

AN ACT concerning anatomical gifts.

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

Section 5. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-330 as follows:

(20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)

Sec. 2310-330. Sperm and tissue bank registry; AIDS test for donors; penalties.

(a) The Department shall establish a registry of all sperm banks and tissue banks operating in this State. All sperm banks and tissue banks operating in this State shall register with the Department by May 1 of each year. Any person, hospital, clinic, corporation, partnership, or other legal entity that operates a sperm bank or tissue bank in this State and fails to register with the Department pursuant to this Section commits a business offense and shall be subject to a fine of \$5000.

(b) All donors of semen for purposes of artificial insemination, or donors of corneas, bones, organs, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them in the human body, shall be tested for evidence of exposure to human immunodeficiency virus (HIV) and any other identified causative agent of acquired immunodeficiency syndrome (AIDS) at the time of or after the donation but prior to the semen, corneas, bones, organs, or other human tissue being made available for that use. However, when in the opinion of the attending physician the life of a recipient of a bone, organ, or other human tissue donation would be jeopardized by delays caused by testing for evidence of exposure to HIV and any other causative agent of AIDS, testing shall not be required.

(c) No person may intentionally, knowingly, recklessly, or

negligently use the semen, corneas, bones, organs, or other human tissue of a donor unless the requirements of subsection (b) have been met. No person may intentionally, knowingly, recklessly, or negligently use the semen, corneas, bones, organs, or other human tissue of a donor who has tested positive for exposure to HIV or any other identified causative agent of AIDS. Violation of this subsection (c) shall be a Class 4 felony.

(d) For the purposes of this Section, "human tissue" shall not be construed to mean organs or whole blood or its component parts.

For the purposes of this Section, "tissue bank" has the same meaning as set forth in the Illinois Anatomical Gift Act.
~~means any facility or program that is involved in procuring, furnishing, donating, processing, or distributing corneas, bones, organs, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them in the human body.~~

(Source: P.A. 91-239, eff. 1-1-00.)

Section 10. The School Code is amended by changing Section 27-23.5 as follows:

(105 ILCS 5/27-23.5)

Sec. 27-23.5. Organ/tissue donor and transplantation programs. Each school district that maintains grades 9 and 10 may include in its curriculum and teach to the students of either such grade one unit of instruction on organ/tissue donor and transplantation programs. No student shall be required to take or participate in instruction on organ/tissue donor and transplantation programs if a parent or guardian files written objection thereto on constitutional grounds, and refusal to take or participate in such instruction on those grounds shall not be reason for suspension or expulsion of a student or result in any academic penalty.

The regional superintendent of schools in which a school

district that maintains grades 9 and 10 is located shall obtain and distribute ~~make available~~ to each ~~the~~ school in his or her ~~board of the~~ district information and data that may be used by the school ~~district~~ in developing a unit of instruction under this Section. However, each school board shall determine the minimum amount of instructional time that shall qualify as a unit of instruction satisfying the requirements of this Section.

(Source: P.A. 90-635, eff. 7-24-98.)

Section 15. The Hospital Licensing Act is amended by changing Sections 6.16 and 10.4 as follows:

(210 ILCS 85/6.16)

Sec. 6.16. Agreement with designated organ procurement agency. Each hospital licensed under this Act shall have an agreement with its federally designated organ procurement agency providing for notification of the organ procurement agency when potential organ donors become available, as required in Section 5-25 of the Illinois Anatomical Gift Act ~~2 of the Organ Donation Request Act~~.

(Source: P.A. 89-393, eff. 8-20-95.)

(210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

Sec. 10.4. Medical staff privileges.

(a) Any hospital licensed under this Act or any hospital organized under the University of Illinois Hospital Act shall, prior to the granting of any medical staff privileges to an applicant, or renewing a current medical staff member's privileges, request of the Director of Professional Regulation information concerning the licensure status and any disciplinary action taken against the applicant's or medical staff member's license, except for medical personnel who enter a hospital to obtain organs and tissues for transplant from a ~~deceased~~ donor in accordance with the Illinois Uniform Anatomical Gift Act. The Director of Professional Regulation

shall transmit, in writing and in a timely fashion, such information regarding the license of the applicant or the medical staff member, including the record of imposition of any periods of supervision or monitoring as a result of alcohol or substance abuse, as provided by Section 23 of the Medical Practice Act of 1987, and such information as may have been submitted to the Department indicating that the application or medical staff member has been denied, or has surrendered, medical staff privileges at a hospital licensed under this Act, or any equivalent facility in another state or territory of the United States. The Director of Professional Regulation shall define by rule the period for timely response to such requests.

No transmittal of information by the Director of Professional Regulation, under this Section shall be to other than the president, chief operating officer, chief administrative officer, or chief of the medical staff of a hospital licensed under this Act, a hospital organized under the University of Illinois Hospital Act, or a hospital operated by the United States, or any of its instrumentalities. The information so transmitted shall be afforded the same status as is information concerning medical studies by Part 21 of Article VIII of the Code of Civil Procedure, as now or hereafter amended.

(b) All hospitals licensed under this Act, except county hospitals as defined in subsection (c) of Section 15-1 of the Illinois Public Aid Code, shall comply with, and the medical staff bylaws of these hospitals shall include rules consistent with, the provisions of this Section in granting, limiting, renewing, or denying medical staff membership and clinical staff privileges. Hospitals that require medical staff members to possess faculty status with a specific institution of higher education are not required to comply with subsection (1) below when the physician does not possess faculty status.

(1) Minimum procedures for pre-applicants and applicants for medical staff membership shall include the following:

(A) Written procedures relating to the acceptance and processing of pre-applicants or applicants for medical staff membership, which should be contained in medical staff bylaws.

(B) Written procedures to be followed in determining a pre-applicant's or an applicant's qualifications for being granted medical staff membership and privileges.

(C) Written criteria to be followed in evaluating a pre-applicant's or an applicant's qualifications.

(D) An evaluation of a pre-applicant's or an applicant's current health status and current license status in Illinois.

(E) A written response to each pre-applicant or applicant that explains the reason or reasons for any adverse decision (including all reasons based in whole or in part on the applicant's medical qualifications or any other basis, including economic factors).

(2) Minimum procedures with respect to medical staff and clinical privilege determinations concerning current members of the medical staff shall include the following:

(A) A written notice of an adverse decision.

(B) An explanation of the reasons for an adverse decision including all reasons based on the quality of medical care or any other basis, including economic factors.

(C) A statement of the medical staff member's right to request a fair hearing on the adverse decision before a hearing panel whose membership is mutually agreed upon by the medical staff and the hospital governing board. The hearing panel shall have independent authority to recommend action to the hospital governing board. Upon the request of the medical staff member or the hospital governing board, the hearing panel shall make findings concerning the nature of each basis for any adverse decision

recommended to and accepted by the hospital governing board.

(i) Nothing in this subparagraph (C) limits a hospital's or medical staff's right to summarily suspend, without a prior hearing, a person's medical staff membership or clinical privileges if the continuation of practice of a medical staff member constitutes an immediate danger to the public, including patients, visitors, and hospital employees and staff. A fair hearing shall be commenced within 15 days after the suspension and completed without delay.

(ii) Nothing in this subparagraph (C) limits a medical staff's right to permit, in the medical staff bylaws, summary suspension of membership or clinical privileges in designated administrative circumstances as specifically approved by the medical staff. This bylaw provision must specifically describe both the administrative circumstance that can result in a summary suspension and the length of the summary suspension. The opportunity for a fair hearing is required for any administrative summary suspension. Any requested hearing must be commenced within 15 days after the summary suspension and completed without delay. Adverse decisions other than suspension or other restrictions on the treatment or admission of patients may be imposed summarily and without a hearing under designated administrative circumstances as specifically provided for in the medical staff bylaws as approved by the medical staff.

(iii) If a hospital exercises its option to enter into an exclusive contract and that contract results in the total or partial termination or

reduction of medical staff membership or clinical privileges of a current medical staff member, the hospital shall provide the affected medical staff member 60 days prior notice of the effect on his or her medical staff membership or privileges. An affected medical staff member desiring a hearing under subparagraph (C) of this paragraph (2) must request the hearing within 14 days after the date he or she is so notified. The requested hearing shall be commenced and completed (with a report and recommendation to the affected medical staff member, hospital governing board, and medical staff) within 30 days after the date of the medical staff member's request. If agreed upon by both the medical staff and the hospital governing board, the medical staff bylaws may provide for longer time periods.

