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CS/CS/HB 455

2007 Legislature

1 A bill to be entitled
2 An act relating to organ and tissue donation; providing
3 findings and intent; amending s. 765.511, F.S.; providing
4 a definition; amending s. 765.512, F.S.; providing for
5 donation by joining a donor registry; conforming
6 provisions; amending s. 765.514, F.S.; providing for
7 authorization of anatomical donations by notations on a
8 driver's license or identification card; providing for
9 effect on authorization of license revocation, suspension,
10 expiration, or cancellation; providing for authorization
11 of anatomical donation by inclusion on a donor registry;
12 providing for authorization of donation through online
13 access to registry; providing for rulemaking; specifying
14 the effects of an online authorization; revising the
15 uniform donor card; amending s. 765.515, F.S.; revising
16 provisions relating to communication of specified
17 information to the donor registry; providing for
18 administration of the donor registry by a specified
19 nonprofit corporation rather than by a state agency;
20 revising provisions relating to registry administration;
21 requiring an annual report; providing for verification of
22 certain online entries; providing for voluntary
23 contributions to the registry; revising provisions
24 relating to payment of costs of the registry; providing
25 for provision of current registry information to the
26 Florida Coalition on Donation; designating the Joshua
27 Abbott Organ and Tissue Donor Registry; providing for
28 expiration of specified transitional provisions; amending

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 s. 765.516, F.S.; authorizing revocation of anatomical
30 gift by a donor through removal of his or her name from
31 the donor registry; amending s. 765.517, F.S.; revising
32 provisions relating to verification of a donor's consent
33 at death; creating s. 765.5201, F.S.; providing for
34 application of public records and meetings requirements to
35 the Florida Coalition on Donation; amending s. 765.521,
36 F.S.; revising provisions relating to authorization of
37 donations as a part of the driver license or
38 identification card process; amending s. 765.5215, F.S.;
39 revising provisions relating to anatomical gift education
40 programs; amending s. 765.52155, F.S.; redesignating the
41 Florida Organ and Tissue Donor Education and Procurement
42 Trust Fund as the Florida Organ and Tissue Procurement
43 Trust Fund; repealing s. 765.5216, F.S., relating to the
44 organ and tissue donor education panel; amending s.
45 765.522, F.S.; revising duties of hospital administrators
46 at or near the time of death of persons who are suitable
47 candidates for organ or tissue donation; providing
48 specified immunity to the Florida Coalition on Donation;
49 revising authority for designation of organ procurement
50 organizations; amending s. 765.544, F.S.; revising
51 provisions relating to the use of the Florida Organ and
52 Tissue Procurement Trust Fund; providing for use of
53 specified funds for certain transitional and notification
54 purposes; revising disposition of certain fees, penalties,
55 and surcharges; providing for expiration of specified
56 provisions; amending s. 215.20, F.S.; deleting a specified

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57 trust fund from provisions relating to a trust fund
58 surcharge; amending ss. 320.08047 and 322.08, F.S.;
59 revising distribution of specified voluntary contributions
60 for organ and tissue donor education; providing an
61 appropriation; providing an effective date.

62

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

64

65 Section 1. (1) The Legislature finds that:

66 (a) There exists in the state a shortage of organ and
67 tissue donors to provide the organs and tissue that could save
68 lives or enhance the quality of life for many Floridians.

69 (b) There is a need to encourage the various minority
70 populations of Florida to donate organs and tissue.

71 (c) An enhanced program of donor education coupled with an
72 online registration process developed and implemented by a
73 private not-for-profit entity in cooperation with the Department
74 of Highway Safety and Motor Vehicles that will report its
75 results to the Agency for Health Care Administration and the
76 Legislature will lead to an increase in the number of organ and
77 tissue donors registered in Florida.

78 (d) The Florida Coalition on Donation has been established
79 as a not-for-profit entity by the Florida organ procurement
80 organizations designated by the United States Department of
81 Health and Human Services and Florida tissue banks and eye
82 banks, all certified by the Agency for Health Care
83 Administration.

