

CS FOR SENATE BILL NO. 181(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/15/08

Referred: State Affairs, Judiciary

Sponsor(s): SENATOR MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Uniform Anatomical Gift Act, to anatomical gifts, to donations
2 to the anatomical gift awareness fund, to a registry of anatomical gifts, and to
3 organizations that handle the procurement, distribution, or storage of all or a part of an
4 individual's body."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 13.50.140 is amended to read:

7 **Sec. 13.50.140. Notification of cancellation.** (a) A donor whose motor vehicle
8 or identification document information is on a registry shall notify a procurement
9 organization or the department of the destruction or mutilation of the motor vehicle or
10 identification document or revocation of the gift under AS 13.52.183 [AS 13.52.170]
11 in order to remove the donor's name from a registry. If the procurement organization
12 that is notified does not maintain a registry, the organization shall notify all
13 procurement organizations that do maintain a registry.

14 (b) The failure of a donor to make the notification under (a) of this section

1 does not affect the revocation of a gift under **AS 13.52.183** [AS 13.52.170].

2 * **Sec. 2.** AS 13.50.150(a) is amended to read:

3 (a) An applicant for a motor vehicle or identification document may donate \$1
4 or more to the fund to promote **in the state** the donation of body parts under AS 13.52
5 (Health Care Decisions Act). The donation is voluntary and may be declined by the
6 applicant. The department shall make available to all applicants information on the
7 importance of making gifts.

8 * **Sec. 3.** AS 13.50.160(b) is amended to read:

9 (b) The purposes of the fund are to promote gifts **in the state** under AS 13.52
10 and to administer the donation program established under AS 13.50.150.

11 * **Sec. 4.** AS 13.50.190(3) is amended to read:

12 (3) "donor" has the meaning given in **AS 13.52.268** [AS 13.52.390];

13 * **Sec. 5.** AS 13.50.190(8) is amended to read:

14 (8) "procurement organization" has the meaning given in
15 **AS 13.52.390** [AS 13.52.200(i)];

16 * **Sec. 6.** AS 13.52.010(a) is amended to read:

17 (a) Except as provided in **AS 13.52.173** [AS 13.52.170(a)], an adult may give
18 an individual instruction. Except as provided in **AS 13.52.177** [AS 13.52.170(b)], the
19 instruction may be oral or written. The instruction may be limited to take effect only if
20 a specified condition arises.

21 * **Sec. 7.** AS 13.52.010(k) is amended to read:

22 (k) **Except as provided in AS 13.52.247(a), an** [AN] advance health care
23 directive, including an advance health care directive that is made in compliance with
24 the laws of another state, is valid for purposes of this chapter if it complies with this
25 chapter, regardless of where or when it was executed or communicated.

26 * **Sec. 8.** AS 13.52.020(b) is amended to read:

27 (b) Except in the case of mental illness under (c) of this section **and except as**
28 **provided by AS 13.52.183**, a principal may revoke all or part of an advance health
29 care directive, other than the designation of an agent, at any time and in any manner
30 that communicates an intent to revoke.

31

1 * **Sec. 9.** AS 13.52.030(a) is amended to read:

2 (a) Except in the case of mental health treatment and except as provided by
3 **AS 13.52.173 and 13.52.193** [AS 13.52.180(a) AND (b)], a surrogate may make a
4 health care decision for a patient who is an adult if an agent or guardian has not been
5 appointed or the agent or guardian is not reasonably available, and if the patient has
6 been determined by the primary physician to lack capacity.

7 * **Sec. 10.** AS 13.52.030(c) is amended to read:

8 (c) Except as provided for anatomical gifts in **AS 13.52.173**
9 [AS 13.52.170(b)], an adult may designate an individual to act as surrogate for that
10 adult by personally informing the supervising health care provider. Except as provided
11 by **AS 13.52.173 or 13.52.193** [AS 13.52.180(a) AND (b)], in the absence of a
12 designation, or if the designee is not reasonably available, a member of the following
13 classes of the patient's family who is reasonably available, in descending order of
14 priority, may act as surrogate:

- 15 (1) the spouse, unless legally separated;
- 16 (2) an adult child;
- 17 (3) a parent; or
- 18 (4) an adult sibling.

19 * **Sec. 11.** AS 13.52.030(d) is amended to read:

20 (d) Except as provided by (l) of this section or **AS 13.52.173 or 13.52.193**
21 [AS 13.52.180(a) OR (b)], if none of the individuals eligible to act as surrogate under
22 (c) of this section is reasonably available, an adult who has exhibited special care and
23 concern for the patient, who is familiar with the patient's personal values, and who is
24 reasonably available may act as surrogate.

25 * **Sec. 12.** AS 13.52.040(a) is amended to read:

26 (a) **Subject to AS 13.52.183, 13.52.193, and 13.52.203, a** [A] guardian shall
27 comply with the ward's individual instructions and may not revoke a ward's advance
28 health care directive executed before the ward's incapacity unless a court expressly
29 authorizes the revocation.

30 * **Sec. 13.** AS 13.52.060(d) is amended to read:

31 (d) Except as provided in (e), (f), and (i) of this section **and by AS 13.52.253,**

1 a health care provider, health care institution, or health care facility providing care to a
2 patient shall comply with

3 (1) an individual instruction of the patient and with a reasonable
4 interpretation of that instruction made by a person then authorized to make health care
5 decisions for the patient; and

6 (2) a health care decision for the patient made by a person then
7 authorized to make health care decisions for the patient to the same extent as if the
8 decision had been made by the patient while having capacity.