(D) A statement of the member's right to inspect all pertinent information in the hospital's possession with respect to the decision.

(E) A statement of the member's right to present witnesses and other evidence at the hearing on the decision.

(F) A written notice and written explanation of the decision resulting from the hearing.

(F-5) A written notice of a final adverse decision by a hospital governing board.

(G) Notice given 15 days before implementation of an adverse medical staff membership or clinical privileges decision based substantially on economic factors. This notice shall be given after the medical staff member exhausts all applicable procedures under this Section, including item (iii) of subparagraph (C) of this paragraph (2), and under the medical staff bylaws in order to allow sufficient time for the orderly provision of patient care.

(H) Nothing in this paragraph (2) of this subsection (b) limits a medical staff member's right to waive, in writing, the rights provided in subparagraphs (A) through (G) of this paragraph (2) of this subsection (b) upon being granted the written exclusive right to provide particular services at a hospital, either individually or as a member of a group. If an exclusive contract is signed by a representative of a group of physicians, a waiver contained in the contract shall apply to all members of the group unless stated otherwise in the contract.

(3) Every adverse medical staff membership and clinical privilege decision based substantially on economic factors shall be reported to the Hospital Licensing Board before the decision takes effect. These reports shall not be disclosed in any form that reveals the identity of any hospital or physician. These reports shall be utilized to study the effects that hospital medical staff membership and clinical privilege decisions based upon economic factors have on access to care and the availability of physician services. The Hospital Licensing Board shall submit an initial study to the Governor and the General Assembly by January 1, 1996, and subsequent reports shall be submitted periodically thereafter.

(4) As used in this Section:

"Adverse decision" means a decision reducing, restricting, suspending, revoking, denying, or not renewing medical staff membership or clinical privileges.

"Economic factor" means any information or reasons for decisions unrelated to quality of care or professional competency.

"Pre-applicant" means a physician licensed to practice medicine in all its branches who requests an application for medical staff membership or privileges.

"Privilege" means permission to provide medical or other patient care services and permission to use hospital

resources, including equipment, facilities and personnel that are necessary to effectively provide medical or other patient care services. This definition shall not be construed to require a hospital to acquire additional equipment, facilities, or personnel to accommodate the granting of privileges.

(5) Any amendment to medical staff bylaws required because of this amendatory Act of the 91st General Assembly shall be adopted on or before July 1, 2001.

(c) All hospitals shall consult with the medical staff prior to closing membership in the entire or any portion of the medical staff or a department. If the hospital closes membership in the medical staff, any portion of the medical staff, or the department over the objections of the medical staff, then the hospital shall provide a detailed written explanation for the decision to the medical staff 10 days prior to the effective date of any closure. No applications need to be provided when membership in the medical staff or any relevant portion of the medical staff is closed.

(Source: P.A. 90-14, eff. 7-1-97; 90-149, eff. 1-1-98; 90-655, eff. 7-30-98; 91-166, eff. 1-1-00.)

Section 20. The AIDS Confidentiality Act is amended by changing Section 7 as follows:

(410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

Sec. 7. (a) Notwithstanding the provisions of Sections 4, 5 and 6 of this Act, written informed consent is not required for a health care provider or health facility to perform a test when the health care provider or health facility procures, processes, distributes or uses a human body part donated for a purpose specified under the Illinois ~~Uniform~~ Anatomical Gift Act, or semen provided prior to the effective date of this Act for the purpose of artificial insemination, and such a test is necessary to assure medical acceptability of such gift or semen for the purposes intended.

(b) Written informed consent is not required for a health care provider or health facility to perform a test when a health care provider or employee of a health facility, or a firefighter or an EMT-A, EMT-I or EMT-P, is involved in an accidental direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment. Should such test prove to be positive, the patient and the health care provider, health facility employee, firefighter, EMT-A, EMT-I, or EMT-P shall be provided appropriate counseling consistent with this Act.

(c) Written informed consent is not required for a health care provider or health facility to perform a test when a law enforcement officer is involved in the line of duty in a direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment. Should such test prove to be positive, the patient shall be provided appropriate counseling consistent with this Act. For purposes of this subsection (c), "law enforcement officer" means any person employed by the State, a county or a municipality as a policeman, peace officer, auxiliary policeman, correctional officer or in some like position involving the enforcement of the law and protection of the public interest at the risk of that person's life.

(Source: P.A. 86-887; 86-891; 86-1028; 87-459.)

Section 25. The Illinois Vehicle Code is amended by changing Sections 6-110 and 12-215 as follows:

(625 ILCS 5/6-110) (from Ch. 95 1/2, par. 6-110)

Sec. 6-110. Licenses issued to drivers.

(a) The Secretary of State shall issue to every qualifying applicant a driver's license as applied for, which license shall bear a distinguishing number assigned to the licensee, the name, social security number, zip code, date of birth,

address, and a brief description of the licensee, and a space where the licensee may write his usual signature.

If the licensee is less than 17 years of age, the license shall, as a matter of law, be invalid for the operation of any motor vehicle during any time the licensee is prohibited from being on any street or highway under the provisions of the Child Curfew Act.

Licenses issued shall also indicate the classification and the restrictions under Section 6-104 of this Code.

In lieu of the social security number, the Secretary may in his discretion substitute a federal tax number or other distinctive number.

A driver's license issued may, in the discretion of the Secretary, include a suitable photograph of a type prescribed by the Secretary.

(b) The Secretary of State shall provide a format on the reverse of each driver's license issued which the licensee may use to execute a document of gift conforming to the provisions of the Illinois ~~Uniform~~ Anatomical Gift Act. The format shall allow the licensee to indicate the gift intended, whether specific organs, any organ, or the entire body, and shall accommodate the signatures of the donor and 2 witnesses. The Secretary shall also inform each applicant or licensee of this format, describe the procedure for its execution, and may offer the necessary witnesses; provided that in so doing, the Secretary shall advise the applicant or licensee that he or she is under no compulsion to execute a document of gift. A brochure explaining this method of executing an anatomical gift document shall be given to each applicant or licensee. The brochure shall advise the applicant or licensee that he or she is under no compulsion to execute a document of gift, and that he or she may wish to consult with family, friends or clergy before doing so. The Secretary of State may undertake additional efforts, including education and awareness activities, to promote organ and tissue donation.

(c) The Secretary of State shall designate on each driver's

license issued a space where the licensee may place a sticker or decal of the uniform size as the Secretary may specify, which sticker or decal may indicate in appropriate language that the owner of the license carries an Emergency Medical Information Card.

The sticker may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the Emergency Medical Information Card, but shall meet the specifications as the Secretary may by rule or regulation require.

(d) The Secretary of State shall designate on each driver's license issued a space where the licensee may indicate his blood type and RH factor.

(e) The Secretary of State shall provide that each original or renewal driver's license issued to a licensee under 21 years of age shall be of a distinct nature from those driver's licenses issued to individuals 21 years of age and older. The color designated for driver's licenses for licensees under 21 years of age shall be at the discretion of the Secretary of State.

(e-1) The Secretary shall provide that each driver's license issued to a person under the age of 21 displays the date upon which the person becomes 18 years of age and the date upon which the person becomes 21 years of age.

(f) The Secretary of State shall inform all Illinois licensed commercial motor vehicle operators of the requirements of the Uniform Commercial Driver License Act, Article V of this Chapter, and shall make provisions to insure that all drivers, seeking to obtain a commercial driver's license, be afforded an opportunity prior to April 1, 1992, to obtain the license. The Secretary is authorized to extend driver's license expiration dates, and assign specific times, dates and locations where these commercial driver's tests shall be conducted. Any applicant, regardless of the current expiration date of the applicant's driver's license, may be subject to any assignment by the Secretary. Failure to comply

with the Secretary's assignment may result in the applicant's forfeiture of an opportunity to receive a commercial driver's license prior to April 1, 1992.

(g) The Secretary of State shall designate on a driver's license issued, a space where the licensee may indicate that he or she has drafted a living will in accordance with the Illinois Living Will Act or a durable power of attorney for health care in accordance with the Illinois Power of Attorney Act.

(g-1) The Secretary of State, in his or her discretion, may designate on each driver's license issued a space where the licensee may place a sticker or decal, issued by the Secretary of State, of uniform size as the Secretary may specify, that shall indicate in appropriate language that the owner of the license has renewed his or her driver's license.

(h) A person who acts in good faith in accordance with the terms of this Section is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(Source: P.A. 91-357, eff. 7-29-99; 92-689, eff. 1-1-03.)

