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# FISCAL NOTE

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO:** \_\_\_\_\_

No. 2

Bill Version: SSSB 38

(S) Publish Date: 2-3-97

Revision Date: \_\_\_\_\_  
 Title: An Act relating to anatomical gifts, living wills,  
and do not resuscitate orders  
 Sponsor: Senator Taylor  
 Requestor: S. H. J.

Dept Affected: Public Safety  
 BRU: Motor Vehicles  
 Component: Field Services  
 COMPONENT SERIAL NO. 0502

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( ) Revenue Code						
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not fiscally impact the Division of Motor Vehicles

Prepared By: Juanita M. Hensley  
 Division: Motor Vehicles  
 Approved by Commissioner: Ronald L. Otte  
 Agency: Ronald L. Otte, Dept. of Public Safety

Phone: 465-2650  
 Date: 1/24/97  
 Date: 1/29/97

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STATE OF ALASKA  
1997 LEGISLATIVE SESSION

No. \_\_\_\_\_

Bill Version: SSSB 38

(S) Publish Date: 2-3-97

Revision Date: \_\_\_\_\_  
Title: Anatomical gifts, living wills and do not resuscitate orders  
Sponsor: Taylor  
Requestor: Senate HES

Dept. Affected: Health and Social Services  
BRU: State Health Services  
Component: Community Health/EMS Services  
COMPONENT SERIAL NO. 2078  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	2.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would require that the Division of Public Health contract for a graphic artist, \$2.0, to design the symbols to be used on bracelets, necklaces and ID cards to alert medical attendants of their choices.

Prepared by: Peter M. Nakamura, MD, MPH  
Division: Public Health

Phone: (907) 465-3090  
Date: 01/29/97

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: 1/30/97

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# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 5, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/25/97

The JUDICIARY Committee considered:

CSSSSB 38(JUD)

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 38(JUD)  
ANATOMICAL GIFTS,LIVING WILLS & DNR ORDER

"An Act relating to anatomical gifts, living wills, and do not resuscitate orders."

recommends it be replaced with the following committee substitute HCS CSSSSB 38(JUD)  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) HSS

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) PUB SAFETY

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>William D. Porter</i>	PORTER	✓			
<i>James Green</i>	GREEN	✓			
<i>James</i>	JAMES	✓			
<i>Lucy Bunde</i>	BUNDE	✓			
<i>Berkowitz</i>	BERKOWITZ	✓			

CHAIR'S SIGNATURE *[Signature]*

# Alaska State Legislature

Chairman,  
Judiciary Committee

Member,  
Resources Committee  
Rules Committee  
Committee on Committees



State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3873  
Fax: (907) 465-3922

352 Front Street  
Ketchikan, Alaska 99901  
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Fax: (907) 225-0713

*Senator Robin L. Taylor*  
*Senate Majority Leader*

## MEMORANDUM

**To:** Representative Joe Green, Chairman  
House Judiciary Committee

**From:** Senator Robin L. Taylor *R.L.T.*

**Date:** 4/7/97

**Ref:** "Revised" hearing request - SB 38

\*\*\*\*\*

This is in follow up to my earlier request for a hearing before the House Judiciary Committee on Senate Bill 38.

In submitting that request, I also submitted a proposed committee substitute for your consideration. Attached is a revised version of that substitute.

In discussions with the EMS folks at the Dept. of Health and Social Services it became apparent that the language changes in the original CS needed additional work.

The attached CS meets the needs of EMS responders as well as the other proponents of SB 38.

I again request that you schedule this legislation for hearing as soon as possible.

Thank you.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 38( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to anatomical gifts, living wills, and do not resuscitate orders."

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

3 \* Section 1. AS 13.50.010(a) is amended to read:

4 (a) A competent person [OF SOUND MIND] who is 18 or more years of age  
5 may make a gift to take effect upon death [,] of all or a part of the person's body for  
6 a purpose specified in AS 13.50.020.