9 * **Sec. 14.** AS 13.52 is amended by adding new sections to read:

10 **Sec. 13.52.173. Who may make anatomical gift before donor's death.**

11 Subject to AS 13.52.193, an anatomical gift of a donor's body or part may be made
12 during the life of the donor for the purpose of transplantation, therapy, research, or
13 education in the manner provided in AS 13.52.177 by

14 (1) the donor, if the donor is an adult or if the donor is a minor and is

15 (A) emancipated; or

16 (B) authorized under state law to apply for a driver's license

17 because the donor is at least 16 years of age;

18 (2) an agent of the donor, unless a durable power of attorney for health
19 care or another record prohibits the agent from making an anatomical gift;

20 (3) a parent of the donor, if the donor is an unemancipated minor;

21 (4) the donor's guardian; or

22 (5) a surrogate.

23 **Sec. 13.52.177. Manner of making anatomical gift before donor's death.**

24 (a) A donor may make an anatomical gift

25 (1) by authorizing a statement or symbol indicating that the donor has
26 made an anatomical gift to be imprinted on the donor's driver's license or identification
27 card;

28 (2) in a will;

29 (3) during a terminal condition of the donor, by any form of
30 communication addressed to at least two adults, at least one of whom is a disinterested
31 witness; or

1 (4) as provided in (b) of this section.

2 (b) A donor or other person authorized to make an anatomical gift under
3 AS 13.52.173 may make a gift by a donor card or another record signed by the donor
4 or another person making the gift or by authorizing that a statement or symbol
5 indicating that the donor has made an anatomical gift be included on a donor registry.
6 If the donor or another person is physically unable to sign a record, the record may be
7 signed by another individual at the direction of the donor or the other person and must

8 (1) be witnessed by at least two adults, at least one of whom is a
9 disinterested witness, who have signed at the request of the donor or the other person;
10 and

11 (2) state that the record has been signed and witnessed as provided in
12 (1) of this subsection.

13 (c) Revocation, suspension, expiration, or cancellation of a driver's license or
14 an identification card on which an anatomical gift is indicated does not invalidate the
15 gift.

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

19 * **Sec. 15.** AS 13.52 is amended by adding new sections to read:

20 **Sec. 13.52.183. Amending or revoking anatomical gift before donor's**
21 **death.** (a) Except in the case of mental illness under AS 13.52.020(c), and subject to
22 AS 13.52.193, a donor or another person authorized to make an anatomical gift under
23 AS 13.52.173 may amend or revoke an anatomical gift by

24 (1) a record signed by

25 (A) the donor;

26 (B) the other person; or

27 (C) subject to (b) of this section, another individual acting at
28 the direction of the donor or the other person if the donor or other person is
29 physically unable to sign; or

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

1 inconsistency.

2 (b) A record signed under (a)(1)(C) of this section must

3 (1) be witnessed by at least two adults, at least one of whom is a
4 disinterested witness, who have signed at the request of the donor or the other person;
5 and

6 (2) state that it has been signed and witnessed as provided in (1) of this
7 subsection.

8 (c) Subject to AS 13.52.193, a donor or another person authorized to make an
9 anatomical gift under AS 13.52.173 may revoke an anatomical gift by the destruction
10 or cancellation of the document of gift, or the portion of the document of gift used to
11 make the gift, with the intent to revoke the gift.

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

15 (e) A donor who makes an anatomical gift in a will may amend or revoke the
16 gift in the manner provided for amendment or revocation of wills or as provided in (a)
17 of this section.

18 **Sec. 13.52.187. Refusal to make anatomical gift; effect of refusal.** (a) An
19 individual may refuse to make an anatomical gift of the individual's body or part by

20 (1) a record signed by

21 (A) the individual; or

22 (B) subject to (b) of this section, another individual acting at
23 the direction of the individual if the individual is physically unable to sign;

24 (2) the individual's will, whether or not the will is admitted to probate
25 or invalidated after the individual's death; or

26 (3) any form of communication made by the individual during the
27 individual's terminal condition addressed to at least two adults, at least one of whom is
28 a disinterested witness.

29 (b) A record signed under (a)(1)(B) of this section must

30 (1) be witnessed by at least two adults, at least one of whom is a
31 disinterested witness, who have signed at the request of the individual; and

1 (2) state that it has been signed and witnessed as provided in (1) of this
2 subsection.

3 (c) An individual who has made a refusal may amend or revoke the refusal
4 (1) in the manner provided in (a) of this section for making a refusal;
5 (2) by subsequently making an anatomical gift under AS 13.52.177
6 that is inconsistent with the refusal; or
7 (3) by destroying or canceling the record evidencing the refusal, or the
8 portion of the record used to make the refusal, with the intent to revoke the refusal.

9 (d) Except as otherwise provided in AS 13.52.193(h), in the absence of an
10 express, contrary indication by the individual set out in the refusal, an individual's
11 unrevoked refusal to make an anatomical gift of the individual's body or part bars all
12 other persons from making an anatomical gift of the individual's body or part.

13 * **Sec. 16.** AS 13.52 is amended by adding new sections to read:

14 **Sec. 13.52.193. Preclusive effect of anatomical gift, amendment, or**
15 **revocation.** (a) Except as otherwise provided in (g) of this section and subject to (f) of
16 this section, in the absence of an express, contrary indication by the donor, a person
17 other than the donor is barred from making, amending, or revoking an anatomical gift
18 of a donor's body or part if the donor made an anatomical gift of the donor's body or
19 part under AS 13.52.177 or an amendment to an anatomical gift of the donor's body or
20 part under AS 13.52.183.