(625 ILCS 5/12-215) (from Ch. 95 1/2, par. 12-215)

(Text of Section before amendment by P.A. 92-872)

Sec. 12-215. Oscillating, rotating or flashing lights on motor vehicles. Except as otherwise provided in this Code:

(a) The use of red or white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Law enforcement vehicles of State, Federal or local authorities;

2. A vehicle operated by a police officer or county coroner and designated or authorized by local authorities, in writing, as a law enforcement vehicle; however, such designation or authorization must be carried in the vehicle;

3. Vehicles of local fire departments and State or

federal firefighting vehicles;

4. Vehicles which are designed and used exclusively as ambulances or rescue vehicles; furthermore, such lights shall not be lighted except when responding to an emergency call for and while actually conveying the sick or injured;

5. Tow trucks licensed in a state that requires such lights; furthermore, such lights shall not be lighted on any such tow truck while the tow truck is operating in the State of Illinois;

6. Vehicles of the Illinois Emergency Management Agency, and vehicles of the Department of Nuclear Safety; ~~and~~

7. Vehicles operated by a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act; ~~and-~~

8. Vehicles that are equipped and used exclusively as organ transplant vehicles when used in combination with blue oscillating, rotating, or flashing lights; furthermore, these lights shall be lighted only when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization.

(b) The use of amber oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Second division vehicles designed and used for towing or hoisting vehicles; furthermore, such lights shall not be lighted except as required in this paragraph 1; such lights shall be lighted when such vehicles are actually being used at the scene of an accident or disablement; if the towing vehicle is equipped with a flat bed that supports all wheels of the vehicle being transported, the lights shall not be lighted while the vehicle is engaged in towing on a highway; if the towing vehicle is not equipped with a flat bed that supports all wheels of a vehicle being transported, the lights shall be lighted while the towing vehicle is engaged in towing on a

highway during all times when the use of headlights is required under Section 12-201 of this Code;

2. Motor vehicles or equipment of the State of Illinois, local authorities and contractors; furthermore, such lights shall not be lighted except while such vehicles are engaged in maintenance or construction operations within the limits of construction projects;

3. Vehicles or equipment used by engineering or survey crews; furthermore, such lights shall not be lighted except while such vehicles are actually engaged in work on a highway;

4. Vehicles of public utilities, municipalities, or other construction, maintenance or automotive service vehicles except that such lights shall be lighted only as a means for indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing while such vehicles are engaged in maintenance, service or construction on a highway;

5. Oversized vehicle or load; however, such lights shall only be lighted when moving under permit issued by the Department under Section 15-301 of this Code;

6. The front and rear of motorized equipment owned and operated by the State of Illinois or any political subdivision thereof, which is designed and used for removal of snow and ice from highways;

7. Fleet safety vehicles registered in another state, furthermore, such lights shall not be lighted except as provided for in Section 12-212 of this Code;

8. Such other vehicles as may be authorized by local authorities;

9. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights;

9.5. Propane delivery trucks;

10. Vehicles used for collecting or delivering mail for the United States Postal Service provided that such lights

shall not be lighted except when such vehicles are actually being used for such purposes;

11. Any vehicle displaying a slow-moving vehicle emblem as provided in Section 12-205.1;

12. All trucks equipped with self-compactors or roll-off hoists and roll-on containers for garbage or refuse hauling. Such lights shall not be lighted except when such vehicles are actually being used for such purposes;

13. Vehicles used by a security company, alarm responder, or control agency; and

14. Security vehicles of the Department of Human Services; however, the lights shall not be lighted except when being used for security related purposes under the direction of the superintendent of the facility where the vehicle is located.

(c) The use of blue oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Rescue squad vehicles not owned by a fire department and vehicles owned or fully operated by a:

voluntary firefighter;

paid firefighter;

part-paid firefighter;

call firefighter;

member of the board of trustees of a fire protection district;

paid or unpaid member of a rescue squad;

paid or unpaid member of a voluntary ambulance unit; or

paid or unpaid members of a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, designated or authorized by local authorities, in writing, and carrying that designation or authorization in the vehicle.

However, such lights are not to be lighted except when

responding to a bona fide emergency.

2. Police department vehicles in cities having a population of 500,000 or more inhabitants.

3. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights.

4. Vehicles of local fire departments and State or federal firefighting vehicles when used in combination with red oscillating, rotating or flashing lights.

5. Vehicles which are designed and used exclusively as ambulances or rescue vehicles when used in combination with red oscillating, rotating or flashing lights; furthermore, such lights shall not be lighted except when responding to an emergency call.

6. Vehicles that are equipped and used exclusively as organ transport vehicles when used in combination with red oscillating, rotating, or flashing lights; furthermore, these lights shall only be lighted when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization.

7. Vehicles of the Illinois Emergency Management Agency and vehicles of the Department of Nuclear Safety, when used in combination with red oscillating, rotating, or flashing lights.

8. Vehicles operated by a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, when used in combination with red oscillating, rotating, or flashing lights.

(c-1) In addition to the blue oscillating, rotating, or flashing lights permitted under subsection (c), and notwithstanding subsection (a), a vehicle operated by a voluntary firefighter may be equipped with flashing white headlights and blue grill lights, which may be used only in responding to an emergency call.

(c-2) In addition to the blue oscillating, rotating, or flashing lights permitted under subsection (c), and

notwithstanding subsection (a), a vehicle operated by a paid or unpaid member of a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, may be equipped with white oscillating, rotating, or flashing lights to be used in combination with blue oscillating, rotating, or flashing lights, if authorization by local authorities is in writing and carried in the vehicle.

(d) The use of a combination of amber and white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited, except motor vehicles or equipment of the State of Illinois, local authorities and contractors may be so equipped; furthermore, such lights shall not be lighted except while such vehicles are engaged in highway maintenance or construction operations within the limits of highway construction projects.

(e) All oscillating, rotating or flashing lights referred to in this Section shall be of sufficient intensity, when illuminated, to be visible at 500 feet in normal sunlight.

(f) Nothing in this Section shall prohibit a manufacturer of oscillating, rotating or flashing lights or his representative from temporarily mounting such lights on a vehicle for demonstration purposes only.

(g) Any person violating the provisions of subsections (a), (b), (c) or (d) of this Section who without lawful authority stops or detains or attempts to stop or detain another person shall be guilty of a Class 4 felony.

(h) Except as provided in subsection (g) above, any person violating the provisions of subsections (a) or (c) of this Section shall be guilty of a Class A misdemeanor.

(Source: P.A. 91-357, eff. 7-29-99; 92-138, eff. 7-24-01; 92-407, eff. 8-17-01; 92-651, eff. 7-11-02; 92-782, eff. 8-6-02; 92-820, eff. 8-21-02; revised 8-26-02.)

(Text of Section after amendment by P.A. 92-872)

Sec. 12-215. Oscillating, rotating or flashing lights on motor vehicles. Except as otherwise provided in this Code:

(a) The use of red or white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Law enforcement vehicles of State, Federal or local authorities;

2. A vehicle operated by a police officer or county coroner and designated or authorized by local authorities, in writing, as a law enforcement vehicle; however, such designation or authorization must be carried in the vehicle;

3. Vehicles of local fire departments and State or federal firefighting vehicles;

4. Vehicles which are designed and used exclusively as ambulances or rescue vehicles; furthermore, such lights shall not be lighted except when responding to an emergency call for and while actually conveying the sick or injured;

5. Tow trucks licensed in a state that requires such lights; furthermore, such lights shall not be lighted on any such tow truck while the tow truck is operating in the State of Illinois;

6. Vehicles of the Illinois Emergency Management Agency, and vehicles of the Department of Nuclear Safety; ~~and~~

7. Vehicles operated by a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act; ~~and~~

8. Vehicles that are equipped and used exclusively as organ transplant vehicles when used in combination with blue oscillating, rotating, or flashing lights; furthermore, these lights shall be lighted only when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization.