7 \* Sec. 2. AS 13.50.030(b) is repealed and reenacted to read:

8 (b) A gift of all or a part of the body under AS 13.50.010(a) may be made by  
9 a document other than a will, and including a declaration under AS 18.12. The gift  
10 takes effect upon the death of the donor. The document, which may be a card  
11 designed to be carried on the person, shall be signed by the donor, or another person  
12 at the donor's direction. If signed by another person at the donor's direction, the  
13 signer shall sign in the presence of two persons or a person who is qualified to take  
14 acknowledgments under AS 09.63.010. Delivery of the document of gift during the  
15 donor's lifetime is not necessary to make the gift valid.

1 \* Sec. 3. AS 13.50.030(d) is amended to read:

2 (d) The donor may designate in a will, card, or other document of gift,  
3 including a declaration under AS 18.12, the surgeon or physician to carry out the  
4 appropriate procedure for removing or transplanting a part of the decedent's body. In  
5 the absence of a designation or if the designee is not available, the donee or other  
6 person authorized to accept the gift may employ or authorize any surgeon, any [OR]  
7 physician, or any appropriate Alaska organ or tissue bank, for the purpose of  
8 removing or transplanting a part of the decedent's body.

9 \* Sec. 4. AS 13.50.030 is amended by adding a new subsection to read:

10 (f) A gift may, but need not be, in the following form:

11 In the event of my death, I donate the following part(s)  
12 of my body for the purposes identified in AS 13.50.020:

13 Tissue:

- 14 \_\_\_\_\_ Eyes
- 15 \_\_\_\_\_ Bone and connective tissue
- 16 \_\_\_\_\_ Skin
- 17 \_\_\_\_\_ Heart
- 18 \_\_\_\_\_ Other: \_\_\_\_\_

19 Limitations: \_\_\_\_\_

20 Organ:

- 21 \_\_\_\_\_ Heart
- 22 \_\_\_\_\_ Kidney(s)
- 23 \_\_\_\_\_ Liver
- 24 \_\_\_\_\_ Lung(s)
- 25 \_\_\_\_\_ Pancreas

26 Other: \_\_\_\_\_

27 I designate \_\_\_\_\_ (name of surgeon or physician)

28 to carry out the appropriate procedure(s) for removing or  
29 transplanting the body part(s) identified above.

30 \* Sec. 5. AS 13.50.050 is amended by adding a new subsection to read:

31 (d) A gift made in a declaration under AS 18.12 may be amended as provided

1 in (a) of this section, and may be revoked as provided in AS 18.12.020(a) or in (a) of  
2 this section.

3 \* Sec. 6. AS 13.50 is amended by adding a new section to read:

4 Sec. 13.50.075. Recognition of gifts executed, issued, or authorized in other  
5 states. A gift executed, issued, or authorized in another state or a territory or  
6 possession of the United States in compliance with the law of that jurisdiction is  
7 effective for the purposes of this chapter.

8 \* Sec. 7. AS 18.12.010(a) is repealed and reenacted to read:

9 (a) A competent person who is at least 18 years old may execute a declaration  
10 at any time directing that life-sustaining procedures be withheld or withdrawn from  
11 that person. The declaration is given operative effect only if the declarant's condition  
12 is determined to be terminal and the declarant is not able to make treatment decisions,  
13 except that, if the declaration contains an anatomical gift under AS 13.50, the gift  
14 takes effect upon the death of the person. The declaration shall be signed by the  
15 declarant, or another person at the declarant's direction. If signed by another person  
16 at the declarant's direction, the signer shall sign in the presence of two persons or a  
17 person who is qualified to take acknowledgements under AS 09.63.010. A person may  
18 not charge a fee for preparing a declaration.

