

By the Committee on Judiciary; and Senator King

8-1885A-02

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

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

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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 in some
24 other written form has indicated his or her wish to make an
25 anatomical gift, and in the absence of actual notice of
26 contrary indications by the decedent, the document is evidence
27 of legally sufficient informed consent to donate an anatomical
28 gift and is legally binding. Any surrogate designated by the
29 decedent pursuant to part II of this chapter may give all or
30 any part of the decedent's body for any purpose specified in
31 s. 765.510.

- 1 (6) A gift of all or part of a body authorizes:
2 (a) Any examination necessary to assure medical
3 acceptability of the gift for the purposes intended; and-
4 (b) The decedent's medical provider, family, or a
5 third party to furnish medical records requested concerning
6 the decedent's medical and social history.

7 Section 3. Section 765.516, Florida Statutes, is
8 amended to read:

9 765.516 Amendment of the terms of or the revocation of
10 the gift.--

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

13 (a) The execution and delivery to the donee of a
14 signed statement.

15 (b) An oral statement that is+

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

17 ~~2. made in the presence of two persons, other than the~~
18 donor's spouse, and communicated to the donor's family or
19 attorney or to the donee.

20 (c) A statement during a terminal illness or injury
21 addressed to an attending physician, who must communicate the
22 revocation of the gift to the procurement organization that is
23 certified by the state.

24 (d) A signed document found on or about the donor's
25 person ~~or in the donor's effects.~~

26 (2) The terms of any gift made by a will may ~~also~~ be
27 amended or the gift may be revoked in the manner provided for
28 the amendment or revocation of wills or as provided in
29 subsection (1).

30 Section 4. Subsections (1) and (5) of section 765.517,
31 Florida Statutes, are amended to read:

1 765.517 Rights and duties at death.--

2 (1) The donee, as specified under the provisions of s.
3 765.515(2), may accept or reject the gift. If the donee
4 accepts a gift of the entire body or a part of the body to be
5 used for scientific purposes other than a transplant, the
6 donee may authorize embalming and the use of the body in
7 funeral services, subject to the terms of the gift. ~~If the~~
8 ~~gift is of a part of the body, the donee shall cause the part~~
9 ~~to be removed without unnecessary mutilation upon the death of~~
10 ~~the donor and before or after embalming.~~After removal of the
11 part, custody of the remainder of the body shall be made
12 available to ~~vests in~~ the surviving spouse, next of kin, or
13 other persons under obligation to dispose of the body.

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

23 Section 5. This act shall take effect upon becoming a
24 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 334

- Removes the option to execute donor designations through unwitnessed signed organ donor stickers;
- Removes language that vested ownership of a donated body or body part;
- Reinstates the requirement that two witnesses sign a uniform donor card unless a proxy signs instead of a donor;
- Reinstates the option to amend or revoke orally a donor designation as specified;
- Removes the limitation on the unnecessary mutilation of a body part during the organ donning process.