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84 (2) It is the intent of the Legislature that the funds
 85 collected pursuant to ss. 320.08047 and 322.08(6)(b), Florida
 86 Statutes, be used to maintain the donor registry and for
 87 educational purposes aimed at increasing the number of organ and
 88 tissue donors, thus affording more Floridians who are awaiting
 89 organ or tissue transplants the opportunity for a full and
 90 productive life.

91 Section 2. Subsections (4) and (5) of section 765.511,
 92 Florida Statutes, are renumbered as subsections (5) and (6),
 93 respectively, and a new subsection (4) is added to that section
 94 to read:

95 765.511 Definitions.--As used in this part, the term:

96 (4) "Florida Coalition on Donation" or "coalition" means
 97 the Florida Coalition on Donation, Inc., a not-for-profit
 98 corporation.

99 Section 3. Subsections (2) and (3) of section 765.512,
 100 Florida Statutes, are amended to read:

101 765.512 Persons who may make an anatomical gift.--

102 (2) If the decedent has executed an agreement concerning
 103 an anatomical gift, by signing an organ and tissue donor card,
 104 by joining the organ donor registry, by expressing his or her
 105 wish to donate in a living will or advance directive, or by
 106 signifying his or her intent to donate on his or her driver's
 107 license or identification card or in some other written form has
 108 indicated his or her wish to make an anatomical gift, and in the
 109 absence of actual notice of contrary indications by the
 110 decedent, the document is evidence of legally sufficient
 111 informed consent to donate an anatomical gift and is legally

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112 binding. Any surrogate designated by the decedent pursuant to
113 part II of this chapter may give all or any part of the
114 decedent's body for any purpose specified in s. 765.510.

115 (3) If the decedent has not executed an agreement
116 concerning an anatomical gift, is not included in the donor
117 registry, or has not designated a surrogate pursuant to part II
118 of this chapter to make an anatomical gift pursuant to the
119 conditions of subsection (2), a member of one of the classes of
120 persons listed below, in the order of priority stated and in the
121 absence of actual notice of contrary indications by the decedent
122 or actual notice of opposition by a member of the same or a
123 prior class, may give all or any part of the decedent's body for
124 any purpose specified in s. 765.510:

- 125 (a) The spouse of the decedent;
126 (b) An adult son or daughter of the decedent;
127 (c) Either parent of the decedent;
128 (d) An adult brother or sister of the decedent;
129 (e) A grandparent of the decedent;
130 (f) A guardian of the person of the decedent at the time
131 of his or her death; or
132 (g) A representative ad litem who shall be appointed by a
133 court of competent jurisdiction forthwith upon a petition heard
134 ex parte filed by any person, which representative ad litem
135 shall ascertain that no person of higher priority exists who
136 objects to the gift of all or any part of the decedent's body
137 and that no evidence exists of the decedent's having made a
138 communication expressing a desire that his or her body or body
139 parts not be donated upon death;

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140
141 but no gift shall be made by the spouse if any adult son or
142 daughter objects, and provided that those of higher priority, if
143 they are reasonably available, have been contacted and made
144 aware of the proposed gift, and further provided that a
145 reasonable search is made to show that there would have been no
146 objection on religious grounds by the decedent.

147 Section 4. Section 765.514, Florida Statutes, is amended
148 to read:

149 765.514 Manner of executing anatomical gifts.--

150 (1) A gift of all or part of the body under s. 765.512(1)
151 may be made by:

152 (a) A statement or symbol indicating that the donor has
153 made an anatomical gift that he or she has authorized to be
154 imprinted on his or her driver's license or identification card.
155 Revocation, suspension, expiration, or cancellation of a
156 driver's license or identification card upon which an anatomical
157 gift is indicated does not invalidate the gift.

158 (b) A statement indicating that the donor has made an
159 anatomical gift that he or she has authorized to be included on
160 the donor registry. Individuals may make such an authorization
161 through online access to the donor registry. The Department of
162 Highway Safety and Motor Vehicles may adopt rules to provide for
163 verification of the identity of such individuals in a manner
164 similar to the verification of identity for online driver's
165 license renewal. An online authorization under this paragraph is
166 evidence of legally sufficient informed consent to donate an

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167 anatomical gift, is legally binding, and satisfies all signature
168 requirements for such authorization.

