

By Senator King

8-223B-02

1 A bill to be entitled
2 An act relating to anatomical gifts; amending
3 ss. 765.510, 765.512, 765.514, 765.516,
4 765.517, F.S.; amending the declaration of
5 legislative intent; prohibiting modification of
6 a donor's intent; providing that a donor
7 document is legally binding; providing certain
8 implications of an anatomical gift; revising
9 the manner of executing anatomical gifts;
10 revising rights and duties at death; revising
11 procedures by which the terms of an anatomical
12 gift may be amended or the gift may be revoked;
13 proscribing legal liability; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 765.510, Florida Statutes, is
19 amended to read:
20 765.510 Legislative declaration.--~~Because of the rapid~~
21 ~~medical progress in the fields of tissue and organ~~
22 ~~preservation, transplantation of tissue, and tissue culture,~~
23 ~~and because~~ it is in the public interest to aid the medical
24 developments in the these fields of organ and tissue recovery
25 and transplantation, and in order to promote the general
26 welfare, save lives, and reduce sickness, pain, suffering,
27 disabilities, and medical costs of persons with organ and
28 tissue impairment, and to help alleviate the shortage of
29 organs and tissues available for transplantation and research,
30 the Legislature in enacting this part intends to encourage and
31 aid the development of reconstructive medicine and surgery and

1 the development of medical research by facilitating premortem
2 and postmortem authorizations for donations of tissue and
3 organs. It is the purpose of this part to regulate the gift
4 of a body or parts of a body, the gift to be made after the
5 death of a donor.

6 Section 2. Subsections (1), (2), and (6) of section
7 765.512, Florida Statutes, are amended to read:

8 765.512 Persons who may make an anatomical gift.--

9 (1) Any person who may make a will may give all or
10 part of his or her body for any purpose specified in s.
11 765.510, the gift to take effect upon death. An anatomical
12 gift made by an adult donor and not revoked by the donor as
13 provided in s. 765.516 is irrevocable ~~and does not require the~~
14 ~~consent or concurrence of any person~~ after the donor's death.
15 A family member, guardian, representative ad litem, or health
16 care surrogate of a decedent who has made an anatomical gift
17 may not modify the decedent's wishes or deny or prevent the
18 anatomical gift from being made.

19 (2) If the decedent has executed an agreement
20 concerning an anatomical gift, ~~by including~~ signing an organ
21 and tissue donor card, by expressing his or her wish to donate
22 in a living will or advance directive, or by signifying his or
23 her intent to donate on his or her driver's license or on a
24 signed organ donor sticker, or in some other written form has
25 indicated his or her wish to make an anatomical gift, and in
26 the absence of actual notice of contrary indications by the
27 decedent, the document is evidence of legally sufficient
28 informed consent to donate an anatomical gift, is legally
29 binding, and causes absolute ownership of the gift to vest
30 with the donee upon the death of the donor. Any surrogate
31 designated by the decedent pursuant to part II of this chapter

1 may give all or any part of the decedent's body for any
2 purpose specified in s. 765.510.

3 (6) A gift of all or part of a body authorizes:

4 (a) Any examination necessary to assure medical
5 acceptability of the gift for the purposes intended; and-

6 (b) Informational requests concerning the decedent's
7 medical and social history to be directed to the decedent's
8 family or to third parties.

9 Section 3. Subsection (2) of section 765.514, Florida
10 Statutes, is amended to read:

11 765.514 Manner of executing anatomical gifts.--

12 (2)(a) A gift of all or part of the body under s.
13 765.512(1) may also be made by a document other than a will.
14 The gift becomes effective upon the death of the donor. The
15 document must be signed by the donor, or, in the presence of
16 ~~two witnesses who shall sign the document in the donor's~~
17 ~~presence.~~ if the donor cannot sign, the document may be
18 signed for him or her at the donor's direction and in his or
19 her presence and the presence of two witnesses who must sign
20 the document in the donor's presence. Delivery of the
21 document of gift during the donor's lifetime is not necessary
22 to make the gift valid.

23 (b)1. The following form of written instrument shall
24 be sufficient for any person to give all or part of his or her
25 body for the purposes of this part:

26
27 UNIFORM DONOR CARD

28
29 The undersigned hereby makes this anatomical gift, if
30 medically acceptable, to take effect on death. The words and
31 marks below indicate my desires:

1 I give:

2 (a) any needed organs or parts;

3 (b) only the following organs or parts

4 ...[Specify the organ(s) or part(s)]...

