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Referred: Health, Welfare &  
Education and Judiciary

1 IN THE HOUSE

BY SCHWAMM

2 HOUSE BILL NO. 707

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Uniform Anatomical  
7 Gift Act."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 13 is amended by adding a new chapter to read:

10 CHAPTER 14. UNIFORM ANATOMICAL GIFT ACT.

11 Sec. 13.14.010. PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT.

12 (a) A person of sound mind who is 19 or more years of age may make  
13 a gift to take effect upon death, of all or a part of his body for a  
14 purpose specified in sec. 20 of this chapter.

15 (b) When persons in prior classes are not available at the time  
16 of death, and in the absence of actual notice of contrary indications  
17 by the decedent or actual notice of opposition by a member of the same  
18 or a prior class, any of the following persons, in order of priority  
19 listed, may give all or a part of the decedent's body for a purpose  
20 specified in sec. 20 of this chapter:

- 21 (1) the spouse,  
22 (2) an adult son or daughter,  
23 (3) either parent,  
24 (4) an adult brother or sister,  
25 (5) a guardian of the decedent at the time of his death,  
26 (6) any other person authorized or under obligation to

27 dispose of the body.

28 (c) If the donee has actual notice of contrary indications by  
29 the decedent or that a gift by a member of a class is opposed by a

1 member of the same or a prior class, the donee shall not accept the  
2 gift. The persons authorized by (b) of this section may make the gift  
3 after or immediately before death.

4 (d) A gift of all or a part of a body authorizes any examination  
5 necessary to assure medical acceptability of the gift for the purposes  
intended.

6 (e) The rights of the donee created by the gift are superior to  
7 the rights of others except as provided in sec. 60(d) of this chapter.

8 Sec. 13.14.020. POTENTIAL DONEES AND PURPOSES FOR WHICH ANATOMI-  
9 CAL GIFTS MAY BE MADE. The following persons may become donees of  
10 gifts of a decedent's body or a part of a decedent's body for the  
11 purposes stated:

12 (1) a hospital, surgeon, or physician, for medical or dental  
13 education, research, advancement of medical or dental science, therapy,  
14 or transplantation; or

15 (2) an accredited medical or dental school, college or uni-  
16 versity for education, research, advancement of medical or dental  
17 science, or therapy; or

18 (3) a bank or storage facility, for medical or dental  
19 education, research, advancement of medical or dental science, therapy,  
20 or transplantation; or

21 (4) a specified individual for therapy or transplantation  
22 needed by him.

23 Sec. 13.14.030. MANNER OF EXECUTING ANATOMICAL GIFTS. (a) A  
24 gift of all or a part of the body under sec. 10(a) of this chapter may  
25 be made by will. The gift takes effect upon the death of the testator  
26 prior to probate. If the will is not probated, or is declared invalid  
27 for testamentary purposes, the gift, to the extent that it has been  
28 acted upon in good faith, is valid and effective.  
29

1 (b) A gift of all or a part of the body under sec. 10(a) of  
2 this chapter may be made by a document other than a will. The gift  
3 takes effect upon the death of the donor. The document, which may be  
4 a card designed to be carried on the person, shall be signed by the  
5 donor in the presence of two witnesses who shall sign the document in  
6 his presence. If the donor cannot sign, the document may be signed for  
7 him at his direction and in his presence in the presence of two wit-  
8 nesses who must sign the document in his presence. Delivery of the  
9 document of gift during the donor's lifetime is not necessary to make  
10 the gift valid.

11 (c) A gift may be made to a specified donee or without specifying  
12 a donee. If a donee is not specified, the gift may be accepted by the  
13 attending physician as donee upon or after death. If the gift is  
14 made to a specified donee who is not available at the time and place  
15 of death, the attending physician upon or following death, in the  
16 absence of any expressed indication that the donor desired otherwise,  
17 may accept the gift as donee. The physician who becomes a donee under  
18 this section shall not participate in the procedure for removing or  
19 transplanting a part of the decedent's body, except as provided in (d)  
20 of this section.

21 (d) The donor may designate in his will, card, or other document  
22 of gift the surgeon or physician to carry out the appropriate procedure  
23 for removing or transplanting a part of the decedent's body. In the  
24 absence of a designation or if the designee is not available, the donee  
25 or other person authorized to accept the gift may employ or authorize  
26 any surgeon or physician for the purpose of removing or transplanting  
27 a part of the decedent's body.

28 (e) A gift by a person designated in sec. 10(b) of this chapter  
29 shall be made by a document signed by him or made by his telegraphic,

1 recorded telephonic, or other recorded message.