169 (c) A will. The gift becomes effective upon the death of
170 the testator without waiting for probate. If the will is not
171 probated or if it is declared invalid for testamentary purposes,
172 the gift is nevertheless valid to the extent that it has been
173 acted upon in good faith.

174 ~~(d) 1. (2) (a) A gift of all or part of the body under s.~~
175 ~~765.512(1) may also be made by~~ A document other than a will or
176 online authorization. The gift becomes effective upon the death
177 of the donor. The document must be signed by the donor in the
178 presence of two witnesses who shall sign the document in the
179 donor's presence. If the donor cannot sign, the document may be
180 signed for him or her at the donor's direction and in his or her
181 presence and the presence of two witnesses who must sign the
182 document in the donor's presence. Delivery of the document of
183 gift during the donor's lifetime is not necessary to make the
184 gift valid.

185 ~~2. (b)~~ The following form of written instrument shall be
186 sufficient for any person to give all or part of his or her body
187 for the purposes of this part:

188
189 UNIFORM DONOR CARD

190
191 The undersigned hereby makes this anatomical gift, if medically
192 acceptable, to take effect on death. The words and marks below
193 indicate my desires:

194 I give:

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195 (a) _____ any needed organs, tissues, or eyes ~~or parts~~;

196 (b) _____ only the following organs, tissues, or eyes ~~or~~
197 ~~parts~~

198 [Specify the organ(s), tissue(s), or eye(s) ~~or part(s)~~]
199 for the purpose of transplantation, therapy, medical research,
200 or education;

201 (c) _____ my body for anatomical study if needed.

202 Limitations or special wishes, if any:

203 (If applicable, list specific donee) [This must be arranged
204 in advance with the donee.]

205
206 Signed by the donor and the following witnesses in the presence
207 of each other:

209 (Signature of donor) (Date of birth of donor)
210 (Date signed) (City and State)

211
212 (Witness) (Witness)
213 (Address) (Address)

214 (2)~~(3)~~ The gift may be made to a donee specified by name.
215 If the donee is not specified by name, the gift may be accepted
216 by the attending physician as donee upon or following the
217 donor's death. If the gift is made to a specified donee who is
218 not available at the time and place of death, the attending
219 physician may accept the gift as donee upon or following death
220 in the absence of any expressed indication that the donor
221 desired otherwise. However, the Legislature declares that the
222 public policy of this state prohibits restrictions on the

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223 possible recipients of an anatomical gift on the basis of race,
224 color, religion, sex, national origin, age, physical handicap,
225 health status, marital status, or economic status, and such
226 restrictions are hereby declared void and unenforceable. The
227 physician who becomes a donee under this subsection shall not
228 participate in the procedures for removing or transplanting a
229 part.

230 (3)~~(4)~~ Notwithstanding s. 765.517(2), the donor may
231 designate in his or her will or other document of gift the
232 surgeon or physician to carry out the appropriate procedures. In
233 the absence of a designation or if the designee is not
234 available, the donee or other person authorized to accept the
235 gift may employ or authorize any surgeon or physician for the
236 purpose.

237 (4)~~(5)~~ Any gift by a member of a class designated in s.
238 765.512(3) must be made by a document signed by that person or
239 made by that person's witnessed telephonic discussion,
240 telegraphic message, or other recorded message.

241 Section 5. Section 765.515, Florida Statutes, is amended
242 to read:

243 765.515 Delivery of document; organ and tissue donor
244 registry.--

245 (1) If a gift is made pursuant to ~~through the program~~
246 ~~established by the Agency for Health Care Administration and the~~
247 ~~Department of Highway Safety and Motor Vehicles under the~~
248 ~~authority of~~ s. 765.521, the completed donor registration card
249 shall be delivered to the Department of Highway Safety and Motor
250 Vehicles and processed as provided ~~in a manner specified in~~

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251 subsection (4), but delivery is not necessary to the validity of
252 the gift. If the donor withdraws the gift, the records of the
253 Department of Highway Safety and Motor Vehicles shall be updated
254 to reflect such withdrawal and the department shall communicate
255 the withdrawal to the Florida Coalition on Donation for the
256 purpose of updating the donor registry.

