

1                                    AMENDMENT TO HOUSE BILL 446

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 446 as follows:

3    on page 1, by replacing lines 4 through 31 with the  
4    following:

5            "Section 5. The Uniform Anatomical Gift Act is amended  
6    by changing Section 3 as follows:

7            (755 ILCS 50/3) (from Ch. 110 1/2, par. 303)

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

9            (a) Any individual of sound mind who has attained the  
10    age of 18 may give all or any part of his or her body for any  
11    purpose specified in Section 4. Such a gift may be executed  
12    in any of the ways set out in Section 5, and shall take  
13    effect upon the individual's death without the need to obtain  
14    the consent of any survivor. An anatomical gift made by an  
15    agent of an individual, as authorized by the individual under  
16    the Powers of Attorney for Health Care Law, as now or  
17    hereafter amended, is deemed to be a gift by that individual  
18    and takes effect without the need to obtain the consent of  
19    any other person.

20            (b) If no gift has been executed under subsection (a),  
21    any of the following persons, in the order of priority stated

1 in items (1) through (11) ~~(6)~~ below, when persons in prior  
 2 classes are not available and in the absence of (i) actual  
 3 notice of contrary intentions by the decedent and (ii) actual  
 4 notice of opposition by any member within the same priority  
 5 class, may give all or any part of the decedent's body after  
 6 or immediately before death for any purpose specified in  
 7 Section 4:

8 (1) the decedent's agent under a power of attorney  
 9 for health care,

10 (2) the decedent's surrogate decision maker under  
 11 the Health Care Surrogate Act,

12 (3) the decedent's guardian of the decedent,

13 (4) ~~(1)~~ the decedent's spouse,

14 (5) ~~(2)~~ the decedent's adult sons or daughters,

15 (6) ~~(3)~~ either of the decedent's parents,

16 (7) ~~(4)~~ any of the decedent's adult brothers or  
 17 sisters,

18 (8) any adult grandchild of the decedent,

19 (9) a close friend of the decedent,

20 (10) ~~(5)~~ the guardian of the decedent's estate  
 21 ~~decedent-at-the-time-of-his-or-her-death,~~

22 (11) ~~(6)~~ any person authorized or under obligation  
 23 to dispose of the body.

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

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

31 (1) the existence of the person is unknown to the  
 32 donee and is not readily ascertainable through the  
 33 examination of the decedent's hospital records and the  
 34 questioning of any persons who are available for giving

1 consent;

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

5 (3) the person is unable or unwilling to respond in  
6 a manner which indicates the person's refusal or consent.

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

10 (e) The rights of the donee created by the gift are  
11 paramount to the rights of others except as provided by  
12 Section 8 (d).

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

18 (g) As used in this Section, "close friend" means any  
19 person 18 years of age or older who has exhibited special  
20 care and concern for the decedent and who presents an  
21 affidavit to a representative of the hospital's designated  
22 organ procurement agency or tissue bank stating that he or  
23 she (i) is a close friend of the decedent, (ii) is willing  
24 and able to become involved in the decedent's health care,  
25 and (iii) has maintained sufficient regular contact with the  
26 decedent to be familiar with the decedent's activities,  
27 health, and religious and moral beliefs. The affidavit must  
28 also state facts and circumstances that demonstrate that  
29 familiarity.

30 (Source: P.A. 86-736.)

31 Section 10. The Illinois Corneal Transplant Act is  
32 amended by changing Section 2 as follows:

1 (755 ILCS 55/2) (from Ch. 110 1/2, par. 352)

2 Sec. 2. (a) Objection to the removal of corneal tissue  
3 may be made known to the coroner or county medical examiner  
4 or authorized individual acting for the coroner or county  
5 medical examiner by the individual during his lifetime or by  
6 the following persons, in the order of priority stated, after  
7 the decedent's death:

8 (1) The decedent's agent under a power of attorney  
9 for health care;

10 (2) If there is no agent, the decedent's surrogate  
11 decision maker under the Health Care Surrogate Act;

12 (3) If there is no agent and no surrogate decision  
13 maker, the decedent's guardian of the person;

14 (4) ~~(1)~~ If there is no agent, no surrogate decision  
15 maker, and no guardian of the person, the decedent's  
16 spouse;

17 (5) ~~(2)~~ If there is no agent, no surrogate decision  
18 maker, no guardian of the person, and no spouse, any of  
19 the decedent's adult sons or daughters;

20 (6) ~~(3)~~ If there is no agent, no surrogate decision  
21 maker, no guardian of the person, no spouse, and no adult  
22 sons or daughters, either of the decedent's parents;

