

## CHAPTER 142C

## REVISED UNIFORM ANATOMICAL GIFT ACT

Referred to in §141A.7, 142.4, 142.8, 144C.6, 144C.10, 321.178, 321.178A, 321.189

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**142C.1 Short title.**

This chapter shall be known and may be cited as the “*Revised Uniform Anatomical Gift Act*”.

95 Acts, ch 39, §1; 2007 Acts, ch 44, §1

**142C.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. “*Adult*” means an individual who is eighteen years of age or older.
2. “*Agent*” means an individual who meets any of the following conditions:
  - a. Is authorized to make health care decisions on the principal's behalf by a durable power of attorney for health care pursuant to chapter 144B.
  - b. Is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
3. “*Anatomical gift*” or “*gift*” means a donation of all or part of the human body effective after the donor's death, for the purposes of transplantation, therapy, research, or education.
4. “*Decedent*” means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant.
5. “*Disinterested witness*” means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or any other adult who exhibited special care and concern for the individual. “*Disinterested witness*” does not include a person who may receive an anatomical gift pursuant to section 142C.5.
6. “*Document of gift*” means a donor card or other record used to make an anatomical gift, including a statement or symbol on a driver's license or identification card, or an entry in a donor registry.
7. “*Donor*” means an individual whose body or part is the subject of an anatomical gift.

8. “*Donor registry*” means a database that contains records of anatomical gifts and amendments of anatomical gifts.

9. “*Driver’s license*” means a license or permit issued by the state department of transportation to operate a vehicle, whether or not conditions are attached to the license or permit.

10. “*Eye bank*” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

11. “*Forensic pathologist*” means a pathologist who is further certified in the subspecialty of forensic pathology by the American board of pathology.

12. “*Guardian*” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual, but does not include a guardian ad litem.

13. “*Hospital*” means a hospital licensed under chapter 135B, or a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.

14. “*Identification card*” means a nonoperator’s identification card issued by the state department of transportation pursuant to section 321.190.

15. “*Iowa donor network*” means the nonprofit organization certified by the centers for Medicare and Medicaid services of the United States department of health and human services as the single organ procurement agency serving the state and which also serves as the tissue recovery agency for the state.

16. “*Iowa donor registry*” means the Iowa donor registry administered by the Iowa donor network.

17. “*Know*” means to have actual knowledge.

18. “*Medical examiner*” means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.

19. “*Minor*” means an individual who is less than eighteen years of age.

20. “*Organ procurement organization*” means a person designated by the United States secretary of health and human services as an organ procurement organization.

21. “*Parent*” means a parent whose parental rights have not been terminated.

22. “*Part*” means an organ, an eye, or tissue of a human being, but does not include the whole body of a human being.

23. “*Pathologist*” means a licensed physician who is certified in anatomic or clinical pathology by the American board of pathology.

24. “*Person*” means person as defined in section 4.1.

25. “*Physician*” means an individual authorized to practice medicine and surgery or osteopathic medicine and surgery under the laws of any state.

26. “*Procurement organization*” means an eye bank, organ procurement organization, or tissue bank.

27. “*Prospective donor*” means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education, but does not include an individual who has made a refusal.

28. “*Reasonably available*” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

29. “*Recipient*” means an individual into whose body a decedent’s part has been transplanted or is intended for transplant.

30. “*Record*” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

31. “*Refusal*” means a record created pursuant to section 142C.3 that expressly states an individual’s intent to prohibit other persons from making an anatomical gift of the individual’s body or part.

32. “*Sign*” means to do any of the following with the present intent to authenticate or adopt a record:

- a. Execute or adopt a tangible symbol.
- b. Attach to or logically associate with the record an electronic symbol, sound, or process.

33. “*State*” means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

34. “*Technician*” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law and includes an enucleator.

35. “*Tissue*” means a portion of the human body other than an organ or an eye, but does not include blood unless the blood is donated for the purpose of research or education.