(b) The use of amber oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Second division vehicles designed and used for

towing or hoisting vehicles; furthermore, such lights shall not be lighted except as required in this paragraph 1; such lights shall be lighted when such vehicles are actually being used at the scene of an accident or disablement; if the towing vehicle is equipped with a flat bed that supports all wheels of the vehicle being transported, the lights shall not be lighted while the vehicle is engaged in towing on a highway; if the towing vehicle is not equipped with a flat bed that supports all wheels of a vehicle being transported, the lights shall be lighted while the towing vehicle is engaged in towing on a highway during all times when the use of headlights is required under Section 12-201 of this Code;

2. Motor vehicles or equipment of the State of Illinois, local authorities and contractors; furthermore, such lights shall not be lighted except while such vehicles are engaged in maintenance or construction operations within the limits of construction projects;

3. Vehicles or equipment used by engineering or survey crews; furthermore, such lights shall not be lighted except while such vehicles are actually engaged in work on a highway;

4. Vehicles of public utilities, municipalities, or other construction, maintenance or automotive service vehicles except that such lights shall be lighted only as a means for indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing while such vehicles are engaged in maintenance, service or construction on a highway;

5. Oversized vehicle or load; however, such lights shall only be lighted when moving under permit issued by the Department under Section 15-301 of this Code;

6. The front and rear of motorized equipment owned and operated by the State of Illinois or any political subdivision thereof, which is designed and used for removal of snow and ice from highways;

7. Fleet safety vehicles registered in another state, furthermore, such lights shall not be lighted except as provided for in Section 12-212 of this Code;

8. Such other vehicles as may be authorized by local authorities;

9. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights;

9.5. Propane delivery trucks;

10. Vehicles used for collecting or delivering mail for the United States Postal Service provided that such lights shall not be lighted except when such vehicles are actually being used for such purposes;

11. Any vehicle displaying a slow-moving vehicle emblem as provided in Section 12-205.1;

12. All trucks equipped with self-compactors or roll-off hoists and roll-on containers for garbage or refuse hauling. Such lights shall not be lighted except when such vehicles are actually being used for such purposes;

13. Vehicles used by a security company, alarm responder, or control agency;

14. Security vehicles of the Department of Human Services; however, the lights shall not be lighted except when being used for security related purposes under the direction of the superintendent of the facility where the vehicle is located; and

15. Vehicles of union representatives, except that the lights shall be lighted only while the vehicle is within the limits of a construction project.

(c) The use of blue oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except on:

1. Rescue squad vehicles not owned by a fire department and vehicles owned or fully operated by a:

voluntary firefighter;

paid firefighter;

part-paid firefighter;
call firefighter;
member of the board of trustees of a fire protection district;
paid or unpaid member of a rescue squad;
paid or unpaid member of a voluntary ambulance unit; or
paid or unpaid members of a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, designated or authorized by local authorities, in writing, and carrying that designation or authorization in the vehicle.

However, such lights are not to be lighted except when responding to a bona fide emergency.

2. Police department vehicles in cities having a population of 500,000 or more inhabitants.

3. Law enforcement vehicles of State or local authorities when used in combination with red oscillating, rotating or flashing lights.

4. Vehicles of local fire departments and State or federal firefighting vehicles when used in combination with red oscillating, rotating or flashing lights.

5. Vehicles which are designed and used exclusively as ambulances or rescue vehicles when used in combination with red oscillating, rotating or flashing lights; furthermore, such lights shall not be lighted except when responding to an emergency call.

6. Vehicles that are equipped and used exclusively as organ transport vehicles when used in combination with red oscillating, rotating, or flashing lights; furthermore, these lights shall only be lighted when the transportation is declared an emergency by a member of the transplant team or a representative of the organ procurement organization.

7. Vehicles of the Illinois Emergency Management Agency and vehicles of the Department of Nuclear Safety,

when used in combination with red oscillating, rotating, or flashing lights.

8. Vehicles operated by a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, when used in combination with red oscillating, rotating, or flashing lights.

(c-1) In addition to the blue oscillating, rotating, or flashing lights permitted under subsection (c), and notwithstanding subsection (a), a vehicle operated by a voluntary firefighter, a voluntary member of a rescue squad, or a member of a voluntary ambulance unit may be equipped with flashing white headlights and blue grill lights, which may be used only in responding to an emergency call.

(c-2) In addition to the blue oscillating, rotating, or flashing lights permitted under subsection (c), and notwithstanding subsection (a), a vehicle operated by a paid or unpaid member of a local or county emergency management services agency as defined in the Illinois Emergency Management Agency Act, may be equipped with white oscillating, rotating, or flashing lights to be used in combination with blue oscillating, rotating, or flashing lights, if authorization by local authorities is in writing and carried in the vehicle.

(d) The use of a combination of amber and white oscillating, rotating or flashing lights, whether lighted or unlighted, is prohibited except motor vehicles or equipment of the State of Illinois, local authorities, contractors, and union representatives may be so equipped; furthermore, such lights shall not be lighted on vehicles of the State of Illinois, local authorities, and contractors except while such vehicles are engaged in highway maintenance or construction operations within the limits of highway construction projects, and shall not be lighted on the vehicles of union representatives except when those vehicles are within the limits of a construction project.

(e) All oscillating, rotating or flashing lights referred to in this Section shall be of sufficient intensity, when

illuminated, to be visible at 500 feet in normal sunlight.

(f) Nothing in this Section shall prohibit a manufacturer of oscillating, rotating or flashing lights or his representative from temporarily mounting such lights on a vehicle for demonstration purposes only.

(g) Any person violating the provisions of subsections (a), (b), (c) or (d) of this Section who without lawful authority stops or detains or attempts to stop or detain another person shall be guilty of a Class 4 felony.

(h) Except as provided in subsection (g) above, any person violating the provisions of subsections (a) or (c) of this Section shall be guilty of a Class A misdemeanor.

(Source: P.A. 91-357, eff. 7-29-99; 92-138, eff. 7-24-01; 92-407, eff. 8-17-01; 92-651, eff. 7-11-02; 92-782, eff. 8-6-02; 92-820, eff. 8-21-02; 92-872, eff. 6-1-03; revised 1-10-03.)

Section 30. The Criminal Code of 1961 is amended by changing Section 12-20 as follows:

(720 ILCS 5/12-20) (from Ch. 38, par. 12-20)

Sec. 12-20. Sale of body parts. (a) Except as provided in subsection (b), any person who knowingly buys or sells, or offers to buy or sell, a human body or any part of a human body, is guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.

(b) This Section does not prohibit:

(1) An anatomical gift made in accordance with the Illinois Uniform Anatomical Gift Act.

(2) The removal and use of a human cornea in accordance with the Illinois Anatomical Gift Act ~~Corneal Transplant Act~~.

(3) Reimbursement of actual expenses incurred by a living person in donating an organ, tissue or other body part or fluid for transplantation, implantation, infusion, injection, or other medical or scientific purpose, including medical costs, loss of income, and travel expenses.

(4) Payments provided under a plan of insurance or other health care coverage.

(5) Reimbursement of reasonable costs associated with the removal, storage or transportation of a human body or part thereof donated for medical or scientific purposes.

(6) Purchase or sale of blood, plasma, blood products or derivatives, other body fluids, or human hair.

(7) Purchase or sale of drugs, reagents or other substances made from human bodies or body parts, for use in medical or scientific research, treatment or diagnosis.

(Source: P.A. 85-191.)

Section 35. The Illinois Living Will Act is amended by changing Section 6 as follows:

(755 ILCS 35/6) (from Ch. 110 1/2, par. 706)

Sec. 6. Physician Responsibilities. An attending physician who has been notified of the existence of a declaration executed under this Act, without delay after the diagnosis of a terminal condition of the patient, shall take the necessary steps to provide for written recording of the patient's terminal condition, so that the patient may be deemed to be a qualified patient under this Act, or shall notify the patient or, if the patient is unable to initiate a transfer, the person or persons described in subsection (d) of Section 3 in the order of priority stated therein that the physician is unwilling to comply with the provisions of the patient's declaration. In the event of the patient's death as determined by a physician, all medical care is to be terminated unless the patient is an organ donor, in which case appropriate organ donation treatment may be applied or continued temporarily.

(Source: P.A. 85-860.)

Section 40. The Health Care Surrogate Act is amended by changing Sections 20 and 65 as follows:

(755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

Sec. 20. Private decision making process.

(a) Decisions whether to forgo life-sustaining or any other form of medical treatment involving an adult patient with decisional capacity may be made by that adult patient.