23 (7) ~~(4)~~ If there is no agent, no surrogate decision  
24 maker, no guardian of the person, no spouse, no adult  
25 sons or daughters, and no parents, any of the decedent's  
26 adult brothers or sisters;

27 (8) If there is no agent, no surrogate decision  
28 maker, no guardian of the person, no spouse, no adult  
29 sons or daughters, no parents, and no adult brothers or  
30 sisters, any adult grandchild of the decedent;

31 (9) If there is no agent, no surrogate decision  
32 maker, no guardian of the person, no spouse, no adult  
33 sons or daughters, no parents, no adult brothers or  
34 sisters, and no adult grandchildren, a close friend of

1 the decedent;

2 (10) (5) If there is no agent, no surrogate  
3 decision maker, no guardian of the person, no spouse, no  
4 adult sons or daughters, no parents, and no adult  
5 brothers or sisters, no adult grandchildren, and no close  
6 friend, the guardian of the decedent's estate; decedent  
7 at-the-time-of-his-or-her-death.

8 (11) If there is no agent, no surrogate decision  
9 maker, no guardian of the person, no spouse, no adult  
10 sons or daughters, no parents, no adult brothers or  
11 sisters, no adult grandchildren, no close friend, and no  
12 guardian of the decedent's estate, any person authorized  
13 or under obligation to dispose of the body.

14 (b) If the coroner or county medical examiner or any  
15 authorized individual acting for the coroner or county  
16 medical examiner has actual notice of any contrary  
17 indications by the decedent or actual notice that any member  
18 within the same class specified in subsection (a), paragraphs  
19 (1) through (8) (5) of this Section, in the same order of  
20 priority, objects to the removal, the coroner or county  
21 medical examiner shall not approve the removal of corneal  
22 tissue.

23 (c) As used in this Section, "close friend" means any  
24 person 18 years of age or older who has exhibited special  
25 care and concern for the decedent and who presents an  
26 affidavit to a representative of the hospital's designated  
27 organ procurement agency or tissue bank stating that he or  
28 she (i) is a close friend of the decedent, (ii) is willing  
29 and able to become involved in the decedent's health care,  
30 and (iii) has maintained sufficient regular contact with the  
31 decedent to be familiar with the decedent's activities,  
32 health, and religious and moral beliefs. The affidavit must  
33 also state facts and circumstances that demonstrate that  
34 familiarity.

1 (Source: P.A. 87-633.)

2 Section 15. The Organ Donation Request Act is amended by  
3 changing Section 2 as follows:

4 (755 ILCS 60/2) (from Ch. 110 1/2, par. 752)

5 Sec. 2. Notification; consent; definitions.

6 (a) When, based upon generally accepted medical  
7 standards, an inpatient in a general acute care hospital with  
8 more than 100 beds is a suitable candidate for organ or  
9 tissue donation and such patient has not made an anatomical  
10 gift of all or any part of his or her body pursuant to  
11 Section 5 of the Uniform Anatomical Gift Act, the hospital  
12 administrator, or his or her designated representative,  
13 shall, if the candidate is suitable for the donation of  
14 organs at the time of or after notification of death, notify  
15 the hospital's federally designated organ procurement agency.  
16 The organ procurement agency shall request a consent for  
17 organ donation according to the priority and conditions  
18 established in subsection (b). In the case of a candidate  
19 suitable for donation of tissue only, the hospital  
20 administrator or his or her designated representative or  
21 tissue bank shall, at the time of or shortly after  
22 notification of death, request a consent for tissue donation  
23 according to the priority need conditions established in  
24 subsection (b). Alternative procedures for requesting  
25 consent may be implemented by mutual agreement between a  
26 hospital and a federally designated organ procurement agency  
27 or tissue bank.

28 (b) In making a request for organ or tissue donation,  
29 the hospital administrator or his or her designated  
30 representative or the hospital's federally designated organ  
31 procurement agency or tissue bank shall request any of the  
32 following persons, in the order of priority stated in items

1 (1) through ~~(11)~~ ~~(7)~~ below, when persons in prior classes are  
 2 not available and in the absence of (i) actual notice of  
 3 contrary intentions by the decedent, (ii) actual notice of  
 4 opposition by any member within the same priority class, and  
 5 (iii) reason to believe that an anatomical gift is contrary  
 6 to the decedent's religious beliefs, to consent to the gift  
 7 of all or any part of the decedent's body for any purpose  
 8 specified in Section 4 of the Uniform Anatomical Gift Act:

9 (1) the decedent's agent under a power of attorney  
 10 for health care ~~the Powers of Attorney for Health Care~~  
 11 ~~Law~~;