257 (2) If a gift is not made pursuant to ~~through the program~~
258 ~~established by the Agency for Health Care Administration and the~~
259 ~~Department of Highway Safety and Motor Vehicles under the~~
260 ~~authority of s. 765.521 and is made by the donor to a specified~~
261 donee, the document, other than a will, may be delivered to the
262 donee to expedite the appropriate procedures immediately after
263 death, but delivery is not necessary to the validity of the
264 gift. Such document may be deposited in any hospital, bank,
265 storage facility, or registry office that accepts such documents
266 for safekeeping or for facilitation of procedures after death.

267 (3) On the request of any interested party upon or after
268 the donor's death, the person in possession shall produce the
269 document for examination.

270 (4) (a) The Florida Coalition on Donation ~~The Agency for~~
271 ~~Health Care Administration and the Department of Highway Safety~~
272 ~~and Motor Vehicles shall~~ maintain ~~develop and implement~~ an organ
273 and tissue donor registry that ~~which~~ shall record, through
274 electronic means, organ and tissue donation records ~~documents~~
275 submitted through the driver license identification program or
276 through ~~by~~ other sources. The registry shall be maintained in a
277 manner that ~~which~~ will allow, through electronic and telephonic
278 methods, immediate access to organ and tissue donation records

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279 ~~documents~~ 24 hours a day, 7 days a week. ~~Hospitals,~~ Organ, and
 280 tissue, and eye procurement agencies that are certified by the
 281 Agency for Health Care Administration to obtain consent for
 282 donation and to screen potential organ and tissue donors, the
 283 Florida Coalition on Donation, the Department of Highway Safety
 284 and Motor Vehicles, and other parties identified by the agency
 285 by rule shall be allowed access through coded means to the
 286 information stored in the registry. Both the coalition and the
 287 Department of Highway Safety and Motor Vehicles shall have
 288 administrative responsibilities for the registry.

289 (b) The coalition shall submit an annual written report to
 290 the Legislature that includes all of the following:

- 291 1. The number of donors on the registry.
- 292 2. The changes in the number of donors on the registry.
- 293 3. The general characteristics of donors as may be
 294 determined from registry information submitted directly by the
 295 donors or by the Department of Highway Safety and Motor
 296 Vehicles.

297 (c) Upon request by the Department of Highway Safety and
 298 Motor Vehicles, the coalition will provide the department with a
 299 list of the names of individuals who joined the donor registry
 300 online. This list shall be used to confirm that the identities
 301 of all such individuals were verified through the process
 302 authorized in s. 765.514(1)(b).

303 (d) The coalition may receive voluntary contributions to
 304 support its activities and the registry.

305 (e)1. Costs for the orderly transition of the organ and
 306 tissue donor registry from the Agency for Health Care

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307 Administration to the coalition and for the notification of
308 potential donors of the changes to the registration process
309 shall be paid from the Florida Organ and Tissue Donor Education
310 ~~and Procurement Trust Fund~~ created by s. 765.52155.

311 2. Except as provided in subparagraph 1., costs for
312 maintaining the organ and tissue donor registry shall be paid
313 from funds collected pursuant to ss. 320.08047 and 322.08(6)(b)
314 and from any other funds available to the coalition for this
315 purpose. Funds deposited into the Florida Organ and Tissue Donor
316 Education and Procurement Trust Fund shall be utilized by the
317 Agency for Health Care Administration for maintaining the organ
318 and tissue donor registry and for organ and tissue donor
319 education.

320 Section 6. At the time of implementation of the amendments
321 concerning the organ and tissue donor registry in s. 765.515(4),
322 Florida Statutes, made by this act, the Florida Coalition on
323 Donation shall assume responsibility for all aspects of the
324 donor registry and the Agency for Health Care Administration
325 shall provide the coalition with the current registry
326 information, including donor registration documents, for all
327 previously registered donors.