(b) Decisions whether to forgo life-sustaining treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient has a qualifying condition and if the decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order or priority provided in Section 25. A surrogate decision maker shall make decisions for the adult patient conforming as closely as possible to what the patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. Where possible, the surrogate shall determine how the patient would have weighed the burdens and benefits of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding

the initiation or continuation of life-sustaining procedures. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's best interests, the surrogate shall weigh the burdens on and benefits to the patient of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(b-5) Decisions concerning medical treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient does not have a qualifying condition and if decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order of priority provided in Section 25 with the exception that decisions to forgo life-sustaining treatment may be made only when a patient has a qualifying condition. A surrogate decision maker shall make decisions for the patient

conforming as closely as possible to what the patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious, and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding any process. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's best interests, the surrogate shall weigh the burdens on and benefits to the patient of the treatment against the burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available as determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(c) For the purposes of this Act, a patient or surrogate decision maker is presumed to have decisional capacity in the

absence of actual notice to the contrary without regard to advanced age. With respect to a patient, a diagnosis of mental illness or mental retardation, of itself, is not a bar to a determination of decisional capacity. A determination that an adult patient lacks decisional capacity shall be made by the attending physician to a reasonable degree of medical certainty. The determination shall be in writing in the patient's medical record and shall set forth the attending physician's opinion regarding the cause, nature, and duration of the patient's lack of decisional capacity. Before implementation of a decision by a surrogate decision maker to forgo life-sustaining treatment, at least one other qualified physician must concur in the determination that an adult patient lacks decisional capacity. The concurring determination shall be made in writing in the patient's medical record after personal examination of the patient. The attending physician shall inform the patient that it has been determined that the patient lacks decisional capacity and that a surrogate decision maker will be making life-sustaining treatment decisions on behalf of the patient. Moreover, the patient shall be informed of the identity of the surrogate decision maker and any decisions made by that surrogate. If the person identified as the surrogate decision maker is not a court appointed guardian and the patient objects to the statutory surrogate decision maker or any decision made by that surrogate decision maker, then the provisions of this Act shall not apply.

(d) A surrogate decision maker acting on behalf of the patient shall express decisions to forgo life-sustaining treatment to the attending physician and one adult witness who is at least 18 years of age. This decision and the substance of any known discussion before making the decision shall be documented by the attending physician in the patient's medical record and signed by the witness.

(e) The existence of a qualifying condition shall be documented in writing in the patient's medical record by the attending physician and shall include its cause and nature, if

known. The written concurrence of another qualified physician is also required.

(f) Once the provisions of this Act are complied with, the attending physician shall thereafter promptly implement the decision to forgo life-sustaining treatment on behalf of the patient unless he or she believes that the surrogate decision maker is not acting in accordance with his or her responsibilities under this Act, or is unable to do so for reasons of conscience or other personal views or beliefs.

(g) In the event of a patient's death as determined by a physician, all life-sustaining treatment and other medical care is to be terminated, unless the patient is an organ donor, in which case appropriate organ donation treatment may be applied or continued temporarily.

(Source: P.A. 90-246, eff. 1-1-98.)

(755 ILCS 40/65)

Sec. 65. Do-not-resuscitate orders.

(a) An individual of sound mind and having reached the age of majority or having obtained the status of an emancipated person pursuant to the Emancipation of Mature Minors Act may execute a document (consistent with the Department of Public Health Uniform DNR Order Form) directing that resuscitating efforts shall not be implemented. Such an order may also be executed by an attending physician. Notwithstanding the existence of a DNR order, appropriate organ donation treatment may be applied or continued temporarily in the event of the patient's death, in accordance with subsection (g) of Section 20 of this Act, if the patient is an organ donor.

(b) Consent to a DNR order may be obtained from the individual, or from another person at the individual's direction, or from the individual's legal guardian, agent under a power of attorney for health care, or surrogate decision maker, and witnessed by 2 individuals 18 years of age or older.

(c) The DNR order may, but need not, be in the form adopted by the Department of Public Health pursuant to Section 2310-600

of the Department of Public Health Powers and Duties Law (20 ILCS 2310/2310-600).

(d) A health care professional or health care provider may presume, in the absence of knowledge to the contrary, that a completed Department of Public Health Uniform DNR Order form or a copy of that form is a valid DNR order. A health care professional or health care provider, or an employee of a health care professional or health care provider, who in good faith complies with a do-not-resuscitate order made in accordance with this Act is not, as a result of that compliance, subject to any criminal or civil liability, except for willful and wanton misconduct, and may not be found to have committed an act of unprofessional conduct.

(Source: P.A. 92-356, eff. 10-1-01.)

Section 45. The Illinois Power of Attorney Act is amended by changing Sections 4-7 and 4-10 as follows:

(755 ILCS 45/4-7) (from Ch. 110 1/2, par. 804-7)

Sec. 4-7. Duties of health care providers and others in relation to health care agencies. Each health care provider and each other person with whom an agent deals under a health care agency shall be subject to the following duties and responsibilities:

(a) It is the responsibility of the agent or patient to notify the health care provider of the existence of the health care agency and any amendment or revocation thereof. A health care provider furnished with a copy of a health care agency shall make it a part of the patient's medical records and shall enter in the records any change in or termination of the health care agency by the principal that becomes known to the provider. Whenever a provider believes a patient may lack capacity to give informed consent to health care which the provider deems necessary, the provider shall consult with any available health care agent known to the provider who then has power to act for the patient under a health care agency.

(b) A health care decision made by an agent in accordance with the terms of a health care agency shall be complied with by every health care provider to whom the decision is communicated, subject to the provider's right to administer treatment for the patient's comfort care or alleviation of pain; but if the provider is unwilling to comply with the agent's decision, the provider shall promptly inform the agent who shall then be responsible to make the necessary arrangements for the transfer of the patient to another provider. It is understood that a provider who is unwilling to comply with the agent's decision will continue to afford reasonably necessary consultation and care in connection with the transfer.

(c) At the patient's expense and subject to reasonable rules of the health care provider to prevent disruption of the patient's health care, each health care provider shall give an agent authorized to receive such information under a health care agency the same right the principal has to examine and copy any part or all of the patient's medical records that the agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, hospital, nursing home or other health care provider.

(d) If and to the extent a health care agency empowers the agent to (1) make an anatomical gift on behalf of the principal under the Illinois Uniform Anatomical Gift Act, as now or hereafter amended, or (2) authorize an autopsy of the principal's body pursuant to Section 2 of "An Act in relation to autopsy of dead bodies", approved August 13, 1965, as now or hereafter amended, or (3) direct the disposition of the principal's remains, the decision by an authorized agent as to anatomical gift, autopsy approval or remains disposition shall be deemed the act of the principal and shall control over the decision of other persons who might otherwise have priority;

and each person to whom a direction by the agent in accordance with the terms of the agency is communicated shall comply with such direction.

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

(755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

Sec. 4-10. Statutory short form power of attorney for health care.

(a) The following form (sometimes also referred to in this Act as the "statutory health care power") may be used to grant an agent powers with respect to the principal's own health care; but the statutory health care power is not intended to be exclusive nor to cover delegation of a parent's power to control the health care of a minor child, and no provision of this Article shall be construed to invalidate or bar use by the principal of any other or different form of power of attorney for health care. Nonstatutory health care powers must be executed by the principal, designate the agent and the agent's powers, and comply with Section 4-5 of this Article, but they need not be witnessed or conform in any other respect to the statutory health care power. When a power of attorney in substantially the following form is used, including the "notice" paragraph at the beginning in capital letters, it shall have the meaning and effect prescribed in this Act. The statutory health care power may be included in or combined with any other form of power of attorney governing property or other matters.

"ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR HEALTH CARE

(NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU, INCLUDING POWER TO REQUIRE, CONSENT TO OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT YOU TO OR DISCHARGE YOU FROM ANY HOSPITAL, HOME OR OTHER INSTITUTION. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR AGENT TO

EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE EXERCISED, YOUR AGENT WILL HAVE TO USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS FORM AND KEEP A RECORD OF RECEIPTS, DISBURSEMENTS AND SIGNIFICANT ACTIONS TAKEN AS AGENT. A COURT CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS THE AGENT IS NOT ACTING PROPERLY. YOU MAY NAME SUCCESSOR AGENTS UNDER THIS FORM BUT NOT CO-AGENTS, AND NO HEALTH CARE PROVIDER MAY BE NAMED. UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN THE MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A COURT ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT, YOUR RIGHT TO REVOKE THOSE POWERS AND THE PENALTIES FOR VIOLATING THE LAW ARE EXPLAINED MORE FULLY IN SECTIONS 4-5, 4-6, 4-9 AND 4-10(b) OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE LAW" OF WHICH THIS FORM IS A PART (SEE THE BACK OF THIS FORM). THAT LAW EXPRESSLY PERMITS THE USE OF ANY DIFFERENT FORM OF POWER OF ATTORNEY YOU MAY DESIRE. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.)

