forges, conceals, defaces
469 or obliterates a document of gift, an amendment or revocation of a
470 document of gift, or a refusal shall be guilty of a class A misdemeanor.

471 Sec. 18. (NEW) (*Effective October 1, 2010*) (a) A person that acts in
472 accordance with sections 1 to 23, inclusive, of this act and section 14-42
473 of the general statutes, as amended by this act, or with the applicable
474 anatomical gift law of another state, or attempts in good faith to do so,
475 shall not be liable for the act in a civil action, criminal prosecution or

476 administrative proceeding. Following a donor's designation in a donor
477 registry, signed statement by a donor or a donor card shall be prima
478 facie evidence of good faith attempt by a person to conform to the
479 donor's intent.

480 (b) Neither the person making an anatomical gift nor the donor's
481 estate is liable for any injury or damage that results from the making or
482 use of the gift.

483 (c) Implied warranties of merchantability and fitness shall not be
484 applicable to human organs, tissues, eyes or human blood or blood
485 plasma. Provision of such organs, tissues, eyes, blood, blood plasma
486 and components, derivative or fractions thereof, shall not be
487 considered commodities subject to sale or barter, but shall be
488 considered as medical services.

489 (d) In determining whether an anatomical gift has been made,
490 amended or revoked under the provisions of sections 1 to 23, inclusive,
491 of this act and section 14-42 of the general statutes, as amended by this
492 act, a person may rely upon representations of an individual listed in
493 subdivisions (2) to (8), inclusive, of subsection (a) of section 9 of this
494 act, relating to such individual's relationship to the donor or
495 prospective donor unless the person knows that the individual's
496 representation is untrue.

497 Sec. 19. (NEW) (*Effective October 1, 2010*) (a) A document of gift is
498 valid if executed in accordance with: (1) The provisions of sections 1 to
499 23, inclusive, of this act and section 14-42 of the general statutes, as
500 amended by this act; (2) the laws of the state or country where such
501 document was executed; or (3) the laws of the state or country where
502 the person making the anatomical gift was domiciled, has a place of
503 residence or was a national at the time the document of gift was
504 executed.

505 (b) If a document of gift is valid under this section, the law of this
506 state governs the interpretation of the document of gift.

507 (c) A person may presume that a document of gift or amendment of
508 an anatomical gift is valid unless that person knows that it was not
509 validly executed or was revoked.

510 Sec. 20. (NEW) (*Effective October 1, 2010*) (a) A donor registry shall
511 be: (1) A database that includes individuals who have made an
512 anatomical gift; (2) accessible to a procurement organization in order
513 to allow such procurement organization the ability to obtain relevant
514 information on the donor registry to determine, at or near death of the
515 donor or a prospective donor, whether the donor or prospective donor
516 has made an anatomical gift; and (3) accessible for the purposes of this
517 subsection seven days a week, twenty-four hours per day.

518 (b) Personally identifiable information on a donor registry
519 concerning a donor or prospective donor may not be used or disclosed
520 without the express consent of the donor, prospective donor or person
521 that made the anatomical gift for any purpose other than to determine
522 whether the donor or prospective donor has made an anatomical gift.

523 (c) Nothing in this section shall prohibit any person from creating or
524 maintaining a donor registry that is not established by or under
525 contract with the state. Any such established registry shall comply
526 with the requirements of subsections (a) and (b) of this section.

527 Sec. 21. (NEW) (*Effective October 1, 2010*) Subject to the provisions of
528 chapter 368q of the general statutes, the Office of the Chief Medical
529 Examiner shall cooperate with procurement organizations to maximize
530 the opportunity to recover anatomical gifts for the purpose of
531 transplantation, therapy, research or education.

532 Sec. 22. (NEW) (*Effective October 1, 2010*) In applying and construing
533 the provisions of the Revised Uniform Anatomical Gift Act,
534 consideration shall be given to the need to promote uniformity of the
535 law with respect to the subject matter among states that enact said
536 uniform act.

537 Sec. 23. (NEW) (*Effective October 1, 2010*) Sections 1 to 23, inclusive,

538 of this act, modify, limit and supersede the Electronic Signatures in
539 Global and National Commerce Act, 15 USC Section 7001 et seq., but
540 does not modify, limit or supersede Section 101(c) of that act, 15 USC
541 Section 7001(c), or authorize electronic delivery of any of the notices
542 described in Section 103(b) of said act, 15 USC Section 7003(b).

543 Sec. 24. Section 14-42 of the 2010 supplement to the general statutes
544 is repealed and the following is substituted in lieu thereof (*Effective*
545 *October 1, 2010*):

546 (a) An application for an operator's license or identity card shall be
547 made on forms furnished by the commissioner. The applications shall
548 be in such form and contain such provisions and information as the
549 commissioner may determine.

550 (b) The application for an operator's license and the application for
551 an identity card shall include the opportunity for the applicant to
552 [register as an organ and tissue donor in the donor registry established
553 pursuant to sections 19a-279a to 19a-279k, inclusive] make an
554 anatomical gift through inclusion in the state donor registry
555 maintained pursuant to section 14-42a, as amended by this act. An
556 operator's license issued to a person who has [elected to be included
557 in] authorized inclusion on such donor registry shall have a
558 [designation of such person's donor status] donor symbol imprinted on
559 such license or identity card.