2 Sec. 13.14.040. DELIVERY OF DOCUMENT OF GIFT. If the gift is  
3 made by the donor to a specified donee, the will, card, or other  
4 document, or an executed copy of it, may be delivered to the donee to  
5 expedite the appropriate procedure for removing or transplanting a  
6 part of the decedent's body immediately after death. Delivery is not  
7 necessary for a valid gift. The will, card, or other document, or an  
8 executed copy of it, may be deposited in a hospital, bank or storage  
9 facility, or registry office to facilitate the procedure for removing  
10 or transplanting a part of the decedent's body after death. On the  
11 request of any interested person upon or after the donor's death, the  
12 person in possession of the document shall produce the document for  
13 examination.

14 Sec. 13.14.050. AMENDMENT OR REVOCATION OF THE GIFT. (a) If  
15 the will, card, or other document or executed copy of it is delivered  
16 to a specified donee, the donor may amend or revoke the gift by:

17 (1) the execution and delivery to the donee of a signed  
18 statement, or

19 (2) an oral statement made in the presence of two persons  
20 and communicated to the donee, or

21 (3) a statement during a terminal illness or injury  
22 addressed to an attending physician and communicated to the donee,  
23 or

24 (4) a signed card or document found on his person or in his  
25 effects.

26 (b) A document of gift which is not delivered to the donee may  
27 be revoked by the donor as provided in (a) of this section or by  
28 destruction, cancellation, or mutilation of the document and all  
29 executed copies of it.

1 (c) A gift made by a will may be amended or revoked in the  
2 manner provided for amendment or revocation of wills or as provided in  
3 (a) of this section

4 Sec. 13.14.060. RIGHTS AND DUTIES AT DEATH. (a) The donee may  
5 accept or reject the gift. If the donee accepts a gift of the entire  
6 body, he may, subject to the terms of the gift, authorize embalming  
7 and the use of the body in funeral services. If the gift is of a part  
8 of the body, the donee, upon the death of the donor and prior to em-  
9 balming, shall have the part removed without unnecessary mutilation.  
10 After removal of the part of the body, custody of the remainder of  
11 the body vests in the surviving spouse, next of kin, or a person other  
12 than the spouse or next of kin who is authorized to dispose of the  
13 body.

14 (b) The time of death shall be determined by a physician who  
15 attends the donor at his death, or, if no physician attends, by the  
16 physician who certifies the death. The physician shall not participate  
17 in the procedures for removing or transplanting a part of the body,  
18 except as provided in sec. 30(d) of this chapter.

19 (c) A person who acts in good faith in accordance with the terms  
20 of this chapter or the anatomical gift laws of another state is not  
21 liable for damages for his act in any civil action or subject to prose-  
22 cution in any criminal proceeding for his act.

23 (d) The provisions of this chapter are subject to the state  
24 autopsy laws under AS 12.65.010 - 12.65.110.

25 Sec. 13.14.070. DEFINITIONS. In this chapter

26 (1) "bank or storage facility" means a facility licensed,  
27 accredited, or approved under the laws of any state for storage of  
28 human bodies or parts of them:

29 (2) "decedent" means a deceased individual, stillborn

1 infant, or fetus;

2 (3) "donor" means an individual who makes a gift of all or  
3 a part of his body.

4 (4) "hospital" means a hospital licensed, accredited, or  
5 approved under the laws of any state; or a hospital operated  
6 by the United States government, or a subdivision thereof, although  
7 not required to be licensed under state laws;

8 (5) "part" means organs, tissues, eyes, bones, arteries,  
9 blood, other fluids and any other portions of a human body;

10 (6) "physician" or "surgeon" means a physician or surgeon  
11 licensed or authorized to practice under the laws of any state;

12 (7) "state" includes any state, district, commonwealth,  
13 territory, insular possession, and any other area subject to the legis-  
14 lative authority of the United States.

15 Sec. 13.14.080. UNIFORMITY OF INTERPRETATION. This chapter  
16 shall be construed and interpreted as to carry out its general purpose  
17 to make uniform the laws in those states which enact it.

18 Sec. 13.14.090. SHORT TITLE. This chapter may be cited as the  
19 Uniform Anatomical Gift Act.

20 \* Sec. 2. AS 12.65.100 is amended to read:

21 Sec. 12.65.100. BURIAL OF BODY. When a coroner holds an inquest  
22 upon the body of a stranger or pauper, and no friend or relative  
23 appears to claim the body for burial, and no provision is made for the  
24 body under AS 13.14, the coroner shall notify the Department of Health  
25 and Welfare which shall cause the body to be plainly and decently  
26 buried.

27 \* Sec. 3. AS 13.05.035 is repealed.  
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