21 (b) A donor's revocation of an anatomical gift of the donor's body or part
22 under AS 13.52.183 is not a refusal and does not bar another person specified in
23 AS 13.52.173 or 13.52.197 from making an anatomical gift of the donor's body or part
24 under AS 13.52.177 or 13.52.203.

25 (c) If a person other than the donor makes an unrevoked anatomical gift of the
26 donor's body or part under AS 13.52.177 or an amendment to an anatomical gift of the
27 donor's body or part under AS 13.52.183, another person may not make, amend, or
28 revoke the gift of the donor's body or part under AS 13.52.203.

29 (d) A revocation of an anatomical gift of a donor's body or part under
30 AS 13.52.183 by a person other than the donor does not bar another person from
31 making an anatomical gift of the body or part under AS 13.52.177 or 13.52.203.

1 (e) In the absence of an express, contrary indication by the donor or another
 2 person authorized to make an anatomical gift under AS 13.52.173, an anatomical gift
 3 of a part is not a refusal to give another part or a limitation on the making of an
 4 anatomical gift of another part at a later time by the donor or another person.

5 (f) In the absence of an express, contrary indication by the donor or another
 6 person authorized to make an anatomical gift under AS 13.52.173, an anatomical gift
 7 of a part for one or more of the purposes set out in AS 13.52.173 is not a limitation on
 8 the making of an anatomical gift of the part for any of the other purposes by the donor
 9 or any other person under AS 13.52.177 or 13.52.203.

10 (g) If a donor who is an unemancipated minor dies, a parent of the donor who
 11 is reasonably available may revoke or amend an anatomical gift of the donor's body or
 12 part.

13 (h) If an unemancipated minor who signed a refusal dies, a parent of the minor
 14 who is reasonably available may revoke the minor's refusal.

15 **Sec. 13.52.197. Who may make anatomical gift of decedent's body or part.**

16 (a) Subject to (b) and (c) of this section and unless barred by AS 13.52.187 or
 17 13.52.193, an anatomical gift of a decedent's body or part for the purpose of
 18 transplantation, therapy, research, or education may be made by any member of the
 19 following classes of persons who is reasonably available, in the order of priority listed:

- 20 (1) an agent of the decedent at the time of death who could have made
 21 an anatomical gift under AS 13.52.173(2) immediately before the decedent's death;
- 22 (2) the spouse of the decedent;
- 23 (3) adult children of the decedent;
- 24 (4) parents of the decedent;
- 25 (5) adult siblings of the decedent;
- 26 (6) adult grandchildren of the decedent;
- 27 (7) grandparents of the decedent;
- 28 (8) an adult who exhibited special care and concern for the decedent;
- 29 (9) the persons who were acting as the guardians of the person of the
 30 decedent at the time of death; and
- 31 (10) any other person having the authority to dispose of the decedent's

1 body.

2 (b) If there is more than one member of a class listed in subsection (a)(1), (3),
3 (4), (5), (6), (7), or (9) of this section entitled to make an anatomical gift, an
4 anatomical gift may be made by a member of the class unless that member or a person
5 to whom the gift may pass under AS 13.52.207 knows of an objection by another
6 member of the class. If an objection is known, the gift may be made only by a majority
7 of the members of the class who are reasonably available.

8 (c) A person may not make an anatomical gift if, at the time of the decedent's
9 death, a person in a prior class under (a) of this section is reasonably available to make
10 or to object to the making of an anatomical gift.

11 * **Sec. 17.** AS 13.52 is amended by adding new sections to read:

12 **Sec. 13.52.203. Manner of making, amending, or revoking anatomical gift**
13 **of decedent's body or part.** (a) Notwithstanding AS 13.52.020, a person authorized
14 to make an anatomical gift under AS 13.52.197 may make an anatomical gift by a
15 document of gift signed by the person making the gift or by that person's oral
16 communication that is electronically recorded or is contemporaneously reduced to a
17 record and signed by the individual receiving the oral communication.

18 (b) Subject to (c) of this section, an anatomical gift by a person authorized
19 under AS 13.52.197 may be amended or revoked orally or in a record by any member
20 of a prior class who is reasonably available. If more than one member of the prior
21 class is reasonably available, the gift made by a person authorized under AS 13.52.197
22 may be

23 (1) amended only if a majority of the reasonably available members
24 agree to the amending of the gift; or

25 (2) revoked only if a majority of the reasonably available members
26 agree to the revoking of the gift or if they are equally divided as to whether to revoke
27 the gift.

28 (c) Notwithstanding AS 13.52.020, a revocation under (b) of this section is
29 effective only if, before an incision has been made to remove a part from the donor's
30 body or before invasive procedures have begun to prepare the recipient, the
31 procurement organization, transplant hospital, or physician or technician knows of the

1 revocation.

2 **Sec. 13.52.207. Persons who may receive anatomical gift; purpose of**
3 **anatomical gift.** (a) An anatomical gift may be made to the following persons named
4 in the document of gift:

5 (1) a hospital, an accredited medical school, a dental school, a college,
6 a university, an organ procurement organization, or another appropriate person, for
7 research or education;

8 (2) subject to (b) of this section, an individual designated by the person
9 making the anatomical gift if the individual is the recipient of the part;

10 (3) an eye bank or a tissue bank.