560 Sec. 25. Subsection (a) of section 1-56r of the general statutes is
561 repealed and the following is substituted in lieu thereof (*Effective*
562 *October 1, 2010*):

563 (a) Any person eighteen years of age or older may execute a
564 document that designates another person eighteen years of age or
565 older to make certain decisions on behalf of the maker of such
566 document and have certain rights and obligations with respect to the
567 maker of such document under section 1-1k, subsection (b) of section
568 14-16, subsection (b) of section 17a-543, subsection (a) of section [19a-
569 279c] 9 of this act, section 19a-550, subsection (a) of section 19a-571,

570 section 19a-580, subsection (b) of section 19a-578, section 31-51jj,
571 section 54-85d, section 54-91c, section 54-126a or chapter 968.

572 Sec. 26. Subparagraph (K) of subdivision (2) of subsection (f) of
573 section 14-10 of the general statutes is repealed and the following is
574 substituted in lieu thereof (*Effective October 1, 2010*):

575 (K) Inclusion of personal information about persons who have
576 indicated consent to become organ and tissue donors in a donor
577 registry established by a procurement organization, as defined in
578 section [19a-279a] 2 of this act;

579 Sec. 27. Subsection (b) of section 14-42a of the general statutes is
580 repealed and the following is substituted in lieu thereof (*Effective*
581 *October 1, 2010*):

582 (b) The Commissioner of Motor Vehicles shall include in regulations
583 adopted pursuant to sections 14-36f and 14-78 a requirement that a
584 description of the purposes and procedures of procurement
585 organizations, as defined in section [19a-279a] 2 of this act, be included
586 in driver education programs.

587 Sec. 28. Subsection (a) of section 19a-575a of the general statutes is
588 repealed and the following is substituted in lieu thereof (*Effective*
589 *October 1, 2010*):

590 (a) Any person eighteen years of age or older may execute a
591 document that contains health care instructions, the appointment of a
592 health care representative, the designation of a conservator of the
593 person for future incapacity and a document of anatomical gift. Any
594 such document shall be signed and dated by the maker with at least
595 two witnesses and may be in the substantially following form:

596 THESE ARE MY HEALTH CARE INSTRUCTIONS.

597 MY APPOINTMENT OF A HEALTH CARE REPRESENTATIVE,

598 THE DESIGNATION OF MY CONSERVATOR OF THE PERSON

599

FOR MY FUTURE INCAPACITY

600

AND

601

MY DOCUMENT OF ANATOMICAL GIFT

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To any physician who is treating me: These are my health care instructions including those concerning the withholding or withdrawal of life support systems, together with the appointment of my health care representative, the designation of my conservator of the person for future incapacity and my document of anatomical gift. As my physician, you may rely on these health care instructions and any decision made by my health care representative or conservator of my person, if I am incapacitated to the point when I can no longer actively take part in decisions for my own life, and am unable to direct my physician as to my own medical care.

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I, ..., the author of this document, request that, if my condition is deemed terminal or if I am determined to be permanently unconscious, I be allowed to die and not be kept alive through life support systems. By terminal condition, I mean that I have an incurable or irreversible medical condition which, without the administration of life support systems, will, in the opinion of my attending physician, result in death within a relatively short time. By permanently unconscious I mean that I am in a permanent coma or persistent vegetative state which is an irreversible condition in which I am at no time aware of myself or the environment and show no behavioral response to the environment. The life support systems which I do not want include, but are not limited to: Artificial respiration, cardiopulmonary resuscitation and artificial means of providing nutrition and hydration. I do want sufficient pain medication to maintain my physical comfort. I do not intend any direct taking of my life, but only that my dying not be unreasonably prolonged.

629

630

I appoint to be my health care representative. If my attending physician determines that I am unable to understand and appreciate

631 the nature and consequences of health care decisions and unable to
 632 reach and communicate an informed decision regarding treatment, my
 633 health care representative is authorized to make any and all health care
 634 decisions for me, including (1) the decision to accept or refuse any
 635 treatment, service or procedure used to diagnose or treat my physical
 636 or mental condition, except as otherwise provided by law such as for
 637 psychosurgery or shock therapy, as defined in section 17a-540, and (2)
 638 the decision to provide, withhold or withdraw life support systems. I
 639 direct my health care representative to make decisions on my behalf in
 640 accordance with my wishes, as stated in this document or as otherwise
 641 known to my health care representative. In the event my wishes are
 642 not clear or a situation arises that I did not anticipate, my health care
 643 representative may make a decision in my best interests, based upon
 644 what is known of my wishes.

645 If is unwilling or unable to serve as my health care
 646 representative, I appoint to be my alternative health care
 647 representative.

648 If a conservator of my person should need to be appointed, I
 649 designate be appointed my conservator. If is unwilling or unable
 650 to serve as my conservator, I designate, No bond shall be required
 651 of either of them in any jurisdiction.

652 I hereby make this anatomical gift, if medically acceptable, to take
 653 effect upon my death.

654 I give: (check one)

T1 (1) any needed organs or parts

T2 (2) only the following organs or parts

655 to be donated for: (check one)

T3 (1) any of the purposes stated in subsection (a) of section
 T4 [19a-279f of the general statutes] 11 of this act

T5 (2) these limited purposes

656 These requests, appointments, and designations are made after
657 careful reflection, while I am of sound mind. Any party receiving a
658 duly executed copy or facsimile of this document may rely upon it
659 unless such party has received actual notice of my revocation of it.

T6 Date, 20..

T7 L.S.