19 \* Sec. 8. AS 18.12.010(b) is amended to read:

20 (b) Except as provided under AS 13.50.014 - 13.50.016 for an anatomical  
21 gift contained in the declaration, it [IT] is the responsibility of the declarant to  
22 provide a copy of the declaration to the declarant's physician. A physician or other  
23 health care provider who is provided a copy of the declaration shall make it a part of  
24 the declarant's medical records.

25 \* Sec. 9. AS 18.12.010(c) is amended to read:

26 (c) A declaration may, but need not, be in the following form:

27 DECLARATION

28 If I should have an incurable or irreversible condition that will  
29 cause my death within a relatively short time, it is my desire that my  
30 life not be prolonged by administration of life-sustaining procedures.

31 If my condition is terminal and I am unable to participate in

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decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain. I [ ] do [ ] do not desire that nutrition or hydration (food and water) be provided by gastric tube or intravenously if necessary.

Notwithstanding the other provisions of this declaration, if I have donated an organ under this declaration or by another method, and if I am in a hospital setting and less than 71 years of age when a do not resuscitate order is to be implemented for me, I do not want the do not resuscitate order to take effect until the donated organ can be evaluated to determine if the organ is suitable for donation.

OPTIONAL: In the event of my death, I donate the following part(s) of my body for the purposes identified in AS 13.50.020:

Tissue:

- \_\_\_\_\_ Eyes
- \_\_\_\_\_ Bone and connective tissue
- \_\_\_\_\_ Skin
- \_\_\_\_\_ Heart
- \_\_\_\_\_ Other: \_\_\_\_\_

Limitations: \_\_\_\_\_

Organ:

- \_\_\_\_\_ Heart
- \_\_\_\_\_ Kidney(s)
- \_\_\_\_\_ Liver
- \_\_\_\_\_ Lung(s)
- \_\_\_\_\_ Pancreas
- \_\_\_\_\_ Other: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_

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If another person is to sign for the declarant at the declarant's direction, the person signing for the declarant must sign in the presence of two persons or a person who is qualified to take acknowledgments under AS 09.63.010. The witness form below may be used for the two witnesses. The acknowledgement form below may be used for the person qualified to take acknowledgements. [THE DECLARANT IS KNOWN TO ME AND VOLUNTARILY SIGNED OR VOLUNTARILY DIRECTED ANOTHER TO SIGN THIS DOCUMENT IN MY PRESENCE.]

WITNESS FORM

Witness \_\_\_\_\_  
Address \_\_\_\_\_  
Witness \_\_\_\_\_  
Address \_\_\_\_\_  
State of \_\_\_\_\_  
\_\_\_\_\_ Judicial District

ACKNOWLEDGEMENT FORM

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

\_\_\_\_\_  
Signature of Person Taking  
Acknowledgement  
\_\_\_\_\_  
Title or Rank  
\_\_\_\_\_

Serial Number, if any

[THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER AS 09.63.010].

\* Sec. 10. AS 18.12.010(d) is amended to read:

1 (d) A physician or health care provider may presume, in the absence of actual  
2 notice to the contrary, that the declaration complies with this chapter, that an  
3 anatomical gift in the declaration complies with this chapter and AS 13.50, and  
4 that the declaration, including any anatomical gift contained in the declaration,  
5 is valid.

6 \* Sec. 11. AS 18.12.020(a) is amended to read:

7 (a) Except as provided in AS 13.50.050 for an anatomical gift, a [A]  
8 declaration may be revoked at any time and in any manner by which the declarant is  
9 able to communicate an intent to revoke, without regard to mental or physical  
10 condition. A revocation is only effective as to the attending physician or any health  
11 care provider acting under the guidance of that physician upon communication to the  
12 physician or health care provider by the declarant or by another to whom the  
13 revocation was communicated.

14 \* Sec. 12. AS 18.12.035 is amended by adding new subsections to read:

15 (d) Notwithstanding (c) of this section, if a person has made an anatomical gift  
16 of an organ under AS 13.50 or this chapter, and is in a hospital and less than 71 years  
17 of age when a do not resuscitate order is to be implemented for the person, the do not  
18 resuscitate order may not be implemented until the donated organ can be evaluated to  
19 determine if it is suitable for donation.

