

1                   A bill to be entitled  
2           An act relating to organ and tissue donation; amending s.  
3           765.203, F.S.; deleting a provision in the form that  
4           designates a health care surrogate that provides an  
5           exception for anatomical gifts; amending s. 765.512, F.S.;  
6           revising provisions for making an organ donation; adding  
7           additional persons to the list of persons who may donate a  
8           decedent's body; removing the provision prohibiting a  
9           spouse from making a donation if the decedent's adult son  
10          or daughter objects; amending s. 765.514, F.S.; providing  
11          additional mechanisms for making an anatomical gift  
12          including registering with the organ and tissue donor  
13          registry; revising the uniform donor card to specify the  
14          type of donation; deleting a statement of public policy  
15          that prohibits restrictions on who may receive an  
16          anatomical gift, a provision specifying who can accept a  
17          gift, and a provision designating a physician to carry out  
18          appropriate procedures; amending s. 765.515, F.S.;  
19          requiring the Department of Highway Safety and Motor  
20          Vehicles to inform the donor registry of instances of  
21          making an anatomical gift and of withdrawal of an  
22          anatomical gift; deleting a provision requiring the Agency  
23          for Health Care Administration and the department to  
24          maintain a donor registry; creating s. 765.5155, F.S.;  
25          providing legislative intent with respect to establishing  
26          an online organ and tissue donor registry; requiring  
27          administration of the donor registry to be procured by  
28          competitive solicitation; specifying the duties of the

29 contractor including the operation of the registry, a  
 30 continuing public education program about organ donation,  
 31 and the preparation of an annual report; authorizing the  
 32 agency to adopt rules relating to providing research  
 33 access to the registry; providing for funding and for  
 34 voluntary contributions to the registry; designating the  
 35 donor registry as the "Joshua Abbott Organ and Tissue  
 36 Donor Registry"; amending s. 765.516, F.S.; authorizing  
 37 revocation of an anatomical gift by a donor through  
 38 removal of his or her name from the registry; amending s.  
 39 765.517, F.S.; revising provisions relating to  
 40 verification of a donor's consent at death; amending s.  
 41 765.521, F.S.; conforming a cross-reference; amending s.  
 42 765.522, F.S.; revising duties of hospital administrators  
 43 with respect to reporting suitable donor candidates at or  
 44 near the time of death; updating references to organ  
 45 procurement organizations; repealing s. 765.5215, F.S.,  
 46 relating to an education program relating to anatomical  
 47 gifts; repealing s. 765.5216, F.S., relating to the organ  
 48 and tissue donor education panel; providing an effective  
 49 date.

50  
 51 Be It Enacted by the Legislature of the State of Florida:

52  
 53 Section 1. Section 765.203, Florida Statutes, is amended  
 54 to read:

55 765.203 Suggested form of designation.--A written  
 56 designation of a health care surrogate executed pursuant to this

HB 1485

2008

57 chapter may, but need not be, in the following form:

58

59 DESIGNATION OF HEALTH CARE SURROGATE

60

61 Name: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (Middle Initial) \_\_\_\_\_

62 In the event that I have been determined to be  
63 incapacitated to provide informed consent for medical treatment  
64 and surgical and diagnostic procedures, I wish to designate as  
65 my surrogate for health care decisions:

66

67 Name:

68 Address:

69

\_\_\_\_\_ Zip Code: \_\_\_\_\_  
\_\_\_\_\_

70

71 Phone: \_\_\_\_\_

72 If my surrogate is unwilling or unable to perform his or  
73 her duties, I wish to designate as my alternate surrogate:

74 Name:

75 Address:

76

\_\_\_\_\_ Zip Code: \_\_\_\_\_  
\_\_\_\_\_

77

78 Phone: \_\_\_\_\_

79 I fully understand that this designation will permit my  
80 designee to make health care decisions, ~~except for anatomical~~

HB 1485

2008

81 ~~gifts, unless I have executed an anatomical gift declaration~~  
 82 ~~pursuant to law,~~ and to provide, withhold, or withdraw consent  
 83 on my behalf; to apply for public benefits to defray the cost of  
 84 health care; and to authorize my admission to or transfer from a  
 85 health care facility.

86 Additional instructions (optional):

87 I further affirm that this designation is not being made as  
 88 a condition of treatment or admission to a health care facility.  
 89 I will notify and send a copy of this document to the following  
 90 persons other than my surrogate, so they may know who my  
 91 surrogate is.