660 This document was signed in our presence by the author of this
661 document, who appeared to be eighteen years of age or older, of sound
662 mind and able to understand the nature and consequences of health
663 care decisions at the time this document was signed. The author
664 appeared to be under no improper influence. We have subscribed this
665 document in the author's presence and at the author's request and in
666 the presence of each other.

T8

T9 (Witness) (Witness)

T10

T11 (Number and Street) (Number and Street)

T12

T13 (City, State and Zip Code) (City, State and Zip Code)

T14 STATE OF CONNECTICUT
T15 }
T16 } ss.
T17 COUNTY OF

667 We, the subscribing witnesses, being duly sworn, say that we
668 witnessed the execution of these health care instructions, the
669 appointments of a health care representative, the designation of a
670 conservator for future incapacity and a document of anatomical gift by
671 the author of this document; that the author subscribed, published and
672 declared the same to be the author's instructions, appointments and
673 designation in our presence; that we thereafter subscribed the

674 document as witnesses in the author's presence, at the author's request,
 675 and in the presence of each other; that at the time of the execution of
 676 said document the author appeared to us to be eighteen years of age or
 677 older, of sound mind, able to understand the nature and consequences
 678 of said document, and under no improper influence, and we make this
 679 affidavit at the author's request this day of 20...

T18
 T19 (Witness) (Witness)

680 Subscribed and sworn to before me this day of 20..

T20
 T21 Commissioner of the Superior Court
 T22 Notary Public
 T23 My commission expires:

681 (Print or type name of all persons signing under all signatures)

682 Sec. 29. Subsection (a) of section 19a-583 of the general statutes is
 683 repealed and the following is substituted in lieu thereof (*Effective*
 684 *October 1, 2010*):

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

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

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

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

694 (4) A health care provider or health facility when knowledge of the
 695 HIV-related information is necessary to provide appropriate care or

696 treatment to the protected individual or a child of the individual or
697 when confidential HIV-related information is already recorded in a
698 medical chart or record and a health care provider has access to such
699 record for the purpose of providing medical care to the protected
700 individual;

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

703 (6) Health facility staff committees or accreditation or oversight
704 review organizations which are conducting program monitoring,
705 program evaluation or service reviews;

706 (7) A health care provider or other person in cases where such
707 provider or person in the course of his occupational duties has had a
708 significant exposure to HIV infection, provided the following criteria
709 are met: (A) The worker is able to document significant exposure
710 during performance of his occupation, (B) the worker completes an
711 incident report within forty-eight hours of exposure, identifying the
712 parties to the exposure, witnesses, time, place and nature of the event,
713 (C) the worker submits to a baseline HIV test within seventy-two
714 hours of the exposure and is negative on that test for the presence of
715 the AIDS virus, (D) the patient's or person's physician or, if the patient
716 or person does not have a personal physician or if the patient's or
717 person's physician is unavailable, another physician or health care
718 provider has approached the patient or person and sought voluntary
719 consent to disclosure and the patient or person refuses to consent to
720 disclosure, except in an exposure where the patient or person is
721 deceased, (E) the worker would be able to take meaningful immediate
722 action as defined in regulations adopted pursuant to section 19a-589
723 which could not otherwise be taken, (F) an exposure evaluation group
724 determines that the criteria specified in subparagraphs (A), (B), (C), (D)
725 and (E) of this subdivision are met and that a worker has a significant
726 exposure to the blood of a patient or person and the patient or person
727 or the patient's or person's legal guardian refuses to consent to release
728 of the information. No member of the exposure evaluation group who

729 determines that a worker has sustained a significant exposure and
730 authorizes the disclosure of confidential HIV-related information nor
731 the health facility, correctional facility or other institution nor any
732 person in a health facility, correctional facility or other institution who
733 relies in good faith on the group's determination and discloses the
734 result shall have any liability as a result of his action carried out under
735 this section, unless such persons acted in bad faith. If the information is
736 not held by a health facility, correctional facility or other institution, a
737 physician not directly involved in the exposure has certified in writing
738 that the criteria specified in subparagraphs (A), (B), (C), (D) and (E) of
739 this subdivision are met and that a significant exposure has occurred;

740 (8) Employees of hospitals for mental illness operated by the
741 Department of Mental Health and Addiction Services if the infection
742 control committee of the hospital determines that the behavior of the
743 patient poses a significant risk of transmission to another patient of the
744 hospital. Disclosure shall only be allowed if it is likely to prevent or
745 reduce the risk of transmission and no reasonable alternatives exist
746 that will achieve the same goal and also preserve the confidentiality of
747 the information. Such "reasonable alternatives" include counseling the
748 patient concerning behaviors that pose a risk of transmission and other
749 efforts to prevent or address the behaviors that pose a significant risk
750 of transmission without disclosing the patient's HIV status or other
751 confidential HIV-related information. Disclosure shall be limited to as
752 few employees as possible and only to those employees with a direct
753 need to receive the information to achieve the purpose authorized by
754 this subdivision;

755 (9) Employees of facilities operated by the Department of Correction
756 to provide services related to HIV infection or if the medical director
757 and chief administrator of the facility determine that the behavior of an
758 inmate poses significant risk of transmission to another inmate or has
759 resulted in a significant exposure of another inmate of the facility. Such
760 a disclosure shall only be made if it is specifically required to enable
761 the inmate to receive such services or is likely to prevent or reduce the
762 risk of transmission and no reasonable alternatives exist that will