20 (e) A physician may not revoke a do not resuscitate order at the request of a  
21 person, and a person may not make a do not resuscitate order ineffective, unless the  
22 person making the request or proposing to make the order ineffective is the person for  
23 whom the order has been issued, or, if the person for whom the order has been issued  
24 is not capable of expressing an opinion on the subject,

25 (1) the parent or guardian of the person for whom the order has been  
26 issued if the person for whom the order has been issued is under 18 years of age;

27 (2) the guardian appointed under AS 13.26.116 for the person for  
28 whom the order has been issued if the guardian has the authority under the  
29 appointment to make a do not resuscitate order ineffective;

30 (3) a person to whom the person for whom the order has been issued  
31 has communicated the decision to make the order ineffective; or

1 (4) a person who holds a power of attorney for the person for whom  
2 the order has been issued if making the do not resuscitate order ineffective is within  
3 the authority of the power of attorney and the power of attorney becomes or remains  
4 effective under AS 13.26.350 on the disability or incompetence of the person.

5 \* Sec. 13. AS 18.12.037 is amended to read:

6 Sec. 18.12.037. Living will, organ donation, and DNR identification. The  
7 Department of Health and Social Services shall develop standardized designs and  
8 symbols for DNR identification cards, forms, necklaces, and bracelets that signify,  
9 when carried or worn, that the possessor has executed a declaration under this chapter,  
10 that the declaration contains an anatomical gift, or that the possessor is a patient  
11 for whom a physician has issued a do not resuscitate order.

12 \* Sec. 14. AS 18.12.040(a) is amended to read:

13 (a) A qualified patient or a patient for whom a physician has issued a do not  
14 resuscitate order has the right to make decisions regarding use of cardiopulmonary  
15 resuscitation and other life-sustaining procedures as long as the patient is able to do  
16 so. If a qualified patient or patient for whom a physician has issued a do not  
17 resuscitate order is not able to make these decisions, the declaration or do not  
18 resuscitate protocol governs decisions regarding use of cardiopulmonary resuscitation  
19 and other life-sustaining procedures, unless the do not resuscitate order is revoked  
20 or made ineffective under AS 18.12.035(e).

21 \* Sec. 15. AS 18.12.060(a) is amended to read:

22 (a) In the absence of actual notice of the revocation of a declaration or do not  
23 resuscitate order, as applicable, the following, while acting in accordance with the do  
24 not resuscitate protocol adopted under AS 18.12.035 or with the other requirements of  
25 this chapter, are not subject to civil or criminal liability or guilty of unprofessional  
26 conduct:

27 (1) a physician who causes the withholding or withdrawal of life-  
28 sustaining procedures from a qualified patient or the withholding or withdrawal of  
29 cardiopulmonary resuscitation from a patient for whom a do not resuscitate order has  
30 been issued or who possesses DNR identification;

31 (2) a person who participates in the withholding or withdrawal of

1 cardiopulmonary resuscitation or other life-sustaining procedures under the direction  
2 or with the authorization of a physician or upon discovery of DNR identification upon  
3 a person;

4 (3) persons, including emergency medical technicians, who cause or  
5 participate in providing cardiopulmonary resuscitation or other life-sustaining  
6 procedures under AS 18.12.035(d) or because a person has made a do not  
7 resuscitate order ineffective under AS 18.12.035(e) [AFTER AN ORAL OR  
8 WRITTEN REQUEST COMMUNICATED TO THEM BY A PERSON WHO  
9 POSSESSES DNR IDENTIFICATION];

10 (4) the health care facility in which the providing, withholding, or  
11 withdrawal occurs.