328 Section 7. The organ and tissue donor registry required by
329 this act to be maintained by the Florida Coalition on Donation
330 is designated as the "Joshua Abbott Organ and Tissue Donor
331 Registry."

332 Section 8. Section 765.515(4)(e)1., Florida Statutes, as
333 amended by this act, shall expire upon completion of the
334 transition of the organ and tissue donor registry from the

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335 Agency for Health Care Administration to the Florida Coalition
336 on Donation and the notification of potential donors of the
337 changes to the registration process.

338 Section 9. Paragraph (e) is added to subsection (1) of
339 section 765.516, Florida Statutes, to read:

340 765.516 Amendment of the terms of or the revocation of the
341 gift.--

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

344 (e) Removal of his or her own name from the donor
345 registry.

346 Section 10. Subsection (3) of section 765.517, Florida
347 Statutes, is amended to read:

348 765.517 Rights and duties at death.--

349 (3) The organ procurement organization, tissue bank, or
350 eye bank, or hospital medical professionals under the direction
351 thereof, may perform any and all tests to evaluate the deceased
352 as a potential donor and any invasive procedures on the deceased
353 body in order to preserve the potential donor's organs. These
354 procedures do not include the surgical removal of an organ or
355 penetrating any body cavity, specifically for the purpose of
356 donation, until:

357 (a) It has been verified that the deceased's consent to
358 donate appears in the donor registry or until a properly
359 executed donor card or document is located; or,

360 (b) If a properly executed donor card or document cannot
361 be located and the deceased's consent is not listed on the donor
362 registry, until a person specified in s. 765.512(3) has been

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363 located, has been notified of the death, and has granted legal
364 permission for the donation.

365 Section 11. Section 765.5201, Florida Statutes, is created
366 to read:

367 765.5201 Records and meetings of the coalition.--Records
368 and meetings of the Florida Coalition on Donation are open to
369 the public in accordance with s. 119.07(1), s. 286.011, and s.
370 24, Art. I of the State Constitution, unless otherwise made
371 exempt by law.

372 Section 12. Section 765.521, Florida Statutes, is amended
373 to read:

374 765.521 Donations as part of driver license or
375 identification card process.--

376 (1) ~~The Agency for Health Care Administration and the~~
377 ~~Department of Highway Safety and Motor Vehicles~~ and the Florida
378 Coalition on Donation shall develop and implement a program
379 encouraging and allowing persons to make anatomical gifts as a
380 part of the process of issuing identification cards and issuing
381 and renewing driver licenses. The donor registration card
382 distributed by the Department of Highway Safety and Motor
383 Vehicles shall include the material specified by s.
384 765.514(1)(d)2. ~~(2)(b)~~ and may require such additional
385 information, and include such additional material, as may be
386 deemed necessary by that department. The Department of Highway
387 Safety and Motor Vehicles shall also develop and implement a
388 program to identify donors, which program shall include
389 notations on identification cards, driver licenses, and driver
390 records or such other methods as the department may develop.

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391 This program shall include, after an individual has completed a
 392 donor registration card, making a notation on the front of the
 393 driver license or identification card that clearly indicates the
 394 individual's intent to donate the individual's organs or tissue.
 395 A notation on an individual's driver license or identification
 396 card that the individual intends to donate organs or tissues is
 397 deemed sufficient to satisfy all requirements for consent to
 398 organ or tissue donation. The coalition ~~Agency for Health Care~~
 399 ~~Administration~~ shall provide the necessary supplies and forms
 400 through funds collected under ss. 320.08047 and 322.08(6)(b)
 401 ~~appropriated from general revenue~~ or contributions from
 402 interested voluntary, nonprofit organizations. The Department of
 403 Highway Safety and Motor Vehicles shall provide the necessary
 404 recordkeeping system through funds appropriated from general
 405 revenue. The Department of Highway Safety and Motor Vehicles and
 406 the coalition ~~Agency for Health Care Administration~~ shall incur
 407 no liability in connection with the performance of any acts
 408 authorized herein.