763 achieve the same goal and also preserve the confidentiality of the
764 information. Such "reasonable alternatives" include counseling the
765 inmate concerning behaviors that pose a risk of transmission or other
766 efforts to prevent or address the behaviors that pose a significant risk
767 of transmission without disclosing the patient's HIV status or other
768 confidential HIV-related information. Disclosure shall be limited to as
769 few employees as possible and only to those employees with a direct
770 need to receive the information to achieve a purpose authorized by this
771 subdivision;

772 (10) Any person allowed access to such information by a court order
773 which is issued in compliance with the following provisions: (A) No
774 court of this state shall issue such order unless the court finds a clear
775 and imminent danger to the public health or the health of a person and
776 that the person has demonstrated a compelling need for the test results
777 which cannot be accommodated by other means. In assessing
778 compelling need, the court shall weigh the need for disclosure against
779 the privacy interest of the test subject and the public interest which
780 may be disserved by disclosure which deters future testing or which
781 may lead to discrimination. (B) Pleadings pertaining to disclosure of
782 confidential HIV-related information shall substitute a pseudonym for
783 the true name of the subject of the test. The disclosure to the parties of
784 the subject's true name shall be communicated confidentially, in
785 documents not filed with the court. (C) Before granting any such order,
786 the court shall provide the individual whose test result is in question
787 with notice and a reasonable opportunity to participate in the
788 proceedings if he is not already a party. (D) Court proceedings as to
789 disclosure of confidential HIV-related information shall be conducted
790 in camera unless the subject of the test agrees to a hearing in open
791 court or unless the court determines that a public hearing is necessary
792 to the public interest and the proper administration of justice. (E) Upon
793 the issuance of an order to disclose test results, the court shall impose
794 appropriate safeguards against unauthorized disclosure, which shall
795 specify the persons who may have access to the information, the
796 purposes for which the information shall be used, and appropriate
797 prohibitions on future disclosure;

798 (11) Life and health insurers, government payers and health care
799 centers and their affiliates, reinsurers, and contractors, except agents
800 and brokers, in connection with underwriting and claim activity for
801 life, health, and disability benefits;

802 (12) Any health care provider specifically designated by the
803 protected individual to receive such information received by a life or
804 health insurer or health care center pursuant to an application for life,
805 health or disability insurance; and

806 (13) A procurement organization, for the purposes of assessing
807 donor suitability pursuant to [section 19a-279j] subsection (c) of section
808 14 of this act.

809 Sec. 30. Section 45a-318 of the general statutes is repealed and the
810 following is substituted in lieu thereof (*Effective October 1, 2010*):

811 (a) Any person eighteen years of age or older, and of sound mind,
812 may execute in advance of such person's death a written document,
813 subscribed by such person and attested by two witnesses, either: (1)
814 Directing the disposition of such person's body upon the death of such
815 person, which document may also designate an individual to have
816 custody and control of such person's body and to act as agent to carry
817 out such directions; or (2) if there are no directions for disposition,
818 designating an individual to have custody and control of the
819 disposition of such person's body upon the death of such person. Such
820 disposition shall include, but not be limited to, cremation, incineration,
821 disposition of remains, burial, method of interment and cryogenic
822 preservation. Any such document may designate an alternate to an
823 individual designated under subdivision (1) or (2) of this subsection.

824 (b) No person may challenge a funeral director's decision to carry
825 out the directions for disposition contained in a document executed for
826 the purposes of subsection (a) of this section if the funeral director's
827 decision and conduct in carrying out such directions for disposition in
828 reliance on such document was reasonable and warranted under the
829 circumstances.

830 (c) In the absence of a written designation of an individual pursuant
831 to subsection (a) of this section, or in the event that an individual and
832 any alternate designated pursuant to subsection (a) of this section
833 decline to act or cannot be located within forty-eight hours after the
834 time of death or the discovery of the body, the following individuals,
835 in the priority listed, shall have the right to custody and control of the
836 disposition of a person's body upon the death of such person, subject
837 to any directions for disposition made by such person pursuant to
838 subdivision (1) of subsection (a) of this section:

839 (1) The deceased person's spouse, unless such spouse abandoned
840 the deceased person prior to the deceased person's death or has been
841 adjudged incapable by a court of competent jurisdiction;

842 (2) The deceased person's surviving adult children;

843 (3) The deceased person's surviving parents;

844 (4) The deceased person's surviving siblings;

845 (5) Any adult person in the next degree of kinship in the order
846 named by law to inherit the deceased person's estate, provided such
847 adult person shall be of the third degree of kinship or higher;

848 (6) Such adult person as the Probate Court shall determine.

849 (d) A document executed by a person for the purposes of subsection
850 (a) of this section shall revoke any document previously executed by
851 such person for the purposes of said subsection or any prior cremation
852 authorization or other authorization for the disposition of remains
853 executed by such person and may be in substantially the following
854 form, but the use of such form shall not preclude the use of any other
855 form:

856 DISPOSITION OF REMAINS AND

857 APPOINTMENT OF AGENT

858 I, ..., of ..., being of sound mind, make known that upon my death

859 my body shall be disposed of in the following manner:

860 (Insert desired disposition directions)

861 I appoint ..., having an address and telephone number of ..., to
862 have custody and control of my body to act as my agent to carry out
863 the disposition directions expressed in this document, and in the
864 absence of disposition directions, to have custody and control of my
865 body and to determine the disposition of my body. If ... shall decline
866 to act or cannot be located within forty-eight hours of my death or the
867 discovery of my body, then ..., having an address and telephone
868 number of ..., shall act in that person's place and stead.