11 (b) If an anatomical gift to an individual under (a)(2) of this section cannot be
12 transplanted into the individual, the part passes under (g) of this section in the absence
13 of an express, contrary indication by the person making the anatomical gift.

14 (c) If an anatomical gift of one or more specific parts or of all parts is made in
15 a document of gift that does not name a person described in (a) of this section but
16 identifies the purpose for which an anatomical gift may be used, the following rules
17 apply:

18 (1) if the part is an eye and the gift is for the purpose of transplantation
19 or therapy, the gift passes to the appropriate eye bank;

20 (2) if the part is tissue and the gift is for the purpose of transplantation
21 or therapy, the gift passes to the appropriate tissue bank;

22 (3) if the part is an organ and the gift is for the purpose of
23 transplantation or therapy, the gift passes to the appropriate organ procurement
24 organization as custodian of the organ;

25 (4) if the part is an organ, an eye, or tissue and the gift is for the
26 purpose of research or education, the gift passes to the appropriate procurement
27 organization.

28 (d) For the purpose of (c) of this section, if there is more than one purpose of
29 an anatomical gift set out in the document of gift but the purposes are not set out in
30 any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift
31 cannot be used for transplantation or therapy, the gift may be used for research or

1 education.

2 (e) If an anatomical gift of one or more specific parts is made in a document of
3 gift that does not name a person described in (a) of this section and does not identify
4 the purpose of the gift, the gift may be used only for transplantation or therapy, and
5 the gift passes under (g) of this section.

6 (f) If a document of gift specifies only a general intent to make an anatomical
7 gift by words such as "donor," "organ donor," or "body donor," or by a symbol or
8 statement of similar import, the gift may be used only for transplantation or therapy,
9 and the gift passes under (g) of this section.

10 (g) For purposes of (b), (e), and (f) of this section, the following rules apply:

11 (1) if the part is an eye, the gift passes to the appropriate eye bank;

12 (2) if the part is tissue, the gift passes to the appropriate tissue bank;

13 (3) if the part is an organ, the gift passes to the appropriate organ
14 procurement organization as custodian of the organ.

15 (h) An anatomical gift of an organ for transplantation or therapy, other than an
16 anatomical gift under (a)(2) of this section, passes to the organ procurement
17 organization as custodian of the organ.

18 (i) If an anatomical gift does not pass under (a) - (h) of this section or the
19 decedent's body or part is not used for transplantation, therapy, research, or education,
20 custody of the body or part passes to the person under obligation to dispose of the
21 body or part.

22 (j) A person may not accept an anatomical gift if the person knows that the
23 gift was not effectively made under AS 13.52.177 or 13.52.203 or if the person knows
24 that the decedent made a refusal under AS 13.52.187 that was not revoked. For
25 purposes of this subsection, if a person knows that an anatomical gift was made on a
26 document of gift, the person is considered to know of any amendment or revocation of
27 the gift or any refusal to make an anatomical gift on the same document of gift.

28 (k) Except as otherwise provided in (a)(2) of this section, nothing in
29 AS 13.52.173 - 13.52.268 affects the allocation of organs for transplantation or
30 therapy.

31 * **Sec. 18.** AS 13.52 is amended by adding new sections to read:

1 **Sec. 13.52.213. Search and notification.** (a) The following persons shall
 2 make a reasonable search of an individual who the person reasonably believes is dead
 3 or near death for a document of gift or other information identifying the individual as a
 4 donor or as an individual who made a refusal:

5 (1) a law enforcement officer, a fire fighter, a paramedic, or another
 6 emergency rescuer finding the individual; and

7 (2) if another other source of the information is not immediately
 8 available, a hospital, as soon as practical after the individual's arrival at the hospital.

9 (b) If a document of gift or a refusal to make an anatomical gift is located by
 10 the search required by (a)(1) of this section and the individual or deceased individual
 11 to whom it relates is taken to a hospital, the person responsible for conducting the
 12 search shall send the document of gift or refusal to the hospital.

13 (c) Except as provided by AS 13.52.080 - 13.52.090, a person is not subject to
 14 criminal or civil liability for failing to discharge the duties imposed by this section but
 15 may be subject to administrative sanctions.

16 **Sec. 13.52.217. Delivery of document of gift not required; right to**
 17 **examine.** (a) A document of gift need not be delivered during the donor's lifetime to
 18 be effective.

19 (b) On or after an individual's death, a person in possession of a document of
 20 gift or a refusal to make an anatomical gift with respect to the individual shall allow
 21 examination and copying of the document of gift or refusal by a person authorized to
 22 make or object to the making of an anatomical gift with respect to the individual or by
 23 a person to whom the gift could pass under AS 13.52.207.

24 * **Sec. 19.** AS 13.52 is amended by adding new sections to read:

25 **Sec. 13.52.223. Rights and duties of procurement organization and others.**

26 (a) When a hospital refers an individual at or near death to a procurement
 27 organization, the organization shall make a reasonable search of the records of the
 28 department and a donor registry.

29 (b) A procurement organization shall be allowed reasonable access to
 30 information in the records of the department to ascertain whether an individual at or
 31 near death is a donor.