POWER OF ATTORNEY made thisday of

(month) (year)

1. I,,
 (insert name and address of principal)

hereby appoint:

.....
 (insert name and address of agent)

as my attorney-in-fact (my "agent") to act for me and in my name (in any way I could act in person) to make any and all decisions for me concerning my personal care, medical treatment, hospitalization and health care and to require, withhold or withdraw any type of medical treatment or procedure, even though my death may ensue. My agent shall have the same access to my medical records that I have, including the right to disclose the contents to others. My agent shall

also have full power to authorize an autopsy and direct the disposition of my remains. Effective upon my death, my agent has the full power to make an anatomical gift of the following (initial one):

....Any organs, tissues, or eyes suitable for transplantation or used for research or education ~~organ~~.

....Specific organs:

(THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS POSSIBLE SO THAT YOUR AGENT WILL HAVE AUTHORITY TO MAKE ANY DECISION YOU COULD MAKE TO OBTAIN OR TERMINATE ANY TYPE OF HEALTH CARE, INCLUDING WITHDRAWAL OF FOOD AND WATER AND OTHER LIFE-SUSTAINING MEASURES, IF YOUR AGENT BELIEVES SUCH ACTION WOULD BE CONSISTENT WITH YOUR INTENT AND DESIRES. IF YOU WISH TO LIMIT THE SCOPE OF YOUR AGENT'S POWERS OR PRESCRIBE SPECIAL RULES OR LIMIT THE POWER TO MAKE AN ANATOMICAL GIFT, AUTHORIZE AUTOPSY OR DISPOSE OF REMAINS, YOU MAY DO SO IN THE FOLLOWING PARAGRAPHS.)

2. The powers granted above shall not include the following powers or shall be subject to the following rules or limitations (here you may include any specific limitations you deem appropriate, such as: your own definition of when life-sustaining measures should be withheld; a direction to continue food and fluids or life-sustaining treatment in all events; or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs or unacceptable to you for any other reason, such as blood transfusion, electro-convulsive therapy, amputation, psychosurgery, voluntary admission to a mental institution, etc.):

.....
.....
.....
.....
.....

(THE SUBJECT OF LIFE-SUSTAINING TREATMENT IS OF PARTICULAR IMPORTANCE. FOR YOUR CONVENIENCE IN DEALING WITH THAT SUBJECT,

SOME GENERAL STATEMENTS CONCERNING THE WITHHOLDING OR REMOVAL OF LIFE-SUSTAINING TREATMENT ARE SET FORTH BELOW. IF YOU AGREE WITH ONE OF THESE STATEMENTS, YOU MAY INITIAL THAT STATEMENT; BUT DO NOT INITIAL MORE THAN ONE):

I do not want my life to be prolonged nor do I want life-sustaining treatment to be provided or continued if my agent believes the burdens of the treatment outweigh the expected benefits. I want my agent to consider the relief of suffering, the expense involved and the quality as well as the possible extension of my life in making decisions concerning life-sustaining treatment.

Initialed.....

I want my life to be prolonged and I want life-sustaining treatment to be provided or continued unless I am in a coma which my attending physician believes to be irreversible, in accordance with reasonable medical standards at the time of reference. If and when I have suffered irreversible coma, I want life-sustaining treatment to be withheld or discontinued.

Initialed.....

I want my life to be prolonged to the greatest extent possible without regard to my condition, the chances I have for recovery or the cost of the procedures.

Initialed.....

(THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU IN THE MANNER PROVIDED IN SECTION 4-6 OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE LAW" (SEE THE BACK OF THIS FORM). ABSENT AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS POWER OF ATTORNEY WILL BECOME EFFECTIVE AT THE TIME THIS POWER IS SIGNED AND WILL CONTINUE UNTIL YOUR DEATH, AND BEYOND IF ANATOMICAL GIFT, AUTOPSY OR DISPOSITION OF REMAINS IS AUTHORIZED, UNLESS A LIMITATION ON THE BEGINNING DATE OR DURATION IS MADE BY INITIALING AND COMPLETING EITHER OR BOTH OF THE FOLLOWING:)

3. () This power of attorney shall become effective on

.....
.....

(insert a future date or event during your lifetime, such as court determination of your disability, when you want this power to first take effect)

4. () This power of attorney shall terminate on

.....
(insert a future date or event, such as court determination of your disability, when you want this power to terminate prior to your death)

(IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAMES AND ADDRESSES OF SUCH SUCCESSORS IN THE FOLLOWING PARAGRAPH.)

5. If any agent named by me shall die, become incompetent, resign, refuse to accept the office of agent or be unavailable, I name the following (each to act alone and successively, in the order named) as successors to such agent:

.....
.....

For purposes of this paragraph 5, a person shall be considered to be incompetent if and while the person is a minor or an adjudicated incompetent or disabled person or the person is unable to give prompt and intelligent consideration to health care matters, as certified by a licensed physician. (IF YOU WISH TO NAME YOUR AGENT AS GUARDIAN OF YOUR PERSON, IN THE EVENT A COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY, BUT ARE NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING PARAGRAPH. THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS THAT SUCH APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND WELFARE. STRIKE OUT PARAGRAPH 6 IF YOU DO NOT WANT YOUR AGENT TO ACT AS GUARDIAN.)

6. If a guardian of my person is to be appointed, I nominate the agent acting under this power of attorney as such guardian, to serve without bond or security.

7. I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my agent.

Signed.....

(principal)

The principal has had an opportunity to read the above form and has signed the form or acknowledged his or her signature or mark on the form in my presence.

..... Residing at.....

(witness)

(YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE AGENTS.)

Specimen signatures of I certify that the signatures of my agent (and successors). agent (and successors) are correct.

..... (agent) (principal)

..... (successor agent) (principal)

..... (successor agent) (principal)"

(b) The statutory short form power of attorney for health care (the "statutory health care power") authorizes the agent to make any and all health care decisions on behalf of the principal which the principal could make if present and under no disability, subject to any limitations on the granted powers that appear on the face of the form, to be exercised in such manner as the agent deems consistent with the intent and desires of the principal. The agent will be under no duty to exercise granted powers or to assume control of or responsibility for the principal's health care; but when granted powers are exercised, the agent will be required to use due care to act for the benefit of the principal in accordance with the terms of the statutory health care power and will be liable for negligent exercise. The agent may act in person or through others reasonably employed by the agent for that purpose but may not delegate authority to make health care decisions. The agent may sign and deliver all instruments, negotiate and enter into all agreements and do all other acts

reasonably necessary to implement the exercise of the powers granted to the agent. Without limiting the generality of the foregoing, the statutory health care power shall include the following powers, subject to any limitations appearing on the face of the form:

(1) The agent is authorized to give consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment or procedures relating to the physical or mental health of the principal, including any medication program, surgical procedures, life-sustaining treatment or provision of food and fluids for the principal.

(2) The agent is authorized to admit the principal to or discharge the principal from any and all types of hospitals, institutions, homes, residential or nursing facilities, treatment centers and other health care institutions providing personal care or treatment for any type of physical or mental condition. The agent shall have the same right to visit the principal in the hospital or other institution as is granted to a spouse or adult child of the principal, any rule of the institution to the contrary notwithstanding.

(3) The agent is authorized to contract for any and all types of health care services and facilities in the name of and on behalf of the principal and to bind the principal to pay for all such services and facilities, and to have and exercise those powers over the principal's property as are authorized under the statutory property power, to the extent the agent deems necessary to pay health care costs; and the agent shall not be personally liable for any services or care contracted for on behalf of the principal.

(4) At the principal's expense and subject to reasonable rules of the health care provider to prevent disruption of the principal's health care, the agent shall have the same right the principal has to examine and copy and consent to disclosure of all the principal's medical records that the agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition

and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, hospital, nursing home or other health care provider.

(5) The agent is authorized: to direct that an autopsy be made pursuant to Section 2 of "An Act in relation to autopsy of dead bodies", approved August 13, 1965, including all amendments; to make a disposition of any part or all of the principal's body pursuant to the Illinois ~~Uniform~~ Anatomical Gift Act, as now or hereafter amended; and to direct the disposition of the principal's remains.

(Source: P.A. 91-240, eff. 1-1-00.)

Section 50. The Uniform Anatomical Gift Act is amended by changing and renumbering Sections 1, 2, 3, 4, 4.5, 5, 6, 7, 8, and 8.1 and by adding Article headings for Articles 1 and 5 and adding Sections 1-5, 5-25, and 5-30 as follows:

(755 ILCS 50/Art. 1 heading new)

Article 1. Title and General Provisions.