12 \* Sec. 16. AS 18.12.090 is amended to read:

13 Sec. 18.12.090. Recognition of declarations and orders executed, [OR]  
14 issued, or authorized in other states. A declaration, including a declaration  
15 containing an anatomical gift, do not resuscitate order, or DNR identification  
16 executed, issued, or authorized in another state or a territory or possession of the  
17 United States in compliance with the law of that jurisdiction is effective for purposes  
18 of this chapter.

19 \* Sec. 17. AS 18.12.100 is amended by adding a new paragraph to read:

20 (12) "anatomical gift" means an anatomical gift under AS 13.50.

21 \* Sec. 18. AS 18.65.311 is amended to read:

22 Sec. 18.65.311. Anatomical gift or living will. (a) The department shall  
23 provide, at the time that an identification card is issued, a form for a document by  
24 which the card holder may make an anatomical gift under AS 13.50 (Uniform  
25 Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not  
26 Resuscitate Orders). The document (1) may not be larger than an identification card,  
27 (2) must contain sufficient space for the signature of two witnesses or a person who  
28 is qualified to take acknowledgments under AS 09.63.010, [TO THE DONOR'S  
29 ACT IF THE DONOR CANNOT SIGN, AND] (3) must use the forms and designs  
30 developed under AS 18.12.037, and (4) must provide a means by which the card  
31 holder [DONOR] may cancel the gift or the living will. If the document [MAKING

1 AN ANATOMICAL GIFT] is executed by the applicant, it shall be sealed in plastic  
2 and attached to the identification card. A symbol developed under AS 18.12.037  
3 indicating the existence of the anatomical gift or living will document must be  
4 displayed in the lower right-hand corner on the face of the identification card.

5 (b) An employee of the department who processes an identification card  
6 application, other than an application received by mail, shall ask the applicant orally  
7 whether the applicant wishes to execute an anatomical gift or a living will. The  
8 department shall, by placement of posters and brochures in the office where the  
9 application is taken, and by oral advice, if requested, make known to the applica.. the  
10 procedure necessary to execute a gift under AS 13.50 or a living will under AS 18.12.

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

12 (c) An employee of the department who processes an application for  
13 registration or renewal of registration, other than an application received by mail, shall  
14 ask the applicant orally whether the applicant wishes to execute an anatomical gift or  
15 a living will. The department shall make known to all applicants the procedure for  
16 executing a gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will  
17 under AS 18.12 (Living Wills and Do No Resuscitate Orders) by displaying posters  
18 in the offices in which applications are taken, by providing a brochure or other written  
19 information to each person who applies in person or by mail, and, if requested, by  
20 providing oral advice.

21 \* Sec. 20. AS 28.15.001(d) is amended to read:

22 (d) An employee of the department who processes a driver's license  
23 application, other than an application received by mail, shall ask the applicant orally  
24 whether the applicant wishes to execute an anatomical gift or a living will. The  
25 department shall make known to all applicants the procedure for executing a gift under  
26 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living  
27 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which  
28 applications are taken, by providing a brochure or other written information to each  
29 person who applies in person or by mail, and, if requested, by providing oral advice.

30 \* Sec. 21. AS 28.15.111(b) is amended to read:

31 (b) The department shall provide, at the time that an operator's license is

1 issued, a form for a document by which the owner of a license may make an  
2 anatomical gift under AS 13.50 or a living will under AS 18.12. The document (1)  
3 may not be larger than an operator's license, (2) must contain sufficient space for the  
4 signature of two witnesses or a person who is qualified to take acknowledgments  
5 under AS 09.63.010, [TO THE DONOR'S ACT OF EXECUTION OF THE  
6 DOCUMENT, AND] (3) must use the forms and designs developed under  
7 AS 18.12.037, and (4) must provide a means by which the owner [DONOR] may  
8 cancel the gift or the living will. If the document [MAKING AN ANATOMICAL  
9 GIFT] is executed by the applicant, it shall be sealed in plastic and attached to the  
10 license. A symbol developed under AS 18.12.037 indicating the existence of the  
11 anatomical gift or living will document must be displayed in the lower right-hand  
12 corner on the face of the driver's license.