36. “*Tissue bank*” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

37. “*Transplant hospital*” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

95 Acts, ch 39, §2; 2001 Acts, ch 74, §3; 2002 Acts, ch 1064, §1, 2; 2007 Acts, ch 44, §2; 2009 Acts, ch 133, §43

Referred to in §423.3

**142C.3 Persons who may make — manner of making — amending or revoking — refusal to make anatomical gift before donor’s death — preclusive effect.**

1. *Who may make.* Subject to subsection 5, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purposes of transplantation, therapy, research, or education in the manner prescribed in subsection 2 by any of the following:

- a. The donor if the donor is any of the following:

- (1) An adult.
- (2) A minor, if the minor is emancipated.
- (3) A minor, if the minor is authorized under state law to apply for a driver’s license or identification card because the minor is at least 14 years of age, and the minor authorizes a statement or symbol indicating an anatomical gift on a driver’s license, identification card, or donor registry entry with the signed approval of a parent or guardian.

b. An agent of the donor, unless the durable power of attorney for health care or other record prohibits the agent from making the anatomical gift.

- c. A parent of the donor, if the donor is an unemancipated minor.
- d. The guardian of the donor.

2. *Manner of making.*

- a. A donor may make an anatomical gift by any of the following means:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor’s driver’s license or identification card.

- (2) In a will.

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.

- (4) As provided in paragraph “b”.

b. (1) A donor or other person authorized to make an anatomical gift under subsection 1 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on the donor registry.

(2) If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or other person.

(b) State that the record has been signed and witnessed as provided in subparagraph division (a).

c. Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated shall not invalidate the gift.

d. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

3. *Amending or revoking gift before donor's death.*

a. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may amend or revoke an anatomical gift by any of the following means:

(1) A record signed by any of the following:

(a) The donor.

(b) The other person authorized to make an anatomical gift.

(c) Subject to paragraph "b", another individual acting at the direction of the donor or the other authorized person if the donor or other person is physically unable to sign the record.

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

b. A record signed pursuant to paragraph "a", subparagraph (1), subparagraph division (c), shall comply with all of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other authorized person.

(2) State that the record has been signed and witnessed as provided in subparagraph (1).

c. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

d. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

e. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in paragraph "a".

4. *Refusal to make.*

a. An individual may refuse to make an anatomical gift of the individual's body or part by any of the following means:

(1) A record signed by any of the following:

(a) The individual.

(b) Subject to paragraph "b", another individual acting at the direction of the individual if the individual is physically unable to sign the record.

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death.

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

b. A record signed pursuant to paragraph "a", subparagraph (1), subparagraph division (b), shall comply with all of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual.

(2) State that the record has been signed and witnessed as provided in subparagraph (1).

c. An individual who has made a refusal may amend or revoke the refusal in accordance with any of the following:

(1) In the manner provided in paragraph "a" for making a refusal.

(2) By subsequently making an anatomical gift pursuant to subsection 2 that is inconsistent with the refusal.

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

d. Except as otherwise provided in subsection 5, paragraph "h", in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part prohibits all other persons from making an anatomical gift of the individual's body or part.

5. *Preclusive effect.*

a. *Donor gift or amendment — subsequent actions by others prohibited.* Except as otherwise provided in paragraph “g”, and subject to paragraph “f”, in the absence of a contrary indication by the donor, a person other than the donor is prohibited from making, amending, or revoking an anatomical gift of a donor’s body or part if the donor made an anatomical gift of the donor’s body or part under subsection 2 or an amendment to an anatomical gift of the donor’s body or part under subsection 3.

b. *Donor revocation not a refusal.* A donor’s revocation of an anatomical gift of the donor’s body or part under subsection 3 is not a refusal and does not prohibit another person specified in subsection 1 or section 142C.4 from making an anatomical gift of the donor’s body or part under subsection 2 or section 142C.4.