(755 ILCS 50/1-1 new) (was 755 ILCS 50/1)

Sec. 1-1 ~~1~~. Short Title.

This Act may be cited as the Illinois ~~Uniform~~ Anatomical Gift Act.

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

(755 ILCS 50/1-5 new)

Sec. 1-5. Purpose. Illinois recognizes that there is a critical shortage of human organs and tissues available to citizens in need of organ and tissue transplants. This shortage leads to the untimely death of many adults and children in Illinois and across the nation each year. This Act is intended to implement the public policy of encouraging timely donation of human organs and tissue in Illinois and facilitating transplants of those organs and tissue into patients in need of them. Through this Act, laws relating to organ and tissue

donation and transplantation are consolidated and modified for the purpose of furthering this public policy.

(755 ILCS 50/1-10 new) (was 755 ILCS 50/2)

Sec. 1-10 ~~2~~. Definitions. ~~(a)~~

"Bank or storage facility" means a facility licensed, accredited or approved under the laws of any state for storage of human bodies or parts thereof.

"Close friend" means any person 18 years of age or older who has exhibited special care and concern for the decedent and who presents an affidavit to the decedent's attending physician, or the hospital administrator or his or her designated representative, stating that he or she (i) was a close friend of the decedent, (ii) is willing and able to consent to the donation, and (iii) maintained such regular contact with the decedent as to be familiar with the decedent's health and social history, and religious and moral beliefs. The affidavit must also state facts and circumstances that demonstrate that familiarity.

~~(b)~~ "Death" means for the purposes of the Act, the irreversible cessation of total brain function, according to usual and customary standards of medical practice.

~~(c)~~ "Decedent" means a deceased individual and includes a stillborn infant or fetus.

~~(d)~~ "Donor" means an individual who makes a gift of all or parts of his body.

"Federally designated organ procurement agency" means the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located, or the organ procurement agency for which the U.S. Secretary of Health and Human Services has granted the hospital a waiver pursuant to 42 U.S.C. 1320b-8(a).

~~(e)~~ "Hospital" means a hospital licensed, accredited or approved under the laws of any state; and includes a hospital operated by the United States government, a state, or a

subdivision thereof, although not required to be licensed under state laws.

"Not available" for the giving of consent or refusal means:

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

(2) the administrator or designee, organ procurement agency, or tissue bank has unsuccessfully attempted to contact the person by telephone or in any other reasonable manner; or

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

"Organ" means a human kidney, liver, heart, lung, pancreas, small bowel, or other transplantable vascular body part as determined by the Organ Procurement and Transplantation Network, as periodically selected by the U.S. Department of Health and Human Services.

"Tissue" means eyes, bones, heart valves, veins, skin, and any other portions of a human body excluding blood, blood products or organs.

~~(f)~~ "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

~~(g)~~ "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

~~(h)~~ "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice medicine in all of its branches under the laws of any state.

~~(i)~~ "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

~~(j)~~ "Technician" means an individual trained and certified to remove tissue, by a recognized medical training institution in the State of Illinois.

"Tissue bank" means any facility or program operating in

Illinois that is certified by the American Association of Tissue Banks, the Eye Bank Association of America, or the Association of Organ Procurement Organizations and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs or blood or blood products.

(Source: P.A. 79-952.)

(755 ILCS 50/Art. 5/heading new)

Article 5. Organ Donation.

(755 ILCS 50/5-5 new) (was 755 ILCS 50/3)

Sec. 5-5 ~~3~~. Persons who may execute an anatomical gift.

(a) Any individual of sound mind who has attained the age of 18 may give all or any part of his or her body for any purpose specified in Section 5-10 ~~4~~. Such a gift may be executed in any of the ways set out in Section 5-20 ~~5~~, and shall take effect upon the individual's death without the need to obtain the consent of any survivor. An anatomical gift made by an agent of an individual, as authorized by the individual under the Powers of Attorney for Health Care Law, as now or hereafter amended, is deemed to be a gift by that individual and takes effect without the need to obtain the consent of any other person.

(b) If no gift has been executed under subsection (a), any of the following persons, in the order of priority stated in items (1) through (11) ~~(9)~~ below, when persons in prior classes are not available for the giving of consent or refusal and in the absence of (i) actual notice of contrary intentions by the decedent and (ii) actual notice of opposition by any member within the same priority class, may consent to give all or any part of the decedent's body after or immediately before death to a person who may become a donee for any purpose specified in

Section 5-10 4:

(1) an individual acting as the decedent's agent under a power of attorney for health care ~~which provides specific direction regarding organ donation,~~

(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act,

(3) the guardian of the decedent's person at the time of death,

(4) ~~(2)~~ the decedent's spouse,

(5) ~~(3)~~ any of the decedent's adult sons or daughters,

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

(7) ~~(5)~~ any of the decedent's adult brothers or sisters,

(8) ~~(6)~~ any adult grandchild of the decedent,

(9) a close friend of the decedent,

(10) ~~(7)~~ the guardian of the decedent's estate,

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

(11) ~~(9)~~ any other person authorized or under legal obligation to dispose of the body.

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

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

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

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

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

(c) ~~(d)~~ A gift of all or part of a body authorizes any

examination necessary to assure medical acceptability of the gift for the purposes intended.

(d) ~~(e)~~ The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 5-45 ~~(d)~~.

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

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

(755 ILCS 50/5-10 new) (was 755 ILCS 50/4)

Sec. 5-10 ~~4~~. Persons Who May Become Donees; Purposes for Which Anatomical Gifts May be Made.

The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(2) any accredited medical, chiropractic, mortuary or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

(3) any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) any federally designated organ procurement agency or tissue bank, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(5) ~~(4)~~ any specified individual for therapy or transplantation needed by him or her, or for any other purpose.

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

(755 ILCS 50/5-15 new) (was 755 ILCS 50/4.5)

Sec. 5-15 ~~4.5~~. Disability of recipient.

(a) No hospital, physician and surgeon, bank or storage facility, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

(b) Subsection (a) shall apply to each part of the organ transplant process.

(c) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this Section.

(d) This Section shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants.

(e) As used in this Section "disability" has the same meaning as in the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be amended from time to time.

(Source: P.A. 91-345, eff. 1-1-00.)

(755 ILCS 50/5-20 new) (was 755 ILCS 50/5)

Sec. 5-20 ~~5~~. Manner of Executing Anatomical Gifts. (a) A gift of all or part of the body under Section 5-5 ~~3~~ (a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under Section 5-5 ~~3~~ (a) may also be made by a written, signed document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card or a valid driver's license designed to be carried on the person, must be signed by the

donor in the presence of 2 witnesses who must sign the document in his presence and who thereby certify that he was of sound mind and memory and free from any undue influence and knows the objects of his bounty and affection. Such a gift may also be made by properly executing the form provided by the Secretary of State on the reverse side of the donor's driver's license pursuant to subsection (b) of Section 6-110 of The Illinois Vehicle Code. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, then if made for the purpose of transplantation, it shall be effectuated in accordance with Section 5-25, and if made for any other purpose the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. ~~The physician who becomes a donee under this subsection shall not participate either physically or financially in the procedures for removing or transplanting a part.~~

(d) Notwithstanding Section 5-45 & (b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 5-5 & (b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

(Source: P.A. 85-192.)

(755 ILCS 50/5-25 new)

Sec. 5-25. Notification; consent.

(a) When, based upon generally accepted medical standards, an inpatient in a general acute care hospital with more than 100 beds is a suitable candidate for organ or tissue donation and the patient has not made an anatomical gift of all or any part of his or her body pursuant to Section 5-20 of this Act, the hospital shall proceed in accordance with the requirements of 42 CFR 482.45 or any successor provisions of federal statute or regulation, as may be amended from time to time, and the written agreement between the hospital and the applicable organ procurement agency executed thereunder.

(b) In making a request for organ or tissue donation, the hospital or the hospital's federally designated organ procurement agency or tissue bank shall request any of the following persons, in the order of priority stated in items (1) through (11) below, when persons in prior classes are not available and in the absence of (i) actual notice of contrary intentions by the decedent, (ii) actual notice of opposition by any member within the same priority class, and (iii) reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, to consent to the gift of all or any part of the decedent's body for any purpose specified in Section 5-10 of this Act:

(1) an individual acting as the decedent's agent under a power of attorney for health care;

(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act;

(3) the guardian of the decedent's person at the time of death;

(4) the decedent's spouse;

(5) any of the decedent's adult sons or daughters;

(6) either of the decedent's parents;

(7) any of the decedent's adult brothers or sisters;

(8) any adult grandchild of the decedent;

(9) a close friend of the decedent;

(10) the guardian of the decedent's estate; or

(11) any other person authorized or under legal obligation to dispose of the body.