92 Name:

93 Name:

94 Signed:

95 Date:

96

Witnesses: 1. \_\_\_\_\_

97

2. \_\_\_\_\_

98

99 Section 2. Subsections (1), (2), (3), and (4) of section  
 100 765.512, Florida Statutes, are amended to read:

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

102 (1) Any person who may make a will may give all or part of  
 103 his or her body for any purpose specified in s. 765.513. ~~s.~~  
 104 ~~765.510,~~ The gift is effective to take effect upon the death of  
 105 the donor. ~~An anatomical gift made by an adult donor and not~~  
 106 ~~revoked by the donor as provided in s. 765.516 is irrevocable~~

107 ~~after the donor's death. A family member, guardian,~~  
 108 ~~representative ad litem, or health care surrogate of an adult~~  
 109 ~~donor who has made an anatomical gift pursuant to subsection (2)~~  
 110 ~~may not modify, deny, or prevent a donor's wish or intent to~~  
 111 ~~make an anatomical gift from being made after the donor's death.~~

112 (a) (2) If the decedent makes ~~has executed~~ an agreement  
 113 concerning an anatomical gift, by one of the methods listed in  
 114 s. 765.514(1), ~~signing an organ and tissue donor card,~~ by  
 115 ~~expressing his or her wish to donate in a living will or advance~~  
 116 ~~directive, or by signifying his or her intent to donate on his~~  
 117 ~~or her driver's license or in some other written form has~~  
 118 ~~indicated his or her wish to make an anatomical gift,~~ and in the  
 119 absence of actual notice of contrary indications by the  
 120 decedent, the document or entry in the organ and tissue registry  
 121 ~~is evidence of~~ legally sufficient evidence of the decedent's  
 122 informed consent to donate an anatomical gift ~~and is legally~~  
 123 ~~binding.~~

124 (b) An anatomical gift made by a qualified donor and not  
 125 revoked by the donor, as provided in s. 765.516, is irrevocable  
 126 after the donor's death. A family member, guardian,  
 127 representative ad litem, or health care surrogate may not  
 128 modify, deny, or prevent a donor's wish or intent to make an  
 129 anatomical gift after the donor's death.

130 (2) A health care ~~Any~~ surrogate designated by the decedent  
 131 pursuant to part II of this chapter may give all or any part of  
 132 the decedent's body for any purpose specified in s. 765.513  
 133 absent actual notice of contrary indications by the decedent ~~or~~  
 134 ~~765.510.~~

135 (3) If the decedent has not made ~~executed an agreement~~  
 136 ~~concerning~~ an anatomical gift or designated a health surrogate  
 137 ~~pursuant to part II of this chapter to make an anatomical gift~~  
 138 ~~pursuant to the conditions of subsection (2)~~, a member of one of  
 139 the classes of persons listed below, in the order of priority  
 140 listed ~~stated~~ and in the absence of actual notice of contrary  
 141 indications by the decedent or actual notice of opposition by a  
 142 member of ~~the same or~~ a prior class, may give all or any part of  
 143 the decedent's body for any purpose specified in s. 765.513 ~~s.~~  
 144 ~~765.510~~:

- 145 (a) The spouse of the decedent;
- 146 (b) An adult son or daughter of the decedent;
- 147 (c) Either parent of the decedent;
- 148 (d) An adult brother or sister of the decedent;
- 149 (e) An adult grandchild of the decedent;
- 150 (f) A grandparent of the decedent;
- 151 (g) Another adult who exhibited special care and concern

152 for the decedent;  
 153 (h) ~~(f)~~ A guardian of the person of the decedent at the  
 154 time of his or her death; or

155 (i) ~~(g)~~ A representative ad litem ~~who shall be~~ appointed by  
 156 a court of competent jurisdiction ~~forthwith~~ upon a petition  
 157 heard ex parte filed by any person, who ~~which representative ad~~  
 158 ~~litem~~ shall ascertain that no person of higher priority exists  
 159 who objects to the gift of all or any part of the decedent's  
 160 body and that no evidence exists of the decedent's having made a  
 161 communication expressing a desire that his or her body or body  
 162 parts not be donated upon death. 7

163  
 164 ~~but no gift shall be made by the spouse if any adult son or~~  
 165 ~~daughter objects, and provided that~~ Those of higher priority  
 166 ~~who, if they~~ are reasonably available must be, ~~have been~~  
 167 contacted and made aware of the proposed gift, ~~and further~~  
 168 ~~provided that~~ a reasonable search must be conducted which shows  
 169 ~~is made to show~~ that there would have been no objection to the  
 170 gift on religious grounds by the decedent.