c. *Gift on amendment by another — subsequent actions by others prohibited.* If a person other than the donor makes an unrevoked anatomical gift of the donor’s body or part under subsection 2, or an amendment to an anatomical gift of the donor’s body or part under subsection 3, another person may not make, amend, or revoke the gift of the donor’s body or part under section 142C.4.

d. *Revocation by another not prohibitive of other gift.* A revocation of an anatomical gift of a donor’s body or part under subsection 3 by a person other than the donor does not prohibit another person from making an anatomical gift of the body or part under subsection 2 or section 142C.4.

e. *Gift of part not prohibitive of gift of another part.* In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part is neither a refusal to donate another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another authorized person.

f. *Gift for one purpose not prohibitive of another purpose.* In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part for one or more of the purposes specified in subsection 1 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under subsection 2 or section 142C.4.

g. *Unemancipated minor gift — parent revocation.* If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor’s body or part.

h. *Unemancipated minor refusal — parent revocation or amendment.* If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor’s refusal.

95 Acts, ch 39, §3; 2002 Acts, ch 1064, §3, 4; 2007 Acts, ch 44, §3; 2009 Acts, ch 41, §263

Referred to in §142C.2, 142C.4, 142C.5, 142C.18

**142C.4 Who may make anatomical gift of decedent’s body or part — amending or revoking gift.**

1. Subject to subsection 2, and unless prohibited by section 142C.3, subsection 4 or 5, an anatomical gift of a decedent’s body or part for purposes of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed.

a. An agent of the decedent at the time of death who could have made an anatomical gift under section 142C.3, subsection 1, immediately before the decedent’s death.

b. The spouse of the decedent.

c. Adult children of the decedent.

d. Parents of the decedent.

e. Adult siblings of the decedent.

f. Adult grandchildren of the decedent.

g. Grandparents of the decedent.

h. An adult who exhibited special care and concern for the decedent.

i. Any persons who were acting as guardians of the decedent at the time of death.

j. Any other person having the authority to dispose of the decedent’s body.

2. *a.* If there is more than one member of a class listed in subsection 1, paragraph “a”, “c”, “d”, “e”, “f”, “g”, or “i”, entitled to make an anatomical gift, an anatomical gift may be made by one member of the class unless that member or a person to whom the gift may pass under section 142C.5 knows of an objection by another member of the class. If an objection is known, the gift shall be made only by a majority of the members of the class who are reasonably available.

*b.* A person shall not make an anatomical gift if, at the time of the death of the decedent, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.

3. A person authorized to make an anatomical gift under subsection 1 may make an anatomical gift by a document of gift signed by the person making the gift or by the person’s oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the recipient of the oral communication.

4. Subject to subsection 5, an anatomical gift by a person authorized under subsection 1 may be amended or revoked orally or in a record by any member of the prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under subsection 1 may be:

*a.* Amended only if a majority of the reasonably available members agree to the amending of the gift.

*b.* Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

5. A revocation under subsection 4 is effective only if, before an incision has been made to remove a part from the donor’s body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

95 Acts, ch 39, §4; 2002 Acts, ch 1064, §5; 2007 Acts, ch 44, §4

Referred to in §142C.3, 142C.5, 142C.8, 142C.11, 142C.12B

#### **142C.4A Cooperation between medical examiner and organ procurement organization — facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.**

1. A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover organs for the purpose of transplantation when the recovery of organs does not interfere with a death investigation.

2. If a medical examiner receives notice from a procurement organization that an organ might be or was made available with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination will be performed, unless the medical examiner denies recovery in accordance with this section, the medical examiner or designee shall conduct a postmortem examination of the body or the organ in a manner and within a period compatible with its preservation for the purposes of the gift. Every reasonable effort shall be made to accomplish the mutual goals of organ donation and a thorough death investigation.

3. An organ shall not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation unless the organ is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing a medicolegal investigation pursuant to subsection 5 upon the body or organs of a decedent under the jurisdiction of the medical examiner.