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 38(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to anatomical gifts, living wills, and do not resuscitate orders."

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

3 \* Section 1. AS 13.50.010(a) is amended to read:

4 (a) A competent person [OF SOUND MIND] who is 18 or more years of age  
5 may make a gift to take effect upon death [,] of all or a part of the person's body for  
6 a purpose specified in AS 13.50.020.

7 \* Sec. 2. AS 13.50.030(b) is repealed and reenacted to read:

8 (b) A gift of all or a part of the body under AS 13.50.010(a) may be made by  
9 a document other than a will, and including a declaration under AS 18.12. The gift  
10 takes effect upon the death of the donor. The document, which may be a card  
11 designed to be carried on the person, shall be signed by the donor, or another person  
12 at the donor's direction. If signed by another person at the donor's direction, the  
13 signer shall sign in the presence of two persons or a person who is qualified to take  
14 acknowledgments under AS 09.63.010. Delivery of the document of gift during the  
15 donor's lifetime is not necessary to make the gift valid.

1 \* Sec. 3. AS 13.50.030(d) is amended to read:

2 (d) The donor may designate in a will, card, or other document of gift,  
 3 including a declaration under AS 18.12, the surgeon or physician to carry out the  
 4 appropriate procedure for removing or transplanting a part of the decedent's body. In  
 5 the absence of a designation or if the designee is not available, the donee or other  
 6 person authorized to accept the gift may employ or authorize any surgeon, any [OR]  
 7 physician, or any appropriate Alaska organ or tissue bank, for the purpose of  
 8 removing or transplanting a part of the decedent's body.

9 \* Sec. 4. AS 13.50.030 is amended by adding a new subsection to read:

10 (f) A gift may, but need not be, in the following form:

11 In the event of my death, I donate the following part(s)  
 12 of my body for the purposes identified in AS 13.50.020:

13 Tissue:

14 \_\_\_\_\_ Eyes

15 \_\_\_\_\_ Bone and connective tissue

16 \_\_\_\_\_ Skin

17 \_\_\_\_\_ Heart

18 \_\_\_\_\_ Other: \_\_\_\_\_

19 Limitations: \_\_\_\_\_

20 Organ:

21 \_\_\_\_\_ Heart

22 \_\_\_\_\_ Kidney(s)

23 \_\_\_\_\_ Liver

24 \_\_\_\_\_ Lung(s)

25 \_\_\_\_\_ Pancreas

26 Other: \_\_\_\_\_

27 I designate \_\_\_\_\_ (name of surgeon or physician)

28 to carry out the appropriate procedure(s) for removing or  
 29 transplanting the body part(s) identified above.

30 \* Sec. 5. AS 13.50.050 is amended by adding a new subsection to read:

31 (d) A gift made in a declaration under AS 18.12 may be amended as provided

1 in (a) of this section, and may be revoked as provided in AS 18.12.020(a) or in (a) of  
2 this section.

3 \* Sec. 6. AS 13.50 is amended by adding a new section to read:

4 **Sec. 13.50.075. Recognition of gifts executed, issued, or authorized in other**  
5 **states.** A gift executed, issued, or authorized in another state or a territory or  
6 possession of the United States in compliance with the law of that jurisdiction is  
7 effective for the purposes of this chapter.

8 \* Sec. 7. AS 18.12.010(a) is repealed and reenacted to read:

9 (a) A competent person who is at least 18 years old may execute a declaration  
10 at any time directing that life-sustaining procedures be withheld or withdrawn from  
11 that person. The declaration is given operative effect only if the declarant's condition  
12 is determined to be terminal and the declarant is not able to make treatment decisions,  
13 except that, if the declaration contains an anatomical gift under AS 13.50, the gift  
14 takes effect upon the death of the person. The declaration shall be signed by the  
15 declarant, or another person at the declarant's direction. If signed by another person  
16 at the declarant's direction, the signer shall sign in the presence of two persons or a  
17 person who is qualified to take acknowledgements under AS 09.63.010. A person may  
18 not charge a fee for preparing a declaration.