409 (2) The Department of Highway Safety and Motor Vehicles,
 410 ~~after consultation with and concurrence by the Agency for Health~~
 411 ~~Care Administration,~~ shall adopt rules to implement the
 412 ~~provisions of this section~~ pursuant according to ss. 120.536(1)
 413 and 120.54 ~~the provisions of chapter 120.~~

414 ~~(3) Funds expended by the Agency for Health Care~~
 415 ~~Administration to carry out the intent of this section shall not~~
 416 ~~be taken from any funds appropriated for patient care.~~

417 Section 13. Section 765.5215, Florida Statutes, is amended
 418 to read:

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419 765.5215 Education program relating to anatomical gifts.--
 420 (1) The Florida Coalition on Donation has established, and
 421 continues to develop, a program to educate the citizens of
 422 Florida, including medical professionals, students, and minority
 423 communities, regarding the laws of this state relating to
 424 anatomical gifts and the need for anatomical gifts. The Agency
 425 for Health Care Administration, Subject to the concurrence of
 426 the Department of Highway Safety and Motor Vehicles, the
 427 coalition shall expand this program by developing develop a
 428 continuing program to educate and inform medical professionals,
 429 law enforcement agencies and officers, high school children,
 430 state and local government employees, including law enforcement
 431 agencies and officers, and the public regarding the laws of this
 432 state relating to anatomical gifts and the need for anatomical
 433 gifts.

434 (2)-(1) The program is to be implemented with the
 435 assistance of the organ and tissue donor education panel as
 436 provided in s. 765.5216 and with the funds collected under ss.
 437 320.08047 and 322.08(6)(b) and any other funds available to the
 438 coalition for the purpose of education. Existing community
 439 resources, when available, must be used to support the program,
 440 and volunteers may assist the program to the maximum extent
 441 possible. The Agency for Health Care Administration may contract
 442 for the provision of all or any portion of the program. When
 443 awarding such contract, the agency shall give priority to
 444 existing nonprofit groups that are located within the community,
 445 including within the minority communities specified in
 446 subsection (2). The program aimed at educating medical

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447 professionals may be implemented by contract with one or more
448 medical schools located in the state.

449 ~~(2) The Legislature finds that particular difficulties~~
450 ~~exist in making members of the various minority communities~~
451 ~~within the state aware of laws relating to anatomical gifts and~~
452 ~~the need for anatomical gifts. Therefore, the program shall~~
453 ~~include, as a demonstration project, activities especially~~
454 ~~targeted at providing such information to the nonwhite,~~
455 ~~Hispanic, and Caribbean populations of the state.~~

456 (3) The coalition ~~Agency for Health Care Administration~~
457 shall, no later than March 1 of each year, submit a report to
458 the Legislature containing statistical data on the effectiveness
459 of the program in procuring donor organs ~~and the effect of the~~
460 ~~program on state spending for health care.~~

461 (4) The coalition ~~Agency for Health Care Administration,~~
462 ~~for the sole purpose of furthering in furtherance of its~~
463 educational responsibilities regarding organ and tissue
464 donation, shall have access to the buildings and workplace areas
465 of all state agencies and political subdivisions of the state.

466 Section 14. Section 765.52155, Florida Statutes, is
467 amended to read:

468 765.52155 Florida Organ and Tissue ~~Donor Education and~~
469 Procurement Trust Fund.--The Florida Organ and Tissue ~~Donor~~
470 ~~Education and Procurement Trust Fund is hereby~~ created, to be
471 administered by the Agency for Health Care Administration. Funds
472 shall be credited to the trust fund as provided for in general
473 law.

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474 Section 15. Section 765.5216, Florida Statutes, is
475 repealed.

476 Section 16. Subsections (2), (5), and (6) of section
477 765.522, Florida Statutes, are amended to read:

478 765.522 Duty of certain hospital administrators; liability
479 of hospital administrators, organ procurement organizations, eye
480 banks, and tissue banks.--

481 (2) Where, based on accepted medical standards, a hospital
482 patient is a suitable candidate for organ or tissue donation,
483 the hospital administrator or the hospital administrator's
484 designee shall, at or near the time of death, notify the
485 appropriate organ, tissue, or eye recovery program, which shall
486 access the organ and tissue donor registry created by s.
487 765.515(4) to ascertain the existence of a donor card or
488 document executed by the decedent. In the absence of a donor
489 card, organ donation sticker or organ donation imprint on a
490 driver's license, or other properly executed document, the
491 organ, tissue, or eye recovery program ~~hospital administrator or~~
492 ~~designee~~ shall request:

493 (a) The patient's health care surrogate, as permitted in
494 s. 765.512(2); or

495 (b) If the patient does not have a surrogate, or the
496 surrogate is not reasonably available, any of the persons
497 specified in s. 765.512(3), in the order and manner of priority
498 stated in s. 765.512(3),

499
500 to consent to the gift of all or any part of the decedent's body
501 for any purpose specified in this part. Except as provided in s.

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502 765.512, in the absence of actual notice of opposition, consent
503 need only be obtained from the person or persons in the highest
504 priority class reasonably available.

505 (5) There shall be no civil or criminal liability against
506 any organ procurement organization, eye bank, or tissue bank
507 certified under s. 765.542, ~~or~~ against any hospital or hospital
508 administrator or designee, or against the Florida Coalition on
509 Donation, when complying with the provisions of this part and
510 the rules of the Agency for Health Care Administration or when,
511 in the exercise of reasonable care, a request for organ donation
512 is inappropriate and the gift is not made according to this part
513 and the rules of the Agency for Health Care Administration.

514 (6) The hospital administrator or a designee shall, at or
515 near the time of death of a potential organ donor, directly
516 notify the affiliated ~~Health Care Financing Administration~~
517 ~~designated~~ organ procurement organization designated as such by
518 the United States Department of Health and Human Services of the
519 potential organ donor. This organ procurement organization must
520 offer any organ from such a donor first to patients on a
521 Florida-based local or state organ sharing transplant list. For
522 the purpose of this subsection, the term "transplant list"
523 includes certain categories of national or regional organ
524 sharing for patients of exceptional need or exceptional match,
525 as approved or mandated by the United Network for Organ Sharing.
526 This notification must not be made to a tissue bank or eye bank
527 in lieu of the organ procurement organization unless the tissue
528 bank or eye bank is also a ~~Health Care Financing Administration~~

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529 designated as an organ procurement organization by the United
530 States Department of Health and Human Services.

531 Section 17. Subsections (2) and (4) of section 765.544,
532 Florida Statutes, are amended to read:

533 765.544 Fees; Florida Organ and Tissue ~~Donor Education and~~
534 Procurement Trust Fund.--

535 (2) The Agency for Health Care Administration shall assess
536 annual fees to be used, in the following order of priority, for
537 the certification program and, the advisory board, ~~maintenance~~
538 ~~of the organ and tissue donor registry, and the organ and tissue~~
539 ~~donor education program~~ in the following amounts, which may not
540 exceed \$35,000 per organization:

541 (a) Each general organ procurement organization shall pay
542 the greater of \$1,000 or 0.25 percent of its total revenues
543 produced from procurement activity in this state by the
544 certificateholder during its most recently completed fiscal year
545 or operational year.

546 (b) Each bone and tissue procurement agency or bone and
547 tissue bank shall pay the greater of \$1,000 or 0.25 percent of
548 its total revenues from procurement and processing activity in
549 this state by the certificateholder during its most recently
550 completed fiscal year or operational year.

551 (c) Each eye bank shall pay the greater of \$500 or 0.25
552 percent of its total revenues produced from procurement activity
553 in this state by the certificateholder during its most recently
554 completed fiscal year or operational year.

555 (4) (a) Proceeds from fees, administrative penalties, and
556 surcharges collected pursuant to subsections (2) and (3) must be

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557 deposited into the Health Care Trust Fund created by s. 408.16
558 ~~Florida Organ and Tissue Donor Education and Procurement Trust~~
559 ~~Fund created by s. 765.52155.~~

560 (b) Moneys deposited in the trust fund pursuant to this
561 section must be used exclusively for the implementation,
562 administration, and operation of the certification program and
563 the advisory board, ~~for maintaining the organ and tissue donor~~
564 ~~registry, and for organ and tissue donor education.~~

565 Section 18. In addition to uses of funds provided for in
566 s. 765.544(2) and (4)(b), Florida Statutes, funds governed by
567 those provisions shall be used for the orderly transition of the
568 organ and tissue donor registry from the Agency for Health Care
569 Administration to the Florida Coalition on Donation and
570 notification to potential donors of the changes in the
571 registration process. This section shall expire upon completion
572 of the transition of the organ and tissue donor registry from
573 the Agency for Health Care Administration to the Florida
574 Coalition on Donation and the notification of potential donors
575 of the changes to the registration process.