4. Upon request of an organ procurement organization, a medical examiner shall release to the organ procurement organization the name and contact information of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent’s organs are medically suitable for transplantation, the pathologist or medical examiner shall release to the organ procurement organization the postmortem examination results, limited to cause and manner of death and any evidence of infection or other disease process, which might preclude safe transplantation of recovered organs. The organ procurement organization may make a subsequent disclosure of the postmortem examination results only if relevant to transplantation.

5. The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner, which the medical examiner determines may be relevant to the investigation.

6. A person who has any information requested by a medical examiner pursuant to subsection 5 shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of organs for the purpose of transplantation.

7. If an anatomical gift has been or might be made of an organ of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the organ that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and organ procurement organization shall cooperate in the timely removal of the organ from the decedent for the purpose of transplantation.

8. *a.* If an anatomical gift of an organ from a decedent under the jurisdiction of the medical examiner has been or might be made, but the pathologist or medical examiner initially believes that the recovery of the organ could interfere with the postmortem investigation into the decedent's cause or manner of death, the pathologist or medical examiner shall consult with the organ procurement organization or physician or technician designated by the organ procurement organization about the proposed recovery.

*b.* Ancillary clinical tests such as a magnetic resonance imaging (MRI), a computed tomography (CT) scan, or skeletal survey may be required by the pathologist prior to determination of suitability of organ procurement. These tests shall be performed and interpreted by the appropriate physician at the pathologist's request, and reported in a timely fashion. All expenses for such tests shall be the responsibility of the organ procurement organization regardless of outcome.

*c.* After consultation pursuant to paragraph "a" and any preliminary investigation pursuant to paragraph "b", the pathologist or medical examiner may allow recovery, depending on the nature of the case and the availability of a pathologist to view the body prior to recovery.

9. If the manner of death may be homicide or has the potential for litigation, the organ recovery shall be approved by the forensic pathologist, and the forensic pathologist may examine the body prior to organ recovery and document by diagrams and photographs all visible injuries.

10. *a.* If the medical examiner or designee allows recovery of an organ under subsection 7, 8, or 9, the organ procurement organization, upon request, shall cause the physician or technician who removes the organ to provide the medical examiner with a record describing the condition of the organ, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

*b.* Arrangements for the examination of bodies of such decedents shall be coordinated between the organ procurement organization and the state medical examiner.

*c.* If applicable, and whenever possible, the forensic pathologist who examined the decedent's body prior to recovery of the organ shall perform the autopsy. If the forensic pathologist is unable to accommodate examination of the body due to scheduling or staffing, the request for organ donation may be denied.

11. If a medical examiner or designee is required to be present at a removal procedure under subsection 9, upon request, the organ procurement organization requesting the recovery of the organ shall reimburse the medical examiner or designee for the additional costs incurred in complying with subsection 9.

12. A physician or technician who removes an organ at the direction of the organ procurement organization may be called to testify about findings from the surgical recovery of organs at no cost to taxpayers if the decedent is under the jurisdiction of the medical examiner.

13. *a.* The medical examiner or pathologist with jurisdiction over the body of a decedent has discretion to grant or deny permission for organ or tissue recovery.

b. If the recovery of organs or tissues may hinder the determination of cause or manner of death or if evidence may be destroyed by the recovery, permission may be denied.

c. The medical examiner or a pathologist performing state autopsies shall work closely with procurement organizations in an effort to balance the needs of the public and the decedent's next of kin.

96 Acts, ch 1048, §1; 2007 Acts, ch 44, §5

**142C.5 Persons who may receive anatomical gifts and purposes for which anatomical gifts may be made.**

1. An anatomical gift may be made to the following persons named in a document of gift:

a. A hospital, accredited medical or osteopathic medical school, dental school, college, or university, organ procurement organization, or other appropriate person for research or education.

b. An eye bank or tissue bank.

c. Subject to subsection 2, an individual designated by the person making the anatomical gift if the individual is the recipient of the part.

2. If an anatomical gift to an individual under subsection 1, paragraph "c", cannot be transplanted into the individual, the part passes in accordance with subsection 7 in the absence of an express, contrary indication by the person making the anatomical gift.

