



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3193

Introduced 2/9/2010, by Sen. William Delgado

SYNOPSIS AS INTRODUCED:

755 ILCS 50/5-45

was 755 ILCS 50/8

Amends the Illinois Anatomical Gift Act. Provides that a coroner or medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, research, or education. Provides that a part may not be removed from the body of a decedent under the jurisdiction of a coroner or medical examiner for transplantation, research, or education unless the part is the subject of an anatomical gift. Provides that upon request of a procurement organization, a coroner or medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner or medical examiner; also provides for the release of post-mortem examination results if the decedent's body or part is medically suitable for transplantation, research, or education. Sets forth requirements concerning post-mortem examinations in relation to the preservation of body parts for transplantation, research, or education. Provides that if a coroner or medical examiner or qualified designee is required to be present at a body part removal procedure, upon request the procurement organization requesting the recovery of the part shall reimburse the coroner or medical examiner's office for the additional costs incurred in attending the procedure. Effective immediately.

LRB096 17873 AJ0 35494 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Anatomical Gift Act is amended by
5 changing Section 5-45 as follows:

6 (755 ILCS 50/5-45) (was 755 ILCS 50/8)

7 Sec. 5-45. Rights and Duties at Death.

8 (a) The donee may accept or reject the gift. If the donee
9 accepts a gift of the entire body, he may, subject to the terms
10 of the gift, authorize embalming and the use of the body in
11 funeral services, unless a person named in subsection (b) of
12 Section 5-5 has requested, prior to the final disposition by
13 the donee, that the remains of said body be returned to his or
14 her custody for the purpose of final disposition. Such request
15 shall be honored by the donee if the terms of the gift are
16 silent on how final disposition is to take place. If the gift
17 is of a part of the body, the donee or technician designated by
18 him upon the death of the donor and prior to embalming, shall
19 cause the part to be removed without unnecessary mutilation and
20 without undue delay in the release of the body for the purposes
21 of final disposition. After removal of the part, custody of the
22 remainder of the body vests in the surviving spouse, next of
23 kin, or other persons under obligation to dispose of the body,

1 in the order or priority listed in subsection (b) of Section
2 5-5 of this Act.

3 (b) The time of death shall be determined by a physician
4 who attends the donor at his death, or, if none, the physician
5 who certifies the death. The physician shall not participate in
6 the procedures for removing or transplanting a part.

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

1 be presumed.

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

8 (d-5) Cooperation between coroner or medical examiner and
9 procurement organization.

10 (1) A coroner or medical examiner shall cooperate with
11 procurement organizations to maximize the opportunity to
12 recover anatomical gifts for the purpose of
13 transplantation, research, or education.

14 (2) If a coroner or medical examiner receives notice
15 from a procurement organization that an anatomical gift
16 might be available or was made with respect to a decedent
17 whose body is under the jurisdiction of the coroner or
18 medical examiner and a post-mortem examination is going to
19 be performed, unless the coroner or medical examiner denies
20 recovery in accordance with subsection (d-7), the coroner
21 or medical examiner or qualified designee shall conduct a
22 post-mortem examination of the body or the part in a manner
23 and within a period compatible with its preservation for
24 the purposes of the gift.

25 (3) A part may not be removed from the body of a
26 decedent under the jurisdiction of a coroner or medical

1 examiner for transplantation, research, or education
2 unless the part is the subject of an anatomical gift. This
3 paragraph (3) does not preclude a coroner or medical
4 examiner or qualified designee from performing the
5 medicolegal investigation upon the body or parts of a
6 decedent under the jurisdiction of the coroner or medical
7 examiner.

8 (d-7) Facilitation of anatomical gift from decedent whose
9 body is under jurisdiction of coroner or medical examiner.

10 (1) Upon request of a procurement organization, a
11 coroner or medical examiner shall release to the
12 procurement organization the name, contact information,
13 and available medical and social history of a decedent
14 whose body is under the jurisdiction of the coroner or
15 medical examiner. If the decedent's body or part is
16 medically suitable for transplantation, research, or
17 education, the coroner or medical examiner shall release
18 post-mortem examination results to the procurement
19 organization. The procurement organization may make a
20 subsequent disclosure of the post-mortem examination
21 results or other information received from the coroner or
22 medical examiner only if relevant to transplantation.