171 (4) A donee may not accept an anatomical gift if the donee  
 172 has actual notice of contrary indications by the donor decedent  
 173 ~~or, in the case of a spouse making the gift, an objection of an~~  
 174 ~~adult son or daughter~~ or actual notice that a gift by a member  
 175 of a class is opposed by a member of ~~the same or~~ a prior class,  
 176 ~~the donee shall not accept the gift.~~

177 Section 3. Section 765.514, Florida Statutes, is amended  
 178 to read:

179 765.514 Manner of making ~~executing~~ anatomical gifts.--

180 (1) A person may make a gift of all or part of his or her  
 181 ~~the~~ body under s. 765.512(1) ~~may be made by will~~:

182 (a) Signing an organ and tissue donor card.

183 (b) Registering online with the organ and tissue donor  
 184 registry.

185 (c) Signifying an intent to donate on his or her driver's  
 186 license or identification card issued by the Department of  
 187 Highway Safety and Motor Vehicles. Revocation, suspension,  
 188 expiration, or cancellation of the driver's license or  
 189 identification card does not invalidate the gift.

190 (d) Expressing a wish to donate in a living will or other

191 advance directive.

192 (e) Executing a will that includes a provision indicating  
 193 that the testator wishes to make an anatomical gift. The gift  
 194 becomes effective upon the death of the testator without waiting  
 195 for probate. If the will is not probated or if it is declared  
 196 invalid for testamentary purposes, the gift is nevertheless  
 197 valid to the extent that it has been acted upon in good faith.

198 (f)(2)(a) Expressing a wish to donate in ~~A gift of all or~~  
 199 ~~part of the body under s. 765.512(1) may also be made by a~~  
 200 document other than a will. ~~The gift becomes effective upon the~~  
 201 ~~death of the donor.~~ The document must be signed by the donor in  
 202 the presence of two witnesses who shall sign the document in the  
 203 donor's presence. If the donor cannot sign, the document may be  
 204 signed for him or her at the donor's direction and in his or her  
 205 presence and the presence of two witnesses who must sign the  
 206 document in the donor's presence. Delivery of the document of  
 207 gift during the donor's lifetime is not necessary to make the  
 208 gift valid.

209 ~~(b)~~ The following form of written document is instrument  
 210 ~~shall be~~ sufficient for any person to give all or part of his or  
 211 her body for the purposes of this part:

212  
 213 UNIFORM DONOR CARD

214  
 215 The undersigned hereby makes this anatomical gift, if medically  
 216 acceptable, to take effect on death. The words and marks below  
 217 indicate my desires:

218



HB 1485

2008

219 I give:

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

221 (b)        only the following organs, tissues, or eyes ~~or~~

222 ~~parts~~

223 [Specify the organs, tissues, or eyes ~~organ(s) or~~

224 ~~part(s)~~]

225

226 for the purpose of transplantation, therapy, medical research,

227 or education;

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

229 Limitations or special wishes, if any:

230 [If applicable, list specific donee; this must be arranged in

231 advance with the donee.]

232

233 Signed by the donor and the following witnesses in the presence

234 of each other: (Signature of donor)

235 (Date of birth of donor)

236 (Date signed)

237 (City and State)

238 (Witness)

239 (Witness)

240 (Address)

241 (Address)

242

243 (2)~~(3)~~ The gift may be made to a donee listed in s.

244 765.513 and the donee may be specified by name. If the donee is

245 not specified by name, the gift may be accepted by the attending

246 physician as donee upon or following the donor's death. If the

247 ~~gift is made to a specified donee who is not available at the~~  
 248 ~~time and place of death, the attending physician may accept the~~  
 249 ~~gift as donee upon or following death in the absence of any~~  
 250 ~~expressed indication that the donor desired otherwise. However,~~  
 251 ~~the Legislature declares that the public policy of this state~~  
 252 ~~prohibits restrictions on the possible recipients of an~~  
 253 ~~anatomical gift on the basis of race, color, religion, sex,~~  
 254 ~~national origin, age, physical handicap, health status, marital~~  
 255 ~~status, or economic status, and such restrictions are hereby~~  
 256 ~~declared void and unenforceable. The physician who becomes a~~  
 257 ~~donee under this subsection shall not participate in the~~  
 258 ~~procedures for removing or transplanting a part.~~

259 ~~(4) Notwithstanding s. 765.517(2), the donor may designate~~  
 260 ~~in his or her will or other document of gift the surgeon or~~  
 261 ~~physician to carry out the appropriate procedures. In the~~  
 262 ~~absence of a designation or if the designee is not available,~~  
 263 ~~the donee or other person authorized to accept the gift may~~  
 264 ~~employ or authorize any surgeon or physician for the purpose.~~

265 ~~(3)-(5)~~ Any gift by a health care surrogate designated by  
 266 the decedent pursuant to part II of this chapter or a member of  
 267 a class designated in s. 765.512(3) must be made by a document  
 268 signed by that person or made by that person's witnessed  
 269 telephonic discussion, telegraphic message, or other recorded  
 270 message.

