

1 AN ACT in relation to health.

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

4 Section 5. The Uniform Anatomical Gift Act is amended by
5 changing the title of the Act and Sections 3, 5, 6, and 8 as
6 follows:

7 (755 ILCS 50/Act title)

8 An Act authorizing the gift of all or part of a human
9 body before or after death for specified purposes.

10 (755 ILCS 50/3) (from Ch. 110 1/2, par. 303)

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

12 (a) Any individual of sound mind who has attained the
13 age of 18 may give all or any part of his or her body for any
14 purpose specified in Section 4. Such a gift may be executed
15 in any of the ways set out in Section 5, and shall take
16 effect (i) upon the individual's death without the need to
17 obtain the consent of any survivor or (ii) if the gift is to
18 take effect before the individual's death, then upon the date
19 specified in the document of gift or, if no date is
20 specified, upon the execution of the document of gift. An
21 anatomical gift made by an agent of an individual, as
22 authorized by the individual under the Powers of Attorney for
23 Health Care Law, as now or hereafter amended, is deemed to be
24 a gift by that individual and takes effect without the need
25 to obtain the consent of any other person.

26 (b) If no gift has been executed under subsection (a),
27 any of the following persons, in the order of priority stated
28 in items (1) through (9) below, when persons in prior classes
29 are not available and in the absence of (i) actual notice of
30 contrary intentions by the decedent and (ii) actual notice of

1 opposition by any member within the same priority class, may
2 give all or any part of the decedent's body after or
3 immediately before death for any purpose specified in Section
4 4:

5 (1) the decedent's agent under a power of attorney
6 for health care which provides specific direction
7 regarding organ donation,

8 (2) the decedent's spouse,

9 (3) the decedent's adult sons or daughters,

10 (4) either of the decedent's parents,

11 (5) any of the decedent's adult brothers or
12 sisters,

13 (6) any adult grandchild of the decedent,

14 (7) the guardian of the decedent's estate,

15 (8) the decedent's surrogate decision maker under
16 the Health Care Surrogate Act,

17 (9) any person authorized or under obligation to
18 dispose of the body.

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

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

26 (1) the existence of the person is unknown to the
27 donee and is not readily ascertainable through the
28 examination of the decedent's hospital records and the
29 questioning of any persons who are available for giving
30 consent;

31 (2) the donee has unsuccessfully attempted to
32 contact the person by telephone or in any other
33 reasonable manner;

34 (3) the person is unable or unwilling to respond in

1 a manner which indicates the person's refusal or consent.

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

5 (e) The rights of the donee created by the gift are
6 paramount to the rights of others except as provided by
7 Section 8(d).

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

13 (Source: P.A. 92-349, eff. 1-1-02.)

14 (755 ILCS 50/5) (from Ch. 110 1/2, par. 305)

15 Sec. 5. Manner of Executing Anatomical Gifts.

16 (a) A gift of all or part of the body under Section 3 (a)
17 may be made by will. The gift becomes effective upon the
18 death of the testator without waiting for probate. If the
19 will is not probated, or if it is declared invalid for
20 testamentary purposes, the gift, to the extent that it has
21 been acted upon in good faith, is nevertheless valid and
22 effective.

23 (b) A gift of all or part of the body under Section 3
24 (a) may also be made by a written, signed document other than
25 a will. The gift becomes effective (i) upon the death of the
26 donor or (ii) if the gift is to take effect before the
27 donor's death, then upon the date specified in the document
28 or, if no date is specified, upon the execution of the
29 document. The document, which may be a card or a valid
30 driver's license designed to be carried on the person, must
31 be signed by the donor in the presence of 2 witnesses who
32 must sign the document in his presence and who thereby
33 certify that he was of sound mind and memory and free from

1 any undue influence and knows the objects of his bounty and
2 affection. Such a gift may also be made by properly executing
3 the form provided by the Secretary of State on the reverse
4 side of the donor's driver's license pursuant to subsection
5 (b) of Section 6-110 of The Illinois Vehicle Code. Delivery
6 of the document of gift during the donor's lifetime is not
7 necessary to make the gift valid.

8 (c) The gift may be made to a specified donee or without
9 specifying a donee. If the latter, the gift may be accepted
10 by the attending physician as donee (i) upon or following
11 death in the case of a gift that is to take effect upon the
12 donor's death or (ii) upon the gift otherwise becoming
13 effective if it is to take effect before the donor's death.

14 If the gift is made to a specified donee who is not available
15 at the time and place of death, the attending physician upon
16 or following death, in the absence of any expressed
17 indication that the donor desired otherwise, may accept the
18 gift as donee. The physician who becomes a donee under this
19 subsection shall not participate either physically or
20 financially in the procedures for removing or transplanting a
21 part.