1 (c) Except as provided by AS 13.52.253, when a hospital refers an individual
2 at or near death to a procurement organization, the organization may conduct any
3 reasonable examination necessary to ensure the medical suitability of a part that is or
4 could be the subject of an anatomical gift for transplantation, therapy, research, or
5 education from a donor or a prospective donor. Except as provided by AS 13.52.055
6 or 13.52.253, during the examination period, measures necessary to ensure the medical
7 suitability of the part may not be withheld or withdrawn, unless the hospital or
8 procurement organization knows that the individual expressed a contrary intent.

9 (d) Unless prohibited by law other than AS 13.52.173 - 13.52.268, at any time
10 after a donor's death, the person to whom a part passes under AS 13.52.207 may
11 conduct any reasonable examination necessary to ensure the medical suitability of the
12 body or part for its intended purpose.

13 (e) Unless prohibited by law other than AS 13.52.173 - 13.52.268, an
14 examination under (c) or (d) of this section may include an examination of all medical
15 and dental records of the donor or prospective donor.

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

21 (g) Upon referral by a hospital under (a) of this section, a procurement
22 organization shall make a reasonable search for any person listed in AS 13.52.197
23 having priority to make an anatomical gift on behalf of a prospective donor. If a
24 procurement organization receives information that an anatomical gift to any other
25 person was made, amended, or revoked, it shall promptly advise the other person of all
26 relevant information.

27 (h) Subject to AS 13.52.207(i) and 13.52.257, the rights of the person to
28 whom a part passes under AS 13.52.207 are superior to the rights of all others with
29 respect to the part. The person may accept or reject an anatomical gift in whole or in
30 part. Subject to the terms of the document of gift and AS 13.52.173 - 13.52.268, a
31 person who accepts an anatomical gift of an entire body may allow embalming, burial,

1 or cremation, and use of remains in a funeral service. If the gift is of a part, the person
 2 to whom the part passes under AS 13.52.207, on the death of the donor and before
 3 embalming, burial, or cremation, shall cause the part to be removed without
 4 unnecessary mutilation.

5 (i) The physician who attends the decedent at death and the physician who
 6 determines the time of the decedent's death may not participate in the procedures for
 7 removing or transplanting a part from the decedent.

8 (j) A physician or technician may remove a donated part from the body of a
 9 donor that the physician or technician is qualified to remove.

10 **Sec. 13.52.227. Coordination of procurement and use.** A hospital in this
 11 state shall enter into agreements or affiliations with procurement organizations for
 12 coordination of procurement and use of anatomical gifts.

13 * **Sec. 20.** AS 13.52 is amended by adding a new section to read:

14 **Sec. 13.52.233. Sale or purchase of parts prohibited; charges allowed.** (a)
 15 Except as otherwise provided in (b) of this section, a person who, for valuable
 16 consideration, knowingly purchases or sells a part for transplantation or therapy if
 17 removal of a part from an individual is intended to occur after the individual's death
 18 commits a class C felony.

19 (b) A person may charge a reasonable amount for the removal, processing,
 20 preservation, quality control, storage, transportation, implantation, or disposal of a
 21 part.

22 * **Sec. 21.** AS 13.52 is amended by adding new sections to read:

23 **Sec. 13.52.243. Immunity.** (a) Except as provided by AS 13.52.080 -
 24 13.52.090, a person who acts under AS 13.52.173 - 13.52.268 or with the applicable
 25 anatomical gift law of another state, or attempts in good faith to act under
 26 AS 13.52.173 - 13.52.268 or with the applicable anatomical gift law of another state,
 27 is not liable for the act in a civil action, a criminal prosecution, or an administrative
 28 proceeding.

29 (b) Except as provided by AS 13.52.080 - 13.52.090, a person making an
 30 anatomical gift and the donor's estate are not liable for any injury or damage that
 31 results from the making or use of the gift.

1 (c) In determining whether an anatomical gift has been made, amended, or
 2 revoked under AS 13.52.173 - 13.52.268, a person may rely on representations of an
 3 individual listed in AS 13.52.197(a)(2) - (8) relating to the individual's relationship to
 4 the donor or prospective donor unless the person knows that the representation is
 5 untrue.

6 **Sec. 13.52.247. Law governing validity; choice of law as to execution of**
 7 **document of gift; presumption of validity.** (a) Notwithstanding AS 13.52.010(k), a
 8 document of gift is valid if executed under

9 (1) AS 13.52.173 - 13.52.268;

10 (2) the laws of the state or country where it was executed; or

11 (3) the laws of the state or country where the person making the
 12 anatomical gift was domiciled, has a place of residence, or was a national at the time
 13 the document of gift was executed.

14 (b) If a document of gift is valid under this section, the law of this state
 15 governs the interpretation of the document of gift.

16 (c) A person may presume that a document of gift or amendment of an
 17 anatomical gift is valid unless that person knows that it was not validly executed or
 18 was revoked.

19 * **Sec. 22.** AS 13.52 is amended by adding new sections to read:

20 **Sec. 13.52.253. Effect of anatomical gift on advance health care directive.**

21 Except as provided by AS 13.52.055, if a prospective donor has an advance health
 22 care directive, and the terms of the directive and the express terms of a potential
 23 anatomical gift are in conflict with regard to the administration of measures necessary
 24 to ensure the medical suitability of a part for transplantation or therapy, the
 25 prospective donor's attending physician and prospective donor shall confer to resolve
 26 the conflict. If the prospective donor is incapable of resolving the conflict, an agent
 27 acting under the prospective donor's declaration or directive, or, if none or the agent is
 28 not reasonably available, another person authorized by law other than AS 13.52.173 -
 29 13.52.268 to make health care decisions on behalf of the prospective donor, shall act
 30 for the donor to resolve the conflict. The conflict shall be resolved as expeditiously as
 31 possible. Information relevant to the resolution of the conflict may be obtained from

1 the appropriate procurement organization and any other person authorized to make an
2 anatomical gift for the prospective donor under AS 13.52.173 - 13.52.268. Before
3 resolution of the conflict, measures necessary to ensure the medical suitability of the
4 part may not be withheld or withdrawn from the prospective donor unless withholding
5 or withdrawing the measures conflicts with appropriate end-of-life care.