19 \* Sec. 8. AS 18.12.010(b) is amended to read:

20 (b) Except as provided under AS 13.50.014 - 13.50.016 for an anatomical  
21 gift contained in the declaration, it [IT] is the responsibility of the declarant to  
22 provide a copy of the declaration to the declarant's physician. A physician or other  
23 health care provider who is provided a copy of the declaration shall make it a part of  
24 the declarant's medical records.

25 \* Sec. 9. AS 18.12.010(c) is amended to read:

26 (c) A declaration may, but need not, be in the following form:

27 DECLARATION

28 If I should have an incurable or irreversible condition that will  
29 cause my death within a relatively short time, it is my desire that my  
30 life not be prolonged by administration of life-sustaining procedures.

31 If my condition is terminal and I am unable to participate in

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decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain. I [ ] do [ ] do not desire that nutrition or hydration (food and water) be provided by gastric tube or intravenously if necessary.

Notwithstanding the other provisions of this declaration, if I have donated an organ under this declaration or by another method, and if I am in a hospital when a do not resuscitate order is to be implemented for me, I do not want the do not resuscitate order to take effect until the donated organ can be evaluated to determine if the organ is suitable for donation.

OPTIONAL: In the event of my death, I donate the following part(s) of my body for the purposes identified in AS 13.50.020:

Tissue:

- \_\_\_\_\_ Eyes
- \_\_\_\_\_ Bone and connective tissue
- \_\_\_\_\_ Skin
- \_\_\_\_\_ Heart
- \_\_\_\_\_ Other: \_\_\_\_\_

Limitations: \_\_\_\_\_

Organ:

- \_\_\_\_\_ Heart
- \_\_\_\_\_ Kidney(s)
- \_\_\_\_\_ Liver
- \_\_\_\_\_ Lung(s)
- \_\_\_\_\_ Pancreas
- \_\_\_\_\_ Other: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_

Place \_\_\_\_\_

If another person is to sign for the declarant at the declarant's direction, the person signing for the declarant must sign in the presence of two persons or a person who is qualified to take acknowledgments under AS 09.63.010. The witness form below may be used for the two witnesses. The acknowledgement form below may be used for the person qualified to take acknowledgements. [THE DECLARANT IS KNOWN TO ME AND VOLUNTARILY SIGNED OR VOLUNTARILY DIRECTED ANOTHER TO SIGN THIS DOCUMENT IN MY PRESENCE.]

WITNESS FORM

Witness \_\_\_\_\_  
Address \_\_\_\_\_  
Witness \_\_\_\_\_  
Address \_\_\_\_\_  
State of \_\_\_\_\_  
\_\_\_\_\_ Judicial District

ACKNOWLEDGEMENT FORM

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

\_\_\_\_\_  
Signature of Person Taking  
Acknowledgement  
\_\_\_\_\_  
Title or Rank  
\_\_\_\_\_

Serial Number, if any

[THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER AS 09.63.010].

\* Sec. 10. AS 18.12.010(d) is amended to read:

(d) A physician or health care provider may presume, in the absence of actual

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1 notice to the contrary, that the declaration complies with this chapter, that an  
 2 anatomical gift in the declaration complies with this chapter and AS 13.50. and  
 3 that the declaration, including any anatomical gift contained in the declaration,  
 4 is valid.

5 \* Sec. 11. AS 18.12.020(a) is amended to read:

6 (a) Except as provided in AS 13.50.050 for an anatomical gift. a [A]  
 7 declaration may be revoked at any time and in any manner by which the declarant is  
 8 able to communicate an intent to revoke, without regard to mental or physical  
 9 condition. A revocation is only effective as to the attending physician or any health  
 10 care provider acting under the guidance of that physician upon communication to the  
 11 physician or health care provider by the declarant or by another to whom the  
 12 revocation was communicated.