3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply:

a. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

b. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

c. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

d. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

4. For the purpose of subsection 3, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.

6. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.

7. For the purposes of subsections 2, 5, and 6, the following rules shall apply:

a. If the part is an eye, the gift passes to the appropriate eye bank.

b. If the part is tissue, the gift passes to the appropriate tissue bank.

c. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

8. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection 1, paragraph "c", passes to the organ procurement organization as custodian of the organ.

9. If an anatomical gift does not pass pursuant to subsections 1 through 8, or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

10. A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 142C.3, subsection 2, or section 142C.4, or if the person knows

that the decedent made a refusal under section 142C.3, subsection 4, that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

11. Except as otherwise provided in subsection 1, paragraph “c”, nothing in this chapter shall affect the allocation of organs for transplantation or therapy.

95 Acts, ch 39, §5; 2007 Acts, ch 44, §6

Referred to in §142C.2, 142C.4, 142C.6, 142C.8

#### **142C.5A Search and notification.**

1. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

a. A law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding the individual.

b. If no other source of the information is immediately available, a hospital, as soon as practical after the individual’s arrival at the hospital.

2. If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection 1, paragraph “a”, and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall deliver the document of gift or refusal to the hospital.

3. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

2007 Acts, ch 44, §7

#### **142C.6 Delivery of document of gift not required — right to examine.**

1. A document of gift does not require delivery during the donor’s lifetime to be effective.

2. Upon or after an individual’s death, a person in possession of the document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or the refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to whom the gift could pass under section 142C.5.

95 Acts, ch 39, §6; 2002 Acts, ch 1064, §6; 2003 Acts, ch 108, §38; 2007 Acts, ch 44, §8

#### **142C.7 Confidential information.**

A hospital, licensed or certified health care professional pursuant to chapter 148, 148C, or 152, or medical examiner may release patient information to a procurement organization as part of a referral or retrospective review of the patient as a potential donor. Any information regarding a patient, including the patient’s identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient’s legal representative.

95 Acts, ch 39, §7; 96 Acts, ch 1048, §2; 2002 Acts, ch 1064, §7; 2007 Acts, ch 44, §9; 2008 Acts, ch 1088, §93

#### **142C.8 Rights and duties of procurement organizations and donors.**

1. When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the state department of transportation and any donor registry that the hospital knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

2. A procurement organization shall be allowed reasonable access to information in the records of the state department of transportation to ascertain whether an individual at or near death is a donor.

3. When a hospital refers an individual at or near death to a procurement organization, the procurement organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for

transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

4. Unless prohibited by law other than this chapter, at any time after a donor's death, the person to whom a part passes under section 142C.5 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

5. Unless prohibited by law other than this chapter, an examination under subsection 3 or 4 may include an examination of all medical and dental records of the donor or prospective donor.

6. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

7. Upon referral by a hospital under subsection 1, a procurement organization shall make a reasonable search for any person listed in section 142C.4 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, the procurement organization shall promptly advise the other person of all relevant information.

8. Subject to section 142C.5, subsection 9, the rights of a person to whom a part passes under section 142C.5 are superior to the rights of all other persons with respect to the part.

9. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of the remains in a funeral service. If the gift is of a part, the person to whom the part passes under section 142C.5, upon the death of the donor and prior to embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

10. The physician, physician assistant, or advanced registered nurse practitioner who attends the decedent at death and the physician, physician assistant, or advanced registered nurse practitioner who determines the time of death shall not participate in the procedures for removing or transplanting a part from the decedent.

11. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

95 Acts, ch 39, §8; 2007 Acts, ch 44, §10; 2011 Acts, ch 26, §1

#### **142C.9 Coordination of procurement and use.**

Each hospital in the state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

95 Acts, ch 39, §9; 2007 Acts, ch 44, §11

#### **142C.10 Sale or purchase of parts prohibited — penalty.**

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy if removal of the part is intended to occur after the death of the decedent.