(c) If (1) the hospital, the applicable organ procurement agency, or the tissue bank has actual notice of opposition to the gift by the decedent or any person in the highest priority class in which an available person can be found, or (2) there is reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, or (3) the Director of Public Health has adopted a rule signifying his or her determination that the need for organs and tissues for donation has been adequately met, then the gift of all or any part of the decedent's body shall not be requested. If a donation is requested, consent or refusal may be obtained only from the person or persons in the highest priority class available. If the hospital administrator, or his or her designated representative, the designated organ procurement agency, or the tissue bank is unable to obtain consent from any of the persons named in items (1) through (11) of subsection (b) of this Section, the decedent's body shall not be used for an anatomical gift unless a valid anatomical gift document was executed under this Act.

(d) When there is a suitable candidate for organ donation, as described in subsection (a), or if consent to remove organs and tissues is granted, the hospital shall notify the applicable federally designated organ procurement agency. The federally designated organ procurement agency shall notify any tissue bank specified by the hospital of the suitable candidate for tissue donation. The organ procurement agency shall collaborate with all tissue banks in Illinois to maximize tissue procurement in a timely manner.

(755 ILCS 50/5-30 new)

Sec. 5-30. Corneal Transplants.

(a) Upon request by a physician licensed to practice medicine in all its branches, or by an eye bank certified by the Eye Bank Association of America, and approved by the

coroner or county medical examiner, in any case in which a patient is in need of corneal tissue for a transplant, a coroner or county medical examiner who orders the performance of an autopsy may provide corneal tissue of a decedent whenever all of the following conditions are met:

(1) The decedent from whom the tissue is taken is under the jurisdiction of the coroner or county medical examiner.

(2) There has been a reasonable and good faith effort by the coroner or county medical examiner or any authorized individual acting for the coroner or county medical examiner to contact an appropriate person as set forth in subsection (b) of this Section.

(3) No objection by the decedent or, after the decedent's death, by an appropriate person as set forth in subsection (b) of this Section is known to the coroner or county medical examiner or authorized individual acting for the coroner or county medical examiner prior to removal of the corneal tissue.

(4) The person designated to remove the tissue is qualified to do so under this Act.

(5) Removal of the tissue will not interfere with the subsequent course of an investigation or autopsy.

(6) The individual when living did not make known in writing his or her objection on religious grounds to the removal of his or her corneal tissue.

(b) Objection to the removal of corneal tissue may be made known to the coroner or county medical examiner or authorized individual acting for the coroner or county medical examiner by the individual during his or her lifetime or by the following persons, in the order of priority stated, after the decedent's death:

(1) an individual acting as the decedent's agent under a power of attorney for health care;

(2) the decedent's surrogate decision maker identified by the attending physician in accordance with the Health Care Surrogate Act;

(3) the guardian of the decedent's person at the time of death;

(4) the decedent's spouse;

(5) any of the decedent's adult sons or daughters;

(6) either of the decedent's parents;

(7) any of the decedent's adult brothers or sisters;

(8) any adult grandchild of the decedent;

(9) a close friend of the decedent;

(10) the guardian of the decedent's estate; or

(11) any other person authorized or under legal obligation to dispose of the body.

(c) If the coroner or county medical examiner or any authorized individual acting for the coroner or county medical examiner has actual notice of any contrary indications by the decedent or actual notice that any member within the same class specified in subsection (b), paragraphs (1) through (11), of this Section, in the same order of priority, objects to the removal, the coroner or county medical examiner shall not approve the removal of corneal tissue.

(d) The coroner or county medical examiner or any authorized individual acting for the coroner or county medical examiner authorizing the removal of corneal tissue, or the persons or organizations listed in subsection (a) of this Section, shall not be liable in any civil or criminal action for removing corneal tissue from a decedent and using the same for transplant purposes if there has been compliance with the provisions of this Section.

(755 ILCS 50/5-35 new) (was 755 ILCS 50/6)

Sec. 5-35 ~~6~~. Delivery of Document of Gift.

If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital,

bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

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

(755 ILCS 50/5-40 new) (was 755 ILCS 50/7)

Sec. 5-40 7. Amendment or Revocation of the Gift.

(a) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) the execution and delivery to the donee of a signed statement witnessed and certified as provided in Section 5-20 5 (b); or

(2) a signed card or document found on his person, or in his effects, executed at a date subsequent to the date the original gift was made and witnessed and certified as provided in Section 5-20 5 (b).

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a).

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (a).

(Source: P.A. 87-895.)

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

Sec. 5-45 8. Rights and Duties at Death. (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, unless a person named in subsection (b) of Section 5-5 3 has requested, prior to the final disposition by the donee, that the remains of said body be returned to his or her custody for the purpose of final disposition. Such request

shall be honored by the donee if the terms of the gift are silent on how final disposition is to take place. If the gift is of a part of the body, the donee or technician designated by him upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation and without undue delay in the release of the body for the purposes of final disposition. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body, in the order or priority listed in subsection (b) of Section 5-5 ~~3~~ of this Act.

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

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

(d) This Act is subject to the provisions of "An Act to

revise the law in relation to coroners", approved February 6, 1874, as now or hereafter amended, to the laws of this State prescribing powers and duties with respect to autopsies, and to the statutes, rules, and regulations of this State with respect to the transportation and disposition of deceased human bodies.

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

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

(755 ILCS 50/5-50 new) (was 755 ILCS 50/8.1)

Sec. 5-50 ~~8.1~~. Payment for gift. (a) Except as provided in subsection (b), any person who knowingly pays or offers to pay any financial consideration to a donor or to any of the persons listed in subsection (b) of Section 5-5 ~~3~~ for making or consenting to an anatomical gift shall be guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.

(b) This Section does not prohibit reimbursement for reasonable costs associated with the removal, storage or transportation of a human body or part thereof pursuant to an anatomical gift executed pursuant to this Act.

(Source: P.A. 85-191.)

(755 ILCS 50/9 rep.)

(755 ILCS 50/11 rep.)

Section 55. The Uniform Anatomical Gift Act is amended by repealing Sections 9 and 11.

(755 ILCS 55/Act rep.)

Section 60. The Illinois Corneal Transplant Act is repealed.

(755 ILCS 60/Act rep.)

Section 65. The Organ Donation Request Act is repealed.

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

INDEX

Statutes amended in order of appearance

20 ILCS 2310/2310-330 was 20 ILCS 2310/55.46
105 ILCS 5/27-23.5
210 ILCS 85/6.16
210 ILCS 85/10.4 from Ch. 111 1/2, par. 151.4
410 ILCS 305/7 from Ch. 111 1/2, par. 7307
625 ILCS 5/6-110 from Ch. 95 1/2, par. 6-110
625 ILCS 5/12-215 from Ch. 95 1/2, par. 12-215
720 ILCS 5/12-20 from Ch. 38, par. 12-20
755 ILCS 35/6 from Ch. 110 1/2, par. 706
755 ILCS 40/20 from Ch. 110 1/2, par. 851-20
755 ILCS 40/65
755 ILCS 45/4-7 from Ch. 110 1/2, par. 804-7
755 ILCS 45/4-10 from Ch. 110 1/2, par. 804-10
755 ILCS 50/Art. 1 heading
new
755 ILCS 50/1-1 new was 755 ILCS 50/1
755 ILCS 50/1-5 new
755 ILCS 50/1-10 new was 755 ILCS 50/2
755 ILCS 50/Art. 5/heading
new
755 ILCS 50/5-5 new was 755 ILCS 50/3
755 ILCS 50/5-10 new was 755 ILCS 50/4
755 ILCS 50/5-15 new was 755 ILCS 50/4.5
755 ILCS 50/5-20 new was 755 ILCS 50/5
755 ILCS 50/5-25 new
755 ILCS 50/5-30 new
755 ILCS 50/5-35 new was 755 ILCS 50/6
755 ILCS 50/5-40 new was 755 ILCS 50/7
755 ILCS 50/5-45 new was 755 ILCS 50/8
755 ILCS 50/5-50 new was 755 ILCS 50/8.1
755 ILCS 50/9 rep.
755 ILCS 50/11 rep.
755 ILCS 55/Act rep.

Public Act 093-0794

SB1412 Enrolled

LRB093 10132 LCB 10385 b

755 ILCS 60/Act rep.