23 (2) The coroner or medical examiner may conduct a
24 medicolegal examination by reviewing all medical records,
25 laboratory test results, x-rays, other diagnostic results,
26 and other information that any person possesses about a

1 donor or prospective donor whose body is under the
2 jurisdiction of the coroner or medical examiner which the
3 coroner or medical examiner determines may be relevant to
4 the investigation.

5 (3) A person that has any information requested by a
6 coroner or medical examiner pursuant to paragraph (1) of
7 subsection (d-5) shall provide that information as
8 expeditiously as possible to allow the coroner or medical
9 examiner to conduct the medicolegal investigation within a
10 period compatible with the preservation of parts for the
11 purpose of transplantation, research, or education.

12 (4) If an anatomical gift has been or might be made of
13 a part of a decedent whose body is under the jurisdiction
14 of the coroner or medical examiner and a post-mortem
15 examination is not required, or the coroner or medical
16 examiner determines that a post-mortem examination is
17 required but that the recovery of the part that is the
18 subject of an anatomical gift will not interfere with the
19 examination, the coroner or medical examiner and
20 procurement organization shall cooperate in the timely
21 removal of the part from the decedent for the purpose of
22 transplantation, research, or education.

23 (5) If an anatomical gift of a part from the decedent
24 under the jurisdiction of the coroner or medical examiner
25 has been or might be made, but the coroner or medical
26 examiner initially believes that the recovery of the part

1 could interfere with the post-mortem investigation into
2 the decedent's cause or manner of death, the coroner or
3 medical examiner shall consult with the procurement
4 organization or physician or technician designated by the
5 procurement organization about the proposed recovery.
6 After consultation, the coroner or medical examiner may
7 allow the recovery.

8 (6) Following the consultation under paragraph (5), in
9 the absence of mutually agreed-upon protocols to resolve
10 disagreement between the coroner or medical examiner and
11 the procurement organization, if the coroner or medical
12 examiner intends to deny recovery of an anatomical gift
13 deemed eligible for transplantation by the procurement
14 organization, the coroner or medical examiner or qualified
15 designee, at the request of the procurement organization,
16 shall attend the removal procedure for the part before
17 making a final determination not to allow the procurement
18 organization to recover the part. During the removal
19 procedure, the coroner or medical examiner or qualified
20 designee may allow recovery by the procurement
21 organization to proceed, or, if the coroner or medical
22 examiner or qualified designee reasonably believes that
23 the part may be involved in determining the decedent's
24 cause or manner of death, deny recovery by the procurement
25 organization.

26 (7) If the coroner or medical examiner or qualified

1 designee denies recovery under paragraph (6), the coroner
2 or medical examiner or qualified designee shall:

3 (A) explain in a record the specific reasons
4 related to the cause or manner of death for not
5 allowing recovery of the part;

6 (B) include the specific reasons in the records of
7 the coroner or medical examiner; and

8 (C) provide a written record with the specific
9 reasons to the procurement organization.

10 (8) If the coroner or medical examiner or qualified
11 designee allows recovery of a part under paragraph (4),
12 (5), or (6), the procurement organization, upon request,
13 shall cause the physician or technician who removes the
14 part to provide the coroner or medical examiner with a
15 record describing the condition of the part, a biopsy, a
16 photograph, and any other information and observations
17 that would assist in the post-mortem examination.

18 (9) If a coroner or medical examiner or qualified
19 designee is required to be present at a removal procedure
20 under paragraph (6), upon request the procurement
21 organization requesting the recovery of the part shall
22 reimburse the coroner or medical examiner's office for the
23 additional costs incurred in complying with paragraph (6).

24 (e) If the donee is provided information, or determines
25 through independent examination, that there is evidence that
26 the gift was exposed to the human immunodeficiency virus (HIV)

1 or any other identified causative agent of acquired
2 immunodeficiency syndrome (AIDS), the donee may reject the gift
3 and shall treat the information and examination results as a
4 confidential medical record; the donee may disclose only the
5 results confirming HIV exposure, and only to the physician of
6 the deceased donor. The donor's physician shall determine
7 whether the person who executed the gift should be notified of
8 the confirmed positive test result.

9 (Source: P.A. 93-794, eff. 7-22-04; 94-75, eff. 1-1-06; 94-920,
10 eff. 1-1-07.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.