2. Valuable consideration does not include reasonable payment for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

3. A person who violates this section commits a class "C" felony.

95 Acts, ch 39, §10; 2007 Acts, ch 44, §12

#### **142C.10A Other prohibited acts — penalty.**

A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal, commits a class "C" felony.

2007 Acts, ch 44, §13

**142C.11 Immunity.**

1. A person who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from liability in any civil action, criminal prosecution, or administrative proceeding.

2. An individual who makes an anatomical gift pursuant to this chapter and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.

3. In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 142C.4, subsection 1, paragraph "b", "c", "d", "e", "f", "g", or "h", relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

95 Acts, ch 39, §11; 2002 Acts, ch 1064, §8; 2007 Acts, ch 44, §14

**142C.12 Service but not a sale.**

The procurement, removal, preservation, processing, storage, distribution, or use of parts for the purpose of injecting, transfusing, or transplanting any of the parts into the human body is, for all purposes, the rendition of a service by every person participating in the act, and whether or not any remuneration is paid, is not a sale of the part for any purposes. However, any person that renders such service warrants only under this section that due care has been exercised and that acceptable professional standards of care in providing such service according to the state of the medical arts have been followed. Strict liability, in tort, shall not be applicable to the rendition of such services.

95 Acts, ch 39, §12

**142C.12A Law governing validity, choice of law, presumption of validity.**

1. A document of gift is valid if executed in accordance with any of the following:

a. This chapter.

b. The laws of the state or country where the document of gift was executed.

c. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

2. If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

3. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

2007 Acts, ch 44, §15

**142C.12B Effect of anatomical gift on advance health care directive.**

1. As used in this section:

a. "*Advance health care directive*" means a durable power of attorney for health care pursuant to chapter 144B or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

b. "*Declaration*" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

c. "*Health care decision*" means any decision regarding the health care of the prospective donor.

2. a. If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict.

b. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if no agent exists or the agent is not reasonably

available, another person, authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The agent or other person shall resolve the conflict consistent with the desires of the donor as expressed in a declaration executed in accordance with chapter 144A, or a durable power of attorney for health care executed in accordance with chapter 144B, or as otherwise known, or if not known, consistent with the donor's best interest.

c. The conflict shall be resolved as expeditiously as possible.

d. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 142C.4. Prior to resolution of the conflict, measures necessary to ensure the medical suitability of the part shall not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

2007 Acts, ch 44, §16

#### **142C.13 Transitional provisions.**

This chapter applies to an anatomical gift, or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

95 Acts, ch 39, §13; 95 Acts, ch 209, §20; 2007 Acts, ch 44, §17

#### **142C.14 Uniformity of application and construction.**

This chapter shall be applied and construed with consideration given to the need to promote uniformity of the law with respect to anatomical gifts among states which enact this law.

95 Acts, ch 39, §14; 2007 Acts, ch 44, §18

#### **142C.14A Electronic signatures.**

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or authorize electronic delivery of any of the notices described in § 103(b) of that Act, 15 U.S.C. § 7003(b).

2007 Acts, ch 44, §19

#### **142C.15 Anatomical gift public awareness and transplantation fund — established — uses of fund.**

1. An anatomical gift public awareness and transplantation fund is created as a separate fund in the state treasury under the control of the Iowa department of public health. The fund shall consist of moneys remitted by the county treasurer of a county or by the department of transportation which were collected through the payment of a contribution made by an applicant for registration of a motor vehicle pursuant to section 321.44A and any other contributions to the fund.

2. The moneys collected under this section and deposited in the fund are appropriated to the Iowa department of public health for the purposes specified in this section. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

3. The treasurer of state shall act as custodian of the fund and shall disburse amounts contained in the fund as directed by the department. The treasurer of state may invest the moneys deposited in the fund. The income from any investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes of this section.