6 **Sec. 13.52.255. Cooperation between coroner, state medical examiner, and**
7 **procurement organization.** (a) A coroner and a state medical examiner shall
8 cooperate with procurement organizations to maximize the opportunity to recover
9 anatomical gifts for the purpose of transplantation, therapy, research, or education.

10 (b) If a coroner or a state medical examiner receives notice from a
11 procurement organization that an anatomical gift might be available or was made with
12 respect to a decedent whose body is under the jurisdiction of the coroner or state
13 medical examiner and a postmortem examination is going to be performed, unless the
14 coroner or state medical examiner denies recovery under AS 13.52.257, the coroner,
15 the state medical examiner, or a designee shall conduct a postmortem examination of
16 the body or the part in a manner and within a period compatible with its preservation
17 for the purposes of the gift.

18 (c) A part may not be removed from the body of a decedent under the
19 jurisdiction of a coroner or a state medical examiner for transplantation, therapy,
20 research, or education unless the part is the subject of an anatomical gift. The body of
21 a decedent under the jurisdiction of the coroner or state medical examiner may not be
22 delivered to a person for research or education unless the body is the subject of an
23 anatomical gift. This subsection does not preclude a coroner or the state medical
24 examiner from performing the medicolegal investigation on the body or parts of a
25 decedent under the jurisdiction of the coroner or state medical examiner.

26 **Sec. 13.52.257. Facilitation of anatomical gift from decedent whose body is**
27 **under jurisdiction of coroner or state medical examiner.** (a) On request of a
28 procurement organization, a coroner or the state medical examiner may release to the
29 procurement organization the name, contact information, and available medical and
30 social history of a decedent whose body is under the jurisdiction of the coroner or state
31 medical examiner. If the decedent's body or part is medically suitable for

1 transplantation, therapy, research, or education, the coroner or state medical examiner
2 shall release postmortem examination results to the procurement organization. The
3 procurement organization may make a subsequent disclosure of the postmortem
4 examination results or other information received from the coroner or state medical
5 examiner only if relevant to transplantation or therapy.

6 (b) The coroner or state medical examiner may conduct a medicolegal
7 examination by reviewing all medical records, laboratory test results, x-rays, other
8 diagnostic results, and other information that any person possesses about a donor or
9 prospective donor whose body is under the jurisdiction of the coroner or state medical
10 examiner that the coroner or state medical examiner determines may be relevant to the
11 investigation.

12 (c) A person who has any information requested by a coroner or the state
13 medical examiner under (b) of this section shall provide that information as
14 expeditiously as possible to allow the coroner or state medical examiner to conduct the
15 medicolegal investigation within a period compatible with the preservation of parts for
16 the purpose of transplantation, therapy, research, or education.

17 (d) If an anatomical gift has been or might be made of a part of a decedent
18 whose body is under the jurisdiction of the coroner or state medical examiner and a
19 postmortem examination is not required, or the coroner or state medical examiner
20 determines that a postmortem examination is required but that the recovery of the part
21 that is the subject of an anatomical gift will not interfere with the examination, the
22 coroner or state medical examiner and the procurement organization shall cooperate in
23 the timely removal of the part from the decedent for the purpose of transplantation,
24 therapy, research, or education.

25 (e) If an anatomical gift of a part from the decedent under the jurisdiction of
26 the coroner or state medical examiner has been or might be made, but the coroner or
27 state medical examiner initially believes that the recovery of the part could interfere
28 with the postmortem investigation into the decedent's cause or manner of death, the
29 coroner or state medical examiner may consult with the procurement organization, or
30 the physician or technician designated by the procurement organization, about the
31 proposed recovery. After consultation, the coroner or state medical examiner may

1 allow the recovery.

2 (f) If the coroner, the state medical examiner, or a designee denies recovery of
3 a part, the coroner, state medical examiner, or designee shall

4 (1) explain in a record the specific reasons for not allowing recovery of
5 the part;

6 (2) include the specific reasons in the records of the coroner or state
7 medical examiner; and

8 (3) provide a record with the specific reasons to the procurement
9 organization.

10 (g) If the coroner, the state medical examiner, or a designee allows recovery of
11 a part under (d) or (e) of this section, the procurement organization, on request, shall
12 cause the physician or technician who removes the part to provide the coroner or state
13 medical examiner with a record describing the condition of the part, a biopsy, a
14 photograph, and any other information and observations that would assist in the
15 postmortem examination.

16 (h) If a coroner, state medical examiner, or designee elects to be present at a
17 removal procedure, on request, the procurement organization requesting the recovery
18 of the part shall reimburse the coroner, state medical examiner, or designee for the
19 additional costs incurred in complying with this section.