271 Section 4. Section 765.515, Florida Statutes, is amended  
 272 to read:

273 765.515 Delivery of donor document; ~~organ and tissue donor~~  
 274 ~~registry.~~ --

HB 1485

2008

275           (1) If a gift is made pursuant to ~~through the program~~  
276 ~~established by the Agency for Health Care Administration and the~~  
277 ~~Department of Highway Safety and Motor Vehicles under the~~  
278 ~~authority of s. 765.521~~, the completed donor registration card  
279 shall be delivered to the Department of Highway Safety and Motor  
280 Vehicles and the department must communicate the donor's intent  
281 to the organ and tissue donor registry ~~processed in a manner~~  
282 ~~specified in subsection (4)~~, but delivery is not necessary to  
283 the validity of the gift. If the donor withdraws the gift, the  
284 records of the Department of Highway Safety and Motor Vehicles  
285 must ~~shall~~ be updated to reflect such withdrawal and the  
286 department must communicate the withdrawal to the organ and  
287 tissue donor registry for the purpose of updating the registry.

288           (2) If a gift ~~is not made through the program established~~  
289 ~~by the Agency for Health Care Administration and the Department~~  
290 ~~of Highway Safety and Motor Vehicles under the authority of s.~~  
291 ~~765.521~~ and is made by the donor to a specified donee, the  
292 document, other than a will, may be delivered to the donee to  
293 expedite the appropriate procedures immediately after death, but  
294 delivery is not necessary to the validity of the gift. Such  
295 document may be deposited in any hospital, bank, storage  
296 facility, or registry office that accepts such documents for  
297 safekeeping or to facilitate the donation of organs and tissue  
298 ~~for facilitation of procedures~~ after death.

299           (3) At ~~On~~ the request of any interested party upon or  
300 after the donor's death, the person in possession shall produce  
301 the document for examination.

302           ~~(4) The Agency for Health Care Administration and the~~

HB 1485

2008

303 ~~Department of Highway Safety and Motor Vehicles shall develop~~  
 304 ~~and implement an organ and tissue donor registry which shall~~  
 305 ~~record, through electronic means, organ and tissue donation~~  
 306 ~~documents submitted through the driver license identification~~  
 307 ~~program or by other sources. The registry shall be maintained~~  
 308 ~~in a manner which will allow, through electronic and telephonic~~  
 309 ~~methods, immediate access to organ and tissue donation documents~~  
 310 ~~24 hours a day, 7 days a week. Hospitals, organ and tissue~~  
 311 ~~procurement agencies, and other parties identified by the agency~~  
 312 ~~by rule shall be allowed access through coded means to the~~  
 313 ~~information stored in the registry. Costs for the organ and~~  
 314 ~~tissue donor registry shall be paid from the Florida Organ and~~  
 315 ~~Tissue Donor Education and Procurement Trust Fund created by s.~~  
 316 ~~765.52155. Funds deposited into the Florida Organ and Tissue~~  
 317 ~~Donor Education and Procurement Trust Fund shall be utilized by~~  
 318 ~~the Agency for Health Care Administration for maintaining the~~  
 319 ~~organ and tissue donor registry and for organ and tissue donor~~  
 320 ~~education.~~

321 Section 5. Section 765.5155, Florida Statutes, is created  
 322 to read:

323 765.5155 Organ and tissue donor registry; education  
 324 program.--

325 (1) The Legislature finds that:

326 (a) There is a shortage of organ and tissue donors in this  
 327 state willing to provide the organs and tissue that could save  
 328 lives or enhance the quality of life for many persons.

329 (b) There is a need to encourage the various minority  
 330 populations of this state to donate organs and tissue.

HB 1485

2008

331 (c) A statewide organ and tissue donor registry having an  
332 online donor registration process coupled with an enhanced  
333 program of donor education will lead to an increase in the  
334 number of organ and tissue donors registered in this state, thus  
335 affording more persons who are awaiting organ or tissue  
336 transplants the opportunity for a full and productive life.