869 Executed at (insert location of execution), Connecticut on (insert
870 date of execution).

871

872 (Signature)

873 Signed in our presence by ... who, at the time of the execution of
874 this document, appeared to be of sound mind and over eighteen years
875 old.

876 ... of ...

877

878 (Signature of witness)

879 ... of ...

880

881 (Signature of witness)

882 (e) The court of probate for the district of the domicile or residence
883 of a deceased person shall have jurisdiction to hear and decide any
884 issue regarding the custody, control or disposition of the deceased
885 person's body, upon the petition of any individual designated by the

886 deceased person pursuant to subsection (a) of this section, the
 887 individual entitled to custody and control under subsection (c) of this
 888 section if no designation is made pursuant to subsection (a) of this
 889 section, the first selectman, chief executive officer or director of health
 890 of the town in which the deceased person's body is being held, or the
 891 funeral director or any other person or institution holding the
 892 deceased person's body, and upon such notice to interested parties as
 893 the court shall determine.

894 (f) This section shall not (1) apply to the disposition of the body of a
 895 deceased person under the provisions of sections 19a-270 and 54-102,
 896 (2) affect the powers and duties of the Chief Medical Examiner under
 897 the provisions of sections 19a-406 to 19a-408, inclusive, or (3) affect the
 898 making of anatomical gifts under the provisions of sections [19a-279a
 899 to 19a-279f] 1 to 23, inclusive, of this act and section 14-42, as amended
 900 by this act.

901 Sec. 31. Sections 19a-279a to 19a-281, inclusive, of the general
 902 statutes are repealed. (*Effective October 1, 2010*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	New section
Sec. 10	<i>October 1, 2010</i>	New section
Sec. 11	<i>October 1, 2010</i>	New section
Sec. 12	<i>October 1, 2010</i>	New section
Sec. 13	<i>October 1, 2010</i>	New section
Sec. 14	<i>October 1, 2010</i>	New section
Sec. 15	<i>October 1, 2010</i>	New section
Sec. 16	<i>October 1, 2010</i>	New section

Sec. 17	<i>October 1, 2010</i>	New section
Sec. 18	<i>October 1, 2010</i>	New section
Sec. 19	<i>October 1, 2010</i>	New section
Sec. 20	<i>October 1, 2010</i>	New section
Sec. 21	<i>October 1, 2010</i>	New section
Sec. 22	<i>October 1, 2010</i>	New section
Sec. 23	<i>October 1, 2010</i>	New section
Sec. 24	<i>October 1, 2010</i>	14-42
Sec. 25	<i>October 1, 2010</i>	1-56r(a)
Sec. 26	<i>October 1, 2010</i>	14-10(f)(2)(K)
Sec. 27	<i>October 1, 2010</i>	14-42a(b)
Sec. 28	<i>October 1, 2010</i>	19a-575a(a)
Sec. 29	<i>October 1, 2010</i>	19a-583(a)
Sec. 30	<i>October 1, 2010</i>	45a-318
Sec. 31	<i>October 1, 2010</i>	Repealer section

PH *Joint Favorable C/R*

JUD

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Motor Vehicles	TF - Cost	300,000 - 500,000	None
Department of Motor Vehicles	TF - Cost	35,000 - 50,000	35,000 - 50,000
Judicial Department	GF - Revenue Gain	Potential Minimal	Potential Minimal
Judicial Dpt (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

Sections 1, 20, 23 and 24 in the bill will result in the following fiscal impact: A one-time cost of between \$300,000 and \$500,000 to the Department of Motor Vehicles (DMV) in FY 11 and on-going cost between \$35,000 and \$50,000 beginning in FY 11 for implementing a real-time on-line accessible donor registry and procurement system. The one-time funding will be used to hire a consultant to program the system including: (1) development and implementation of an electronic database to identify donors, (2) be accessible by procurement organizations 24 hours a day, (3) be secure and confidential, and (4) archiving records.

The on-going funding is for software license, software maintenance, and fees charged by the Department of Information Technology.

The bill expands the current law prohibition against knowingly selling, receiving or transferring for valuable consideration any human organ for transplant to include body parts intended to be used for

therapy. Such a violation is punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000. It is anticipated that relatively few fines would be imposed. To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 250*****AN ACT CONCERNING ANATOMICAL GIFTS.*****SUMMARY:**

This bill replaces the 1987 Uniform Anatomical Gift Act with its 2007 successor. The bill retains many provisions of the existing law, updates others, and introduces new provisions on organ and tissue procurement organizations and the role of the chief medical examiner.

The bill allows some minors, parents of any minor, and a donor's legally authorized agent to make anatomical gifts during a person's lifetime. It permits more people to make donations after a person dies and reorders the priority for their doing so. It makes it more difficult for others to override a donor's anatomical gift and creates rules for interpreting gift documents that lack specificity.

The bill establishes standards for donor registries and requires cooperation between procurement organizations and the Office of the Chief Medical Examiner.

It recognizes gifts made under the laws of other jurisdictions and allows for electronic records and signatures.

EFFECTIVE DATE: October 1, 2010

WHO MAY MAKE AN ANATOMICAL GIFT***§ 4 — During the Donor's Lifetime***

Current law allows an adult (someone age 18 or older) to donate all or part of his or her body for transplant, therapy, education, or research. The bill permits minors to make such donations under certain conditions and parents to do so on behalf of an unemancipated minor. A minor can make a gift if he or she is emancipated or old

enough to apply for an operator's license (age 16½) or a Department of Motor Vehicles (DMV) identification card (there is no minimum age to apply for such cards).