13 \* Sec. 12. AS 18.12.035 is amended by adding new subsections to read:

14 (d) Notwithstanding (c) of this section, if a person has made an anatomical gift  
 15 of an organ under AS 13.50 or this chapter, and is in a hospital when a do not  
 16 resuscitate order is to be implemented for the person, the do not resuscitate order may  
 17 not be implemented until the donated organ can be evaluated to determine if it is  
 18 suitable for donation.

19 (e) A physician may not revoke a do not resuscitate order at the request of a  
 20 person, and a person may not make a do not resuscitate order ineffective, unless the  
 21 person making the request or proposing to make the order ineffective is the person for  
 22 whom the order has been issued, or, if the person for whom the order has been issued  
 23 is not capable of expressing an opinion on the subject,

24 (1) the parent or guardian of the person for whom the order has been  
 25 issued if the person for whom the order has been issued is under 18 years of age; or

26 (2) a person to whom the person for whom the order has been issued  
 27 has communicated the decision to make the order ineffective.

28 \* Sec. 13. AS 18.12.037 is amended to read:

29 Sec. 18.12.037. Living will, organ donation, and DNR identification. The  
 30 Department of Health and Social Services shall develop standardized designs and  
 31 symbols for DNR identification cards, forms, necklaces, and bracelets that signify,

1 when carried or worn, that the possessor has executed a declaration under this chapter,  
 2 that the declaration contains an anatomical gift, or that the possessor is a patient  
 3 for whom a physician has issued a do not resuscitate order.

4 \* Sec. 14. AS 18.12.040(a) is amended to read:

5 (a) A qualified patient or a patient for whom a physician has issued a do not  
 6 resuscitate order has the right to make decisions regarding use of cardiopulmonary  
 7 resuscitation and other life-sustaining procedures as long as the patient is able to do  
 8 so. If a qualified patient or patient for whom a physician has issued a do not  
 9 resuscitate order is not able to make these decisions, the declaration or do not  
 10 resuscitate protocol governs decisions regarding use of cardiopulmonary resuscitation  
 11 and other life-sustaining procedures, unless the do not resuscitate order is revoked  
 12 or made ineffective under AS 18.12.035(e).

13 \* Sec. 15. AS 18.12.060(a) is amended to read:

14 (a) In the absence of actual notice of the revocation of a declaration or do not  
 15 resuscitate order, as applicable, the following, while acting in accordance with the do  
 16 not resuscitate protocol adopted under AS 18.12.035 or with the other requirements of  
 17 this chapter, are not subject to civil or criminal liability or guilty of unprofessional  
 18 conduct:

19 (1) a physician who causes the withholding or withdrawal of life-  
 20 sustaining procedures from a qualified patient or the withholding or withdrawal of  
 21 cardiopulmonary resuscitation from a patient for whom a do not resuscitate order has  
 22 been issued or who possesses DNR identification:

23 (2) a person who participates in the withholding or withdrawal of  
 24 cardiopulmonary resuscitation or other life-sustaining procedures under the direction  
 25 or with the authorization of a physician or upon discovery of DNR identification upon  
 26 a person;

27 (3) persons, including emergency medical technicians, who cause or  
 28 participate in providing cardiopulmonary resuscitation or other life-sustaining  
 29 procedures under AS 18.12.035(d) or because a person has made a do not  
 30 resuscitate order ineffective under AS 18.12.035(e) [AFTER AN ORAL OR  
 31 WRITTEN REQUEST COMMUNICATED TO THEM BY A PERSON WHO

1 POSSESSES DNR IDENTIFICATION];

2 (4) the health care facility in which the providing, withholding, or  
3 withdrawal occurs.

4 \* Sec. 16. AS 18.12.090 is amended to read:

5 **Sec. 18.12.090. Recognition of declarations and orders executed, [OR]**