22 (d) Notwithstanding Section 8 (b), the donor may
23 designate in his will, card, or other document of gift the
24 surgeon or physician to carry out the appropriate procedures.
25 In the absence of a designation or if the designee is not
26 available, the donee or other person authorized to accept the
27 gift may employ or authorize any surgeon or physician for the
28 purpose.

29 (e) Any gift by a person designated in Section 3 (b)
30 shall be made by a document signed by him or made by his
31 telegraphic, recorded telephonic, or other recorded message.
32 (Source: P.A. 85-192.)

33 (755 ILCS 50/6) (from Ch. 110 1/2, par. 306)

1 Sec. 6. Delivery of Document of Gift. If the gift is
2 made by the donor to a specified donee, the will, card, or
3 other document, or an executed copy thereof, may be delivered
4 to the donee to expedite the appropriate procedures (i)
5 immediately after death in the case of a gift that is to take
6 effect upon the donor's death or (ii) immediately upon the
7 gift otherwise becoming effective if it is to take effect
8 before the donor's death. Delivery is not necessary to the
9 validity of the gift. The will, card, or other document, or
10 an executed copy thereof, may be deposited in any hospital,
11 bank or storage facility, or registry office that accepts it
12 for safekeeping or for facilitation of procedures (i) after
13 death or (ii) upon the gift otherwise becoming effective. On
14 request of any interested party (i) upon or after the donor's
15 death in the case of a gift that is to take effect upon the
16 donor's death or (ii) upon the gift otherwise becoming
17 effective if it is to take effect before the donor's death,
18 the person in possession shall produce the document for
19 examination.

20 (Source: P.A. 76-1209.)

21 (755 ILCS 50/8) (from Ch. 110 1/2, par. 308)

22 Sec. 8. Gift Effective upon Death of Donor; Rights and
23 Duties at Death.

24 (a) The donee of a gift taking effect upon the death of
25 the donor may accept or reject the gift. If the donee accepts
26 a gift of the entire body, he may, subject to the terms of
27 the gift, authorize embalming and the use of the body in
28 funeral services, unless a person named in subsection (b) of
29 Section 3 has requested, prior to the final disposition by
30 the donee, that the remains of said body be returned to his
31 or her custody for the purpose of final disposition. Such
32 request shall be honored by the donee if the terms of the
33 gift are silent on how final disposition is to take place.

1 If the gift is of a part of the body, the donee or technician
2 designated by him upon the death of the donor and prior to
3 embalming, shall cause the part to be removed without
4 unnecessary mutilation and without undue delay in the release
5 of the body for the purposes of final disposition. After
6 removal of the part, custody of the remainder of the body
7 vests in the surviving spouse, next of kin, or other persons
8 under obligation to dispose of the body, in the order or
9 priority listed in subsection (b) of Section 3 of this Act.

10 (b) The time of death shall be determined by a physician
11 who attends the donor at his death, or, if none, the
12 physician who certifies the death. The physician shall not
13 participate in the procedures for removing or transplanting a
14 part.

15 (c) A person who acts in good faith in accord with the
16 terms of this Act and the AIDS Confidentiality Act, or the
17 anatomical gift laws of another state or a foreign country,
18 is not liable for damages in any civil action or subject to
19 prosecution in any criminal proceeding for his act. Any
20 person that participates in good faith and according to the
21 usual and customary standards of medical practice in the
22 removal or transplantation of any part of a decedent's body
23 pursuant to an anatomical gift made by the decedent under
24 Section 5 of this Act or pursuant to an anatomical gift made
25 by an individual as authorized by subsection (b) of Section 3
26 of this Act shall have immunity from liability, civil,
27 criminal, or otherwise, that might result by reason of such
28 actions. For the purpose of any proceedings, civil or
29 criminal, the validity of an anatomical gift executed
30 pursuant to Section 5 of this Act shall be presumed and the
31 good faith of any person participating in the removal or
32 transplantation of any part of a decedent's body pursuant to
33 an anatomical gift made by the decedent or by another
34 individual authorized by the Act shall be presumed.

1 (d) This Act is subject to the provisions of "An Act to
2 revise the law in relation to coroners", approved February 6,
3 1874, as now or hereafter amended, to the laws of this State
4 prescribing powers and duties with respect to autopsies, and
5 to the statutes, rules, and regulations of this State with
6 respect to the transportation and disposition of deceased
7 human bodies.

8 (e) If the donee is provided information, or determines
9 through independent examination, that there is evidence that
10 the gift was exposed to the human immunodeficiency virus
11 (HIV) or any other identified causative agent of acquired
12 immunodeficiency syndrome (AIDS), the donee may reject the
13 gift and shall treat the information and examination results
14 as a confidential medical record; the donee may disclose only
15 the results confirming HIV exposure, and only to the
16 physician of the deceased donor. The donor's physician shall
17 determine whether the person who executed the gift should be
18 notified of the confirmed positive test result.

19 (Source: P.A. 85-1209.)