The bill also allows a donor's guardian or "agent" to make a gift on the donor's behalf. The bill defines an "agent" as someone authorized through a power of attorney to make health care decisions for the donor or who the donor expressly authorizes to make an anatomical gift. The agent can make a donation unless the health care power of attorney or other document conferring agency prohibits this.

The bill eliminates a donor's ability to designate a particular doctor to carry out the medical procedures for donation.

§ 9 — Upon a Donor's Death

The law permits other people to make anatomical gifts when a person dies, unless the person had previously refused to donate. It sets a priority order among these people for decision making. Under current law, they are, in priority order, the decedent's: (1) spouse, (2) designated decision-making agent (under CGS § 1-56r), (3) adult child, (4) parents, (5) adult siblings, (6) grandparents, (7) guardian of the person, (8) legally authorized health care agent, and (9) conservator.

The bill reorders this list and adds new people. It gives the donor's agent top priority. It gives the decedent's adult grandchildren priority over the decedent's grandparents and an adult who exhibited special care and concern for the decedent priority over conservators. It adds guardians at the same priority level as conservators and, at lowest priority, adds anyone authorized to dispose of the decedent's body.

The bill seems to make it easier for these people to make decisions by allowing them to be "reasonably" available, not just available. It defines "reasonably available" as able to be contacted by a procurement organization and willing and able to act in a timely way consistent with medical criteria for making anatomical gifts.

Under current law, a person in this priority list cannot make a gift if

someone in a higher class is available to make the decision or he or she knows that (1) the decedent refused to make a donation or (2) someone in the same or a higher class opposes donation. The bill eliminates the specific bar on post-mortem donations by someone who knows the decedent refused to donate. Instead, it bars anyone, other than the parents of a deceased minor, from making a donation if the donor refused in writing to donate and did not revoke this refusal or expressly indicate otherwise.

Under the bill, any member of a class that contains more than one member can make a donation, unless he or she or a potential recipient of the gift knows that someone else in the class objects. In that case, a majority of reasonably available class members must make the decision to donate.

HOW ANATOMICAL GIFTS CAN BE MADE

§ 5 — *By a Donor*

Under current law, a donor may make an anatomical gift (1) in a will or other document, (2) by signing an organ or tissue donor card, (3) by being included in a donor registry maintained by an organ or tissue procurement organization, or (4) by indicating the intent to donate on an operator's license or license application or renewal. These are known as "documents of gift." The bill allows a person to donate during a terminal illness or injury by communicating this intention in any way to at least two adults, at least one of whom must be a disinterested witness.

In order to donate through a registry, the bill requires a donor or the donor's agent to sign a donor card or other record indicating the donor's intent to be included on a registry. Under current law, if a donor cannot sign a document of gift, another person and two witnesses can do so at the donor's direction and in the presence of all the parties. The bill specifies that this is necessary only when the donor is physically unable to sign.

The bill specifies that revocation, suspension, expiration, or

cancellation of a DMV operator's license or identification card does not invalidate an anatomical gift.

It eliminates the requirement that a donor registry be operated by a procurement organization. Under the bill, a donor registry is either the DMV registry process or any other database that identifies donors and conforms to the bill's requirements for donor registries (see below).

§ 10 — *By a Third Party after the Donor's Death*

The bill does not change the way third parties can make a gift after a donor dies—by document of gift or a recorded message reduced to writing and signed by the recipient.

§§ 6, 8, 10 — AMENDING OR REVOKING A GIFT

During a Donor's Lifetime

The bill permits more people to amend or revoke a donor's gift but makes it more difficult for a dying donor to do so. Under current law, a donor can amend or revoke a gift that is not made in a will by (1) signing a statement, (2) delivering a signed statement to a procurement organization or a donee named in a document of gift, or (3) communicating with a doctor during a terminal illness or injury.

The bill permits a donor's authorized agent, or, if the donor or agent are physically unable to sign, another party acting at their direction to sign a document amending or revoking a gift. A document signed by someone other than the donor or agent must be witnessed by at least two adults, one of whom is a disinterested witness, who have signed at the donor's or third party's request. The bill defines a "disinterested witness" as someone not (1) related to the person making, amending, revoking, or refusing to make a gift, including those people able to make post-mortem gifts or (2) able to receive an anatomical gift.

The bill requires a dying donor who wants to amend or revoke a gift to communicate this intention to at least two adults, one of whom must be a disinterested witness.

Under current law and the bill, unless a person formally refuses to

donate, a donor's revoking or amending a gift does not constitute a refusal. The bill specifies that a donor's or other authorized person's revocation of a gift does not bar anyone authorized to make a gift from doing so either before or after the donor's death. Under the bill, anyone authorized to make a gift during the donor's lifetime can amend or revoke a gift by destroying or cancelling the document of gift or that part of the document that conveys the gift.

Under the bill, absent express indications to the contrary, giving a body part for a specific purpose does not bar giving it for other purposes. Under current law and the bill, giving one body part is not deemed to be a refusal to give other parts or limit future donations of other parts, unless the donor or other authorized person expressly indicates otherwise.