20 * **Sec. 23.** AS 13.52 is amended by adding a new section to read:

21 **Sec. 13.52.263. Relation to Electronic Signatures in Global and National**
22 **Commerce Act.** AS 13.52.173 - 13.52.267 modify, limit, and supersede 15 U.S.C.
23 7001 - 7031 (Electronic Signatures in Global and National Commerce Act), except
24 that AS 13.52.173 - 13.52.267 do not modify, limit or supersede 15 U.S.C. 7001, or
25 authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

26 * **Sec. 24.** AS 13.52 is amended by adding new sections to read:

27 **Sec. 13.52.267. Uniformity of application and construction.** In applying and
28 construing AS 13.52.173 - 13.52.263, consideration shall be given to the need to
29 promote uniformity of the law with respect to its subject matter among states that
30 enact it.

31 **Sec. 13.52.268. Definitions for AS 13.52.173 - 13.52.268.** Notwithstanding

1 AS 13.52.390, in AS 13.52.173 - 13.52.268,

2 (1) "adult" means an individual who is at least 18 years of age;

3 (2) "decedent" means a deceased individual whose body or part is or
4 may be the source of an anatomical gift; the term includes a stillborn infant and,
5 subject to restrictions imposed by law other than AS 13.52.173 - 13.52.168, a fetus;

6 (3) "department" means the Department of Administration;

7 (4) "disinterested witness" means a witness who is not

8 (A) the spouse, child, parent, sibling, grandchild, grandparent,
9 or guardian of the individual who makes, amends, revokes, or refuses to make
10 an anatomical gift;

11 (B) an adult who exhibited special care and concern for the
12 individual; or

13 (C) a person to whom an anatomical gift could pass under
14 AS 13.52.207;

15 (5) "document of gift" means a donor card or other record used to
16 make an anatomical gift, and includes a statement or symbol on a driver's license, an
17 identification card, or a donor registry;

18 (6) "donor" means an individual whose body or part is the subject of
19 an anatomical gift;

20 (7) "donor registry" means the donor registry created under
21 AS 13.50.110;

22 (8) "driver's license" means a license or permit issued by the
23 department under AS 28.15 to operate a vehicle, whether or not conditions are
24 attached to the license or permit;

25 (9) "eye bank" means a person who is licensed, accredited, or
26 regulated under federal or state law to engage in the recovery, screening, testing,
27 processing, storage, or distribution of human eyes or portions of human eyes;

28 (10) "guardian" means a person appointed by a court to make decisions
29 regarding the support, care, education, health, or welfare of an individual; the term
30 does not include a guardian ad litem;

31 (11) "hospital" means a facility licensed as a hospital under the law of

1 any state or a facility operated as a hospital by the United States, a state, or a
2 subdivision of a state;

3 (12) "identification card" means an identification card issued by the
4 Department of Administration under AS 18.65.310;

5 (13) "know" means to have actual knowledge;

6 (14) "minor" means an individual who is under 18 years of age;

7 (15) "organ procurement organization" means a person designated by
8 the United States Secretary of Health and Human Services as an organ procurement
9 organization;

10 (16) "parent" means a parent whose parental rights have not been
11 terminated;

12 (17) "person" means an individual, corporation, business trust, estate,
13 trust, partnership, limited liability company, association, joint venture, public
14 corporation, government or governmental subdivision, agency, or instrumentality, or
15 any other legal or commercial entity;

16 (18) "physician" means an individual authorized to practice medicine
17 or osteopathy under the law of any state;

18 (19) "procurement organization" means an eye bank, an organ
19 procurement organization, or a tissue bank;

20 (20) "prospective donor" means an individual who is dead or near
21 death and has been determined by a procurement organization to have a part that could
22 be medically suitable for transplantation, therapy, research, or education; the term
23 does not include an individual who has made a refusal;

24 (21) "reasonably available" means able to be contacted by a
25 procurement organization without undue effort and willing and able to act in a timely
26 manner consistent with existing medical criteria necessary for the making of an
27 anatomical gift;

28 (22) "recipient" means an individual into whose body a decedent's part
29 has been or is intended to be transplanted;

30 (23) "record" means information that is inscribed on a tangible
31 medium or that is stored in an electronic or another medium and is retrievable in

1 perceivable form;

2 (24) "refusal" means a record created under AS 13.52.187 that
3 expressly states an intent to bar other persons from making an anatomical gift of an
4 individual's body or part;

5 (25) "sign" means, with the present intent to authenticate or adopt a
6 record,

7 (A) to execute or adopt a tangible symbol; or

8 (B) to attach to or logically associate with the record an
9 electronic symbol, sound, or process;

10 (26) "state" means a state of the United States, the District of
11 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular
12 possession subject to the jurisdiction of the United States;

13 (27) "state medical examiner" means the state medical examiner
14 appointed under AS 12.65.015(a);

15 (28) "technician" means an individual determined to be qualified to
16 remove or process parts by an appropriate organization that is licensed, accredited, or
17 regulated under federal or state law; the term includes an enucleator;

18 (29) "tissue" means a portion of the human body other than an organ or
19 an eye; the term does not include blood unless the blood is donated for the purpose of
20 research or education;

21 (30) "tissue bank" means a person who is licensed, accredited, or
22 regulated under federal or state law to engage in the recovery, screening, testing,
23 processing, storage, or distribution of tissue;

24 (31) "transplant hospital" means a hospital that furnishes organ
25 transplants and other medical and surgical specialty services required for the care of
26 transplant patients.