4. The Iowa department of public health may use not more than five percent of the moneys in the fund for administrative costs. The remaining moneys in the fund may be expended through grants to any of the following persons, subject to the following conditions:

a. Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation to conduct public awareness projects. Moneys remaining that were not requested and awarded for public awareness projects may be used

to support the Iowa donor registry. Grants shall be made based upon the submission of a grant application.

b. Not more than thirty percent of the moneys in the fund annually may be expended in the form of grants to hospitals for reimbursement for costs directly related to the development of in-hospital anatomical gift public awareness projects, anatomical gift referral protocols, and associated administrative expenses. As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for all deaths occurring in the hospital at a percentage rate which places the hospital in the upper fifty percent of all protocol compliance rates for hospitals submitting documentation for cost reimbursement under this section.

c. Not more than fifty percent of the moneys in the fund annually may be expended in the form of grants to transplant recipients, transplant candidates, living organ donors, or to legal representatives on behalf of transplant recipients, transplant candidates, or living organ donors. Transplant recipients, transplant candidates, living organ donors, or the legal representatives of transplant recipients, transplant candidates, or living organ donors shall submit grant applications with supporting documentation provided by a hospital that performs transplants, verifying that the person by or for whom the application is submitted requires a transplant or is a living organ donor and specifying the amount of the costs associated with the following, if funds are not available from any other third-party payor:

- (1) The costs of the organ transplantation procedure.
- (2) The costs of post-transplantation drug or other therapy.
- (3) Other transplantation costs including but not limited to food, lodging, and transportation.

96 Acts, ch 1076, §1; 98 Acts, ch 1015, §1; 2000 Acts, ch 1052, §1; 2003 Acts, ch 32, §2; 2005 Acts, ch 89, §11; 2006 Acts, ch 1030, §14; 2007 Acts, ch 44, §20

Referred to in §142C.17, 321.44A

**142C.16 Anatomical gift public awareness advisory committee — established — duties.** Repealed by 2010 Acts, ch 1031, § 399.

**142C.17 Annual donation and compliance report.**

The Iowa department of public health, in conjunction with any statewide organ procurement organization in Iowa, shall prepare and submit a report to the general assembly on or before January 1 each year regarding organ donation rates and voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and other health systems organizations. The report shall contain the following:

1. An evaluation of organ procurement efforts in the state, including statistics regarding organ and tissue donation activity as of September 30 of the preceding year.
2. Efforts by any statewide organ procurement organization in Iowa, and related parties, to increase organ and tissue donation and consent rates.
3. Voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and health systems organizations and the results of those efforts.
4. Annual contribution levels to the anatomical gift public awareness and transplantation fund created in section 142C.15, and any distributions made from the fund.
5. Efforts and ideas for increasing public awareness of the option of organ and tissue donation.
6. Additional information deemed relevant by the department in assessing the status and progress of organ and tissue donation efforts in the state.

98 Acts, ch 1015, §2

**142C.18 Iowa donor registry.**

1. The director of public health shall contract with and recognize the Iowa donor registry for the purpose of indicating on the donor registry all relevant information regarding a donor's making or amending of an anatomical gift.

2. The state department of transportation shall cooperate with a person that administers

the Iowa donor registry for the purpose of transferring to the donor registry all relevant information regarding a donor's making of an anatomical gift.

3. The Iowa donor registry shall do all of the following:

a. Allow a donor or other person authorized under section 142C.3 to include on the donor registry a statement or symbol that the donor has made or amended an anatomical gift.

b. Be accessible to a procurement organization to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near the death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

c. Be accessible for purposes of paragraphs "a" and "b" seven days a week on a twenty-four-hour per day basis.

d. Provide a centralized, automated system to compile donation information received by the state department of transportation, county treasurers, and the Iowa donor network.

e. Provide educational materials regarding the making, amending, or revoking of an anatomical gift or a refusal to make an anatomical gift.

4. Personally identifiable information on the donor registry about a donor or prospective donor shall not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near the death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

2000 Acts, ch 1052, §2; 2007 Acts, ch 44, §24