Post-Mortem

Under current law, an unrevoked anatomical gift is irrevocable and does not need anyone's consent after the donor dies to be effective. The bill, with two exceptions, explicitly bars anyone other than the donor from making, amending, or revoking a donor's gift without some express indication that the donor wanted to change his or her decision. The exceptions permit a parent of an unemancipated minor to (1) revoke the child's signed refusal to make a donation or (2) amend or revoke the child's gift. The bill also specifies that if someone other than the donor made or amended a gift during the donor's lifetime, no one can make, amend, or revoke the gift after the donor dies.

The bill makes it more difficult to amend or revoke a gift made after a person dies. Under current law, someone in the same or higher class as the person who made the gift can revoke it if the person removing the parts knows about the revocation. Under the bill, only someone in a class above the person who made the gift can revoke or amend it. If more than one member of this higher class is reasonably available, a majority must agree to amend, while a majority or equal division can revoke.

§ 7 — REFUSING TO MAKE A GIFT

By law, a person can refuse to make an anatomical gift in a will or by signing a written document. Under current law, a dying person can also refuse by communicating his or her refusal to a doctor, orally or in writing. The bill requires a dying person to communicate this refusal to at least two people, one of whom must be a disinterested witness. It allows a third party to sign a refusal document at the direction of someone who is physically unable to sign. In this situation, at least two adults, one disinterested, must witness the signing.

The bill permits someone to amend or revoke his or her refusal by (1) changing a will; (2) signing a written document; (3) communicating at death with two or more adults, as above; (4) making a document of gift that is inconsistent with the refusal; or (5) destroying the refusal.

The bill specifies that, in the absence of express evidence to the contrary, a person's unrevoked refusal bars anyone from making a gift of his or her body or parts, except for the parents of an unemancipated minor.

§ 11 — WHO CAN RECEIVE AN ANATOMICAL GIFT

The bill appears to permit private and public corporations, other commercial and legal entities, and government organizations (all "persons" under the bill), as appropriate, to receive anatomical gifts for research or education. It specifically permits donations to eye and tissue banks. And, as under current law, it permits donations to hospitals, medical and dental schools, colleges and universities, organ procurement organizations, and individuals designated by the person making the gift, if the individual is the recipient of the body part.

As under current law, no one who knows that the decedent refused to make an anatomical gift can accept one. The bill specifies that anyone who knew that a donation was made through a document of gift is deemed to know of any refusal, amendment, or revocation made in the same document.

If an organ donation is made for transplant or therapy, but does not name an individual to receive it, the bill requires the organ to go to an

organ procurement organization, which acts as the organ's custodian.

The bill requires eye banks, tissue banks, or organ procurement organizations, as appropriate, to receive body parts in four situations:

1. a donated part cannot be transplanted into a designated donee, and the person making the gift did not direct some other use;
2. a gift identifies a purpose for using donated body parts but does not name a person to receive them (if the gift document lists more than one purpose without setting priorities, the gift must be used first for transplant or therapy and then for research or education);
3. a gift of one or more specific parts neither names a person to receive them or a purpose for their use, in which case the receiving organization must use them first for transplant or therapy, or if they are not suitable for these purposes, for research or education; and
4. a document of gift specifies only a general intent to donate, in which case the parts must be used as in #3.

Under the bill, custody of any anatomical gift that does not pass as described above or that is not used for any purpose permitted under the bill passes to the person who must dispose of the body.

Finally, the bill specifies that, except for donations to named individuals, these provisions do not affect organ allocations for transplant or therapy, which is done pursuant to the National Organ Transplant Act.

§§ 12, 13 — LOOKING FOR AND EXAMINING A DOCUMENT OF GIFT

The law requires various people to look for documents indicating that a dead person or one near death is either an organ donor or has refused to donate. These include (1) paramedics, police, firefighters and (2) hospital personnel, if no other source of information is

immediately available. The bill removes procurement organizations from this list. It specifies that the officer or paramedic responsible for conducting the search must send any document he or she finds to the hospital.

Current law requires anyone who possesses a document of gift to make it available to an “interested party” (presumably a donee or someone who could make a gift) for examination or copying. The bill extends this requirement to anyone who possesses a donor’s refusal and specifies that donees and parties authorized to make gifts must be given access to the document.

The bill removes a requirement that a hospital notify any designated donee it knows of or a procurement organization if it learns a donor is in transit to the hospital, is dying or has died, or that the chief medical examiner has removed an organ or tissue as part of a medicolegal exam.

The bill retains the law that specifies that a document of gift does not have to be delivered during a person’s lifetime for it to be effective.

§§ 14, 15 — REFERRAL TO A PROCUREMENT ORGANIZATION

The bill requires each hospital in the state to enter into agreement or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Under the bill, when a hospital refers a person near or at death to a procurement organization, the organization must search the DMV registry and any other geographically relevant donor registries to find out whether the person has made an anatomical gift. It requires DMV to give these organizations reasonable access to its donor records. Under the bill, procurement organizations include organ, tissue, and eye banks.

Similarly, when a hospital refers a patient to a procurement organization, the bill requires it to look for people with priority to make a post-mortem gift. If an organization learns that a gift to anyone

else was made, amended, or revoked, it must advise this person of all relevant information.

When a minor dies, the bill requires an organization to look for the parents, unless it knows the minor was emancipated, and give them the chance to amend any donation or revoke a refusal.

Current law requires anatomical gifts to authorize any reasonable examination needed to assure that the gift is medically acceptable for the purposes for which the gift is made. It allows procurement organizations to review a potential donor's medical record to assess his or her suitability to donate.