337 (2) The Agency for Health Care Administration and the  
338 Department of Highway Safety and Motor Vehicles shall jointly  
339 contract for the operation of an organ and tissue donor registry  
340 and education program. The contractor shall be procured by  
341 competitive solicitation pursuant to chapter 287,  
342 notwithstanding any exemption in s. 287.057(5)(f). When awarding  
343 the contract, priority shall be given to existing nonprofit  
344 groups that are based within the state, have expertise working  
345 with organ and tissue procurement organizations, have expertise  
346 in conducting statewide organ and tissue donor public education  
347 campaigns, and represent the needs of the organ and tissue  
348 donation community in the state.

349 (3) The contractor shall be responsible for:

350 (a) The development, implementation, and maintenance of an  
351 interactive web-based organ and tissue donor registry that,  
352 through electronic means, allows for online organ donor  
353 registration and the recording of organ and tissue donation  
354 records submitted through the driver's license identification  
355 program or through other sources.

356 1. The registry must be maintained in a manner that  
357 allows, through electronic and telephonic methods, immediate  
358 access to organ and tissue donation records 24 hours a day, 7

359 days a week.

360 2. Access to the registry must be through coded and secure  
 361 means to protect the integrity of the data in the registry.

362 (b) A continuing program to educate and inform medical  
 363 professionals, law enforcement agencies and officers, other  
 364 state and local government employees, high school students,  
 365 minorities, and the public about the laws of this state relating  
 366 to anatomical gifts and the need for anatomical gifts.

367 1. Existing community resources, when available, must be  
 368 used to support the program and volunteers may assist the  
 369 program to the maximum extent possible.

370 2. The contractor, for the sole purpose of furthering its  
 371 educational program, shall, in coordination with the head of the  
 372 applicable entity or his or her designee, have access to the  
 373 buildings and workplace areas of all state agencies and  
 374 political subdivisions of the state.

375 (c) Preparing and submitting an annual written report to  
 376 the Agency for Health Care Administration by December 31 of each  
 377 year. The report must include:

378 1. The number of donors on the registry and an analysis of  
 379 the registration rates by location and method of donation;

380 2. The characteristics of donors as determined from  
 381 registry information submitted directly by the donors or by the  
 382 Department of Highway Safety and Motor Vehicles;

383 3. The annual dollar amount of voluntary contributions  
 384 received by the contractor;

385 4. A description of the educational campaigns and  
 386 initiatives implemented during the year and an evaluation of

HB 1485

2008

387 their effectiveness in increasing enrollment on the registry;  
388 and

389 5. An analysis of Florida's registry compared with other  
390 states' donor registries.

391 (4) The Agency for Health Care Administration may adopt  
392 rules to authorize persons engaged in bona fide research to  
393 access records in the registry if the researcher agrees to:

394 (a) Submit a research plan to the agency that specifies  
395 the exact nature of the information requested and the intended  
396 use of the information;

397 (b) Maintain the confidentiality of the records or  
398 information if personal identifying information is made  
399 available to the researcher;

400 (c) Destroy any confidential records or information  
401 obtained after the research is concluded; and

402 (d) Not directly or indirectly contact, for any purpose,  
403 any donor or donee.

404 (5) Costs for the organ and tissue donor registry and  
405 education program shall be paid by the Agency for Health Care  
406 Administration from the Florida Organ and Tissue Donor Education  
407 and Procurement Trust Fund created in s. 765.52155. In addition,  
408 the contractor may receive and use voluntary contributions to  
409 help support the registry and provide education.

410 (6) The organ and tissue donor registry established by  
411 this section is designated as the "Joshua Abbott Organ and  
412 Tissue Registry."

413 Section 6. Paragraph (e) is added to subsection (1) of  
414 section 765.516, Florida Statutes, to read:

HB 1485

2008

415 765.516 Amendment of the terms of or the revocation of the  
416 gift.--

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

419 (e) Removing his or her name from the organ and tissue  
420 donor registry.

