

Introduced: 2/16/70
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
6 intended.

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

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

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

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

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

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

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

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.

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

25 (e) A gift by a person designated in sec. 10(b) of this chapter
26 shall be made by a document signed by him or made by his telegraphic,
27 recorded telephonic, or other recorded message.

28 Sec. 13.14.040. DELIVERY OF DOCUMENT OF GIFT. If the gift is
29 made by the donor to a specified donee, the will, card, or other

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

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

14 (1) the execution and delivery to the donee of a signed
15 statement, or

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

18 (3) a statement during a terminal illness or injury
19 addressed to an attending physician and communicated to the donee,
20 or

21 (4) a signed card or document found on his person or in his
22 effects.

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

27 (c) A gift made by a will may be amended or revoked in the
28 manner provided for amendment or revocation of wills or as provided in
29 (a) of this section.

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

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

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

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

22 Sec. 13.14.070. DEFINITIONS. In this chapter

23 (1) "bank or storage facility" means a facility licensed,
24 accredited, or approved under the laws of any state for storage of
25 human bodies or parts of them;

26 (2) "decedent" means a deceased individual, stillborn
27 infant, or fetus;

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

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

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

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

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

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

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

17 * Sec. 2. AS 12.65.100 is amended to read:

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

24 * Sec. 3. AS 13.05.035 is repealed.
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