5 for the purpose of transplantation, therapy, medical research,
6 or education;

7 (c) my body for anatomical study if needed.

8 Limitations or special wishes, if any:

9 ...(If applicable, list specific donee)...

10

11 Signed by the donor ~~and the following witnesses in the~~
12 ~~presence of each other:~~

13

14 ...(Signature of donor)... ...(Date of birth of donor)...

15 ...(Date signed)... ...(City and State)...

16

17 [Witnesses are required only if the donor is unable to sign
18 and this donor card is signed by proxy.]

19

20 ...(Witness)... ...(Witness)...

21 ...(Address)... ...(Address)...

22

23 2. An organ-donor sticker with a signature line is
24 sufficient as a document of anatomical gift if it is signed by
25 the donor. Such a sticker must be designed for peel-off and
26 application upon a charge card or other item that is usually
27 carried on the person. An organ-donor sticker may include such
28 other information as the federally licensed Florida organ
29 procurement organizations from time to time consider necessary
30 for facilitating simple and easy public promotion and sign-up
31 for the purposes of this chapter.

1 Section 4. Section 765.516, Florida Statutes, is
2 amended to read:

3 765.516 Amendment of the terms of or the revocation of
4 the gift.--

5 (1) A donor may amend the terms of or revoke an
6 anatomical gift by:

7 (a) The execution and delivery to the donee of a
8 signed statement.

9 ~~(b) An oral statement that is:~~

10 ~~1. Made to the donor's spouse; or~~

11 ~~2. Made in the presence of two persons and~~
12 ~~communicated to the donor's family or attorney or to the~~
13 ~~donee.~~

14 **(b)(c)** A statement during a terminal illness or injury
15 addressed to an attending physician, who must communicate the
16 revocation of the gift to the procurement organization that is
17 certified by the state.

18 **(c)(d)** A signed document found on or about the donor's
19 person ~~or in the donor's effects.~~

20 (2) The terms of any gift made by a will may ~~also~~ be
21 amended or the gift may be revoked in the manner provided for
22 the amendment or revocation of wills or as provided in
23 subsection (1).

24 Section 5. Subsections (1) and (5) of section 765.517,
25 Florida Statutes, are amended to read:

26 765.517 Rights and duties at death.--

27 (1) The donee, as specified under the provisions of s.
28 765.515(2), may accept or reject the gift. If the donee
29 accepts a gift of the entire body or a part of the body to be
30 used for scientific purposes other than a transplant, the
31 donee may authorize embalming and the use of the body in

1 funeral services, subject to the terms of the gift. If the
2 gift is of a part of the body, the donee shall cause the part
3 to be removed without unnecessary mutilation upon the death of
4 the donor and before or after embalming. Any mutilation of
5 the hands, neck, or head is strictly prohibited, unless
6 consent to waive this prohibition is given by a member of one
7 of the classes of persons listed in s. 765.512(3) in
8 accordance with the protocol set forth in that subsection.
9 After removal of the part, custody of the remainder of the
10 body vests in the surviving spouse, next of kin, or other
11 persons under obligation to dispose of the body.

12 (5) A person or entity that ~~who~~ acts or attempts to
13 act in good faith and without negligence in accordance accord
14 with the terms of this part or under the anatomical gift laws
15 of another state or a foreign country is not liable for
16 damages in any civil action or subject to prosecution for his
17 or her acts in any criminal proceeding. Neither an individual
18 who makes an anatomical gift nor the individual's estate is
19 liable for any injury or damage that results from the making
20 or the use of the anatomical gift.

21 Section 6. This act shall take effect upon becoming a
22 law.

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SENATE SUMMARY

Revises the prescribed manner of executing anatomical gifts. Amends the legislative declaration of intent. Provides that a decedent's family member, guardian, representative ad litem, or health care surrogate may not modify the decedent's wishes regarding an anatomical gift nor deny or prevent the decedent's making an anatomical gift. Provides that any of the specified documents pertaining to anatomical gifts is legally binding. Provides that the making of an anatomical gift authorizes certain informational requests to be directed to the decedent's family or to third parties. Deletes the requirement for witnesses unless a proxy, rather than the donor, signs a uniform donor card. Provides for the format and contents of organ-donor cards. Provides that a signature line signed by the donor is the only requirement for a document of anatomical gift. Prohibits mutilation of the hands, neck, or head of a donated body except with express consent as specified. Revises procedures by which the terms of an anatomical gift may be amended or the gift may be revoked. Provides that neither a person who makes an anatomical gift nor his or her estate has any legal liability for any injury or damage resulting from the making or use of the gift.