421 Section 7. Subsection (3) of section 765.517, Florida  
422 Statutes, is amended to read:

423 765.517 Rights and duties at death.--

424 (3) The organ procurement organization, tissue bank, or  
425 eye bank, or hospital medical professionals under the direction  
426 thereof, may perform any and all tests to evaluate the deceased  
427 as a potential donor and any invasive procedures on the deceased  
428 body in order to preserve the potential donor's organs. These  
429 procedures do not include the surgical removal of an organ or  
430 penetrating any body cavity, specifically for the purpose of  
431 donation, until:

432 (a) It has been verified that the deceased's consent to  
433 donate appears in the organ and tissue donor registry or a  
434 properly executed donor card or document is located; or,

435 (b) If a properly executed donor card or document cannot  
436 be located or the deceased's consent is not listed in the organ  
437 and tissue donor registry, a person specified in s. 765.512(2)  
438 or (3) ~~s. 765.512(3)~~ has been located, has been notified of the  
439 death, and has granted legal permission for the donation.

440 Section 8. Subsection (1) of section 765.521, Florida  
441 Statutes, is amended to read:

442 765.521 Donations as part of driver license or



443 identification card process.--

444 (1) The Agency for Health Care Administration and the  
 445 Department of Highway Safety and Motor Vehicles shall develop  
 446 and implement a program encouraging and allowing persons to make  
 447 anatomical gifts as a part of the process of issuing  
 448 identification cards and issuing and renewing driver licenses.  
 449 The donor registration card distributed by the Department of  
 450 Highway Safety and Motor Vehicles shall include the information  
 451 required by the uniform donor card under s. 765.514 ~~material~~  
 452 ~~specified by s. 765.514(2)(b) and may require such additional~~  
 453 ~~information, and include such additional material,~~ as determined  
 454 ~~may be deemed necessary by the that~~ department. The department  
 455 ~~of Highway Safety and Motor Vehicles~~ shall also develop and  
 456 implement a program to identify donors, which includes ~~program~~  
 457 ~~shall include~~ notations on identification cards, driver  
 458 licenses, and driver records or such other methods as the  
 459 department develops to ~~may develop. This program shall include,~~  
 460 ~~after an individual has completed a donor registration card,~~  
 461 ~~making a notation on the front of the driver license or~~  
 462 ~~identification card that~~ clearly indicate ~~indicates~~ the  
 463 individual's intent to donate the individual's organs, tissues,  
 464 or eyes ~~tissue~~. A notation on an individual's driver license or  
 465 identification card that the individual intends to donate  
 466 organs, or tissues, or eyes satisfies ~~is deemed sufficient to~~  
 467 ~~satisfy~~ all requirements for consent to organ or tissue  
 468 donation. The Agency for Health Care Administration shall  
 469 provide the necessary supplies and forms from ~~through~~ funds  
 470 appropriated from general revenue or contributions from

HB 1485

2008

471 interested voluntary, nonprofit organizations. The department of  
472 ~~Highway Safety and Motor Vehicles~~ shall provide the necessary  
473 recordkeeping system from ~~through~~ funds appropriated from  
474 general revenue. The Department of Highway Safety and Motor  
475 Vehicles and the Agency for Health Care Administration shall  
476 incur no liability in connection with the performance of any  
477 acts authorized herein.

478 Section 9. Subsections (2) and (6) of section 765.522,  
479 Florida Statutes, are amended to read:

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

483 (2) Where, based on accepted medical standards, a hospital  
484 patient is a suitable candidate for organ or tissue donation,  
485 the hospital administrator or the hospital administrator's  
486 designee shall, at or near the time of death, notify the  
487 appropriate organ, eye, or tissue recovery program, which shall  
488 access the organ and tissue donor registry created by s.  
489 765.5155 s. 765.515(4) to ascertain the existence of an entry in  
490 the registry that has not been revoked, a donor card, or a  
491 document executed by the decedent. In the absence of an entry in  
492 the donor registry, a donor card, organ donation sticker or  
493 organ donation imprint on a driver's license, or other properly  
494 executed document, the organ, eye, or tissue recovery program  
495 ~~hospital administrator or designee~~ shall request:

496 (a) The patient's health care surrogate, as authorized  
497 ~~permitted~~ in s. 765.512(2); or

498 (b) If the patient does not have a surrogate, or the

499 surrogate is not reasonably available, any of the persons  
 500 specified in s. 765.512(3), in the order and manner listed of  
 501 ~~priority stated in s. 765.512(3),~~

502  
 503 to consent to the gift of all or any part of the decedent's body  
 504 for any purpose specified in this part. Except as provided in s.  
 505 765.512, in the absence of actual notice of opposition, consent  
 506 need only be obtained from the person or persons in the highest  
 507 priority class reasonably available.

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

526 Section 10. Sections 765.5215 and 765.5216, Florida

HB 1485

2008

527 Statutes, are repealed.

528 Section 11. This act shall take effect July 1, 2008.