27 * **Sec. 25.** AS 13.52.390(3) is amended to read:

28 (3) "anatomical gift" means [AN INDIVIDUAL INSTRUCTION
29 THAT MAKES] a donation of all or a part of **a human** [AN INDIVIDUAL'S] body to
30 take effect [UPON OR] after **the donor's death for the purpose of transplantation,**
31 **therapy, research, or education;**

1 * **Sec. 26.** AS 13.52.390(30) is amended to read:

2 (30) "part" means an organ, tissue, or an eye [, A BONE, AN
3 ARTERY, BLOOD, FLUID, OR ANOTHER PORTION] of a human **being** [BODY],
4 except fetal tissue; **the term does not include the whole body;**

5 * **Sec. 27.** AS 18.65.311(b) is amended to read:

6 (b) An employee of the department who processes an identification card
7 application, other than an application received by mail, shall ask the applicant orally
8 whether the applicant wishes to execute an anatomical gift. The department shall, by
9 placement of posters and brochures in the office where the application is taken, and by
10 oral advice, if requested, make known to the applicant the method by which the
11 cardholder may make an anatomical gift under AS 13.52. The department shall inform
12 each applicant for an identification card in writing that, if the applicant executes a gift
13 under AS 13.52 and if the gift is made with the registration, the department will
14 transmit the information on the identification card to a donor registry created under
15 AS 13.50.110. The department shall also direct the applicant to notify a procurement
16 organization or the department under AS 13.50.140 if the identification card is
17 destroyed or mutilated or the gift is revoked under **AS 13.52.183** [AS 13.52.170]. The
18 department shall carry out the requirements of AS 13.50.100 - 13.50.190.

19 * **Sec. 28.** AS 28.10.021(c) is amended to read:

20 (c) An employee of the department who processes an application for
21 registration or renewal of registration, other than an application received by mail or an
22 application for registration under AS 28.10.152, shall ask the applicant orally whether
23 the applicant wishes to execute an anatomical gift. The department shall make known
24 to all applicants the procedure for executing an anatomical gift under AS 13.52
25 (Health Care Decisions Act) by displaying posters in the offices in which applications
26 are taken, by providing a brochure or other written information to each person who
27 applies in person or by mail, and, if requested, by providing oral advice. The
28 department shall inform each applicant in writing that, if the applicant executes a gift
29 under AS 13.52 and if the gift is made with the registration application, the department
30 will transmit the information on the registration to a donor registry created under
31 AS 13.50.110. The department shall also direct the applicant to notify a procurement

1 organization or the department under AS 13.50.140 if the registration is destroyed or
2 mutilated or the gift is revoked under AS 13.52.183 [AS 13.52.170]. The department
3 shall carry out the requirements of AS 13.50.100 - 13.50.190.

4 * **Sec. 29.** AS 28.15.061(d) is amended to read:

5 (d) An employee of the department who processes a driver's license
6 application, other than an application received by mail, shall ask the applicant orally
7 whether the applicant wishes to execute an anatomical gift. The department shall make
8 known to all applicants the procedure for executing an anatomical gift under AS 13.52
9 (Health Care Decisions Act) by displaying posters in the offices in which applications
10 are taken, by providing a brochure or other written information to each person who
11 applies in person or by mail, and, if requested, by providing oral advice. The
12 department shall inform each applicant in writing that, if the applicant executes a gift
13 under AS 13.52 and if the gift is made with the driver's license application, the
14 department will transmit the information on the license to a donor registry created
15 under AS 13.50.110. The department shall also direct the applicant to notify a
16 procurement organization or the department under AS 13.50.140 if the license is
17 destroyed or mutilated or the gift is revoked under AS 13.52.183 [AS 13.52.170]. The
18 department shall carry out the requirements of AS 13.50.100 - 13.50.190.

19 * **Sec. 30.** AS 28.15.111(b) is amended to read:

20 (b) The department shall provide a method, at the time that an operator's
21 license is issued, by which the owner of a license may make an anatomical gift under
22 AS 13.52. The method must provide a means by which the owner may cancel the
23 anatomical gift. The department shall inform each applicant in writing that, if the
24 applicant executes a gift under AS 13.52 and if the gift is made with the license, the
25 department will transmit the information on the license to a donor registry created
26 under AS 13.50.110. The department shall also direct the applicant to notify a
27 procurement organization or the department under AS 13.50.140 if the license is
28 destroyed or mutilated or the gift is revoked under AS 13.52.183 [AS 13.52.170]. The
29 department shall carry out the requirements of AS 13.50.100 - 13.50.190.

30 * **Sec. 31.** AS 37.05.146(c) is amended by adding a new paragraph to read:

31 (82) donations to the anatomical gift awareness fund under

1 AS 13.50.150.

2 * **Sec. 32.** AS 13.52.170, 13.52.180, 13.52.190, 13.52.200, 13.52.210, 13.52.220, 13.52.230,
3 13.52.240, 13.52.250, 13.52.260, 13.52.265, 13.52.270, 13.52.280, 13.52.390(10),
4 13.52.390(12), 13.52.390(13), and 13.52.390(41) are repealed.

5 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 CONTINUING EFFECT OF EXISTING ANATOMICAL GIFTS. An anatomical gift
8 made under AS 13.52.170 - 13.52.280, repealed by this Act, continues in effect under
9 AS 13.52.173 - 13.52.269, enacted by this Act, until the anatomical gift is revoked under
10 AS 13.52.173 - 13.52.269.