576 Section 19. Paragraph (a) of subsection (4) of section
577 215.20, Florida Statutes, is amended to read:

578 215.20 Certain income and certain trust funds to
579 contribute to the General Revenue Fund.--

580 (4) The income of a revenue nature deposited in the
581 following described trust funds, by whatever name designated, is
582 that from which the appropriations authorized by subsection (3)
583 shall be made:

584 (a) Within the Agency for Health Care Administration:

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585 ~~1. The Florida Organ and Tissue Donor Education and~~
586 ~~Procurement Trust Fund.~~

587 1.2. The Health Care Trust Fund.

588 2.3. The Resident Protection Trust Fund.

589

590 The enumeration of the foregoing moneys or trust funds shall not
591 prohibit the applicability thereto of s. 215.24 should the
592 Governor determine that for the reasons mentioned in s. 215.24
593 the money or trust funds should be exempt herefrom, as it is the
594 purpose of this law to exempt income from its force and effect
595 when, by the operation of this law, federal matching funds or
596 contributions or private grants to any trust fund would be lost
597 to the state.

598 Section 20. Section 320.08047, Florida Statutes, is
599 amended to read:

600 320.08047 Voluntary contribution for organ and tissue
601 donor education.--As a part of the collection process for
602 license taxes as specified in s. 320.08, individuals shall be
603 permitted to make a voluntary contribution of \$1, which
604 contribution shall be distributed to the Florida Coalition on
605 Donation ~~deposited into the Florida Organ and Tissue Donor~~
606 ~~Education and Procurement Trust Fund~~ for organ and tissue donor
607 education and for maintaining the organ and tissue donor
608 registry.

609 Section 21. Subsection (6) of section 322.08, Florida
610 Statutes, is amended to read:

611 322.08 Application for license.--

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612 (6) The application form for a driver's license or
613 duplicate thereof shall include language permitting the
614 following:

615 (a) A voluntary contribution of \$5 per applicant, which
616 contribution shall be transferred into the Election Campaign
617 Financing Trust Fund.

618 (b) A voluntary contribution of \$1 per applicant, which
619 contribution shall be distributed to the Florida Coalition on
620 Donation ~~deposited into the Florida Organ and Tissue Donor~~
621 ~~Education and Procurement Trust Fund~~ for organ and tissue donor
622 education and for maintaining the organ and tissue donor
623 registry.

624 (c) A voluntary contribution of \$1 per applicant, which
625 contribution shall be distributed to the Florida Council of the
626 Blind.

627 (d) A voluntary contribution of \$2 per applicant, which
628 shall be distributed to the Hearing Research Institute,
629 Incorporated.

630 (e) A voluntary contribution of \$1 per applicant, which
631 shall be distributed to the Juvenile Diabetes Foundation
632 International.

633 (f) A voluntary contribution of \$1 per applicant, which
634 shall be distributed to the Children's Hearing Help Fund.
635

636 A statement providing an explanation of the purpose of the trust
637 funds shall also be included. For the purpose of applying the
638 service charge provided in s. 215.20, contributions received

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639 | under paragraphs (b), (c), (d), (e), and (f) and under s.
640 | 322.18(9)(a) are not income of a revenue nature.

641 | Section 22. The sum of \$607,000 in nonrecurring funds is
642 | appropriated for fiscal year 2007-2008 from the Florida Organ
643 | and Tissue Procurement Trust Fund to the Agency for Health Care
644 | Administration to contract with the Florida Coalition on
645 | Donation for the orderly transition of the organ donor registry.

646 | Section 23. This act shall take effect July 1, 2007.