The bill allows procurement organizations to examine an individual to assess the medical suitability of a part that is, or could be, donated for any eligible purpose. During this examination, any measures needed to maintain a part's suitability cannot be withdrawn unless the person says they can. After the person dies, the bill permits the donee to conduct a similar examination. People conducting either of these exams can also look at the person's medical and dental records (under federal law, someone still alive would have to consent to this).

The bill eliminates (1) the requirement for hospital personnel to discuss the option of donation with any patient who is near death, if there is no record that the patient has made or refused to make a gift and (2) criteria for determining death.

§§ 1, 20 — DONOR REGISTRIES

The bill defines a donor registry as the DMV registry or any other database that identifies donors. It eliminates the current requirement that a procurement organization maintain a registry.

The bill requires all registries to be accessible to procurement organizations 24 hours a day, seven days a week. It prohibits the use or disclosure of personally identifiable information on a registry without the consent of the donor or the person who made the gift except to determine if a donor or prospective donor (but apparently not a third

party) made a gift.

The bill specifies that it does not preclude anyone from creating or keeping a registry without a state contract to do so. But such a registry must comply with the above provisions.

§ 21 — CHIEF MEDICAL EXAMINER (CME)

Current law requires the CME to facilitate tissue harvesting and organ procurement within the constraints of the office's official investigative responsibilities. The bill requires the CME to cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for eligible purposes, subject to existing law governing the operations of the office.

§ 16 — SELLING BODY PARTS

Current law makes it a class A misdemeanor to knowingly sell, receive, or transfer for valuable consideration any human organ for transplant. The bill specifies that this prohibition applies only if the body part is supposed to be removed after a person dies. The bill also applies to body parts intended to be used for therapy. A class A misdemeanor is punishable by up to one year in prison, a fine of up to \$2,000, or both.

The bill does not define "valuable consideration." Current law's definition of "valuable consideration" excludes (1) ordinary medical and hospital fees for services, (2) a donee's medical and legal fees, and (3) a donor's travel and housing expenses and lost wages. The bill permits people to charge reasonable amounts to remove, process, preserve, control quality, store, transport, implant, and dispose of a body part.

§§ 17, 18, 19 — LIABILITY AND VALIDITY

Under the bill, anyone who, for financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation, or a refusal is guilty of a class A misdemeanor.

The law protects people from civil or criminal liability if they act in good faith to comply with Connecticut's or another state's anatomical donation laws. The bill also protects them from liability in administrative proceedings.

The bill specifies that, in determining whether an anatomical gift has been made, amended, or revoked, a person can rely on representations of relationship by people who can make post-mortem donation decisions, unless the person knows the representation is false.

Under the bill:

1. a document of gift is valid if it is executed according to (a) the bill, (b) the laws of the jurisdiction in which it was executed, or (c) the laws of the jurisdiction where the person making the gift was domiciled, resided, or a national, when the gift was made;
2. if a gift is valid, Connecticut law governs its interpretation; and
3. people can presume a gift or an amendment is valid unless they know it was not properly executed or was revoked.

§ 22 — CONSTRUING THE BILL

The bill specifies that anyone applying and construing it must consider the need to promote uniformity among the states that enact the uniform act.

§ 23 — ELECTRONIC RECORDS AND SIGNATURES

The bill addresses the use of electronic records and signatures. It states that it modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act. This law facilitates the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically. But the bill does not affect that act's consumer disclosure provisions or authorize electronic delivery of any notices that the act exempts from electronic transmission.

§ 24 — DMV DONOR REGISTRY

The bill makes conforming changes in the law permitting people applying for a operator's license or identity card to make donations through DMV. It allows the donor symbol to be imprinted on either side of an operator's license, not just the back, but, like current law, it is silent on donor symbols on identity cards.

REPEALED PROVISIONS

The bill repeals all provisions of the 1988 Uniform Anatomical Gifts Act but reenacts many of them in the same or slightly altered form. But, in addition to provisions discussed in the context above, it totally repeals provisions that:

1. permit a document of gift to designate a particular doctor to perform the appropriate procedures or, if no designation is made or the doctor is not available, the donee to do so;
2. permit storing a document of gift in a hospital, procurement organization, or donor registry as a way to keep it safe or facilitate procedures after death;
3. require the public health commissioner to adopt implementing regulations; and
4. require a medical examiner to remove corneal or pituitary tissue from any body being autopsied if (a) the examiner believes they may help someone and that removal will not disfigure the body and (b) no next of kin is known at time or the deceased did not belong to a religious group that objects to tissue removal.

BACKGROUND***DMV Donor Registry***

The law requires the DMV commissioner and the Department of Information Technology's chief information officer to enter into an agreement to provide one or more federally designated organ and tissue procurement organizations with access to names, birthdates, and

other relevant information of operator license holders who have registered their intent to be organ donors with DMV. The departments determine the form and manner of such access in consultation with the procurement organization. This can include electronic transmission of initial information and periodic updates.

DMV can disclose personal information from a motor vehicle record to any individual, organization, or entity using it for inclusion of personal information about people who have consented to become organ and tissue donors in a donor registry established by a procurement organization. The individual, organization, or entity must sign and file with DMV a statement on a DMV-approved form, under penalty for false statement, that the information will be used as stated. DMV can require supporting documentation or information (CGS § 14-42a).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Change of Reference

Yea 30 Nay 0 (03/10/2010)

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/29/2010)