12 (2) the decedent's surrogate decision maker under  
 13 the Health Care Surrogate Act;

14 (3) the decedent's guardian of the person;

15 (4) ~~(3)~~ the decedent's spouse;

16 (5) ~~(4)~~ the decedent's adult sons or daughters;

17 (6) ~~(5)~~ either of the decedent's parents;

18 (7) ~~(6)~~ any of the decedent's adult brothers or  
 19 sisters;

20 (8) any adult grandchild of the decedent;

21 (9) a close friend of the decedent;

22 (10) ~~(7)~~ the guardian of the decedent's estate;  
 23 ~~decedent-at-the-time-of-his-or-her-death.~~

24 (11) any person authorized or under obligation to  
 25 dispose of the body.

26 (b-1) As used in this Section, "close friend" means any  
 27 person 18 years of age or older who has exhibited special  
 28 care and concern for the decedent and who presents an  
 29 affidavit to a representative of the hospital's designated  
 30 organ procurement agency or tissue bank stating that he or  
 31 she (i) is a close friend of the decedent, (ii) is willing  
 32 and able to become involved in the decedent's health care,  
 33 and (iii) has maintained sufficient regular contact with the  
 34 decedent to be familiar with the decedent's activities,

1 health, and religious and moral beliefs. The affidavit must  
2 also state facts and circumstances that demonstrate that  
3 familiarity.

4 (c) If (1) the hospital administrator, or his or her  
5 designated representative, the organ procurement agency, or  
6 the tissue bank has actual notice of opposition to the gift  
7 by the decedent or any person in the highest priority class  
8 in which an available person can be found, or (2) there is  
9 reason to believe that an anatomical gift is contrary to the  
10 decedent's religious beliefs, or (3) the Director of Public  
11 Health has adopted a rule signifying his determination that  
12 the need for organs and tissues for donation has been  
13 adequately met, then such gift of all or any part of the  
14 decedent's body shall not be requested. If a donation is  
15 requested, consent or refusal may only be obtained from the  
16 person or persons in the highest priority class available.  
17 If the hospital administrator, or his or her designated  
18 representative, the designated organ procurement agency, or  
19 the tissue bank is unable to obtain consent from any of the  
20 persons named in items (1) through ~~(11)~~ (7) of subsection (b)  
21 ~~(a)~~ of this Section, the decedent's body shall not be used  
22 for an anatomical gift unless a valid anatomical gift  
23 document was executed under the Uniform Anatomical Gift Act  
24 or the Corneal Transplant Act.

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

28 (1) the existence of the person is unknown to the  
29 hospital administrator or designee, organ procurement  
30 agency, or tissue bank and is not readily ascertainable  
31 through the examination of the decedent's hospital  
32 records and the questioning of any persons who are  
33 available for giving consent;

34 (2) the administrator or designee, organ



1 procurement agency, or tissue bank has unsuccessfully  
2 attempted to contact the person by telephone or in any  
3 other reasonable manner;

4 (3) the person is unable or unwilling to respond in  
5 a manner which indicates the person's refusal or consent.

6 (e) For the purposes of this Act, "federally designated  
7 organ procurement agency" means the organ procurement agency  
8 designated by the Secretary of the U.S. Department of Health  
9 and Human Services for the service area in which a hospital  
10 is located; except that in the case of a hospital located in  
11 a county adjacent to Wisconsin which currently contracts with  
12 an organ procurement agency located in Wisconsin that is not  
13 the organ procurement agency designated by the U.S. Secretary  
14 of Health and Human Services for the service area in which  
15 the hospital is located, if the hospital applies for a waiver  
16 pursuant to 42 USC 1320b-8(a), it may designate an organ  
17 procurement agency located in Wisconsin to be thereafter  
18 deemed its federally designated organ procurement agency for  
19 the purposes of this Act.

20 (f) For the purposes of this Act, "tissue bank" means  
21 any facility or program operating in Illinois that is  
22 certified by the American Association of Tissue Banks or the  
23 Eye Bank Association of America and is involved in procuring,  
24 furnishing, donating, or distributing corneas, bones, or  
25 other human tissue for the purpose of injecting, transfusing,  
26 or transplanting any of them into the human body. "Tissue  
27 bank" does not include a licensed blood bank.

28 For the purposes of this Act, "tissue" does not include  
29 organs.

30 (g) Nothing in Public Act 89-393 ~~this-amendatory-Act--of~~  
31 ~~1995~~ alters any agreements or affiliations between tissue  
32 banks and hospitals.

33 (Source: P.A. 89-393, eff. 8-20-95; revised 2-23-00.); and  
34 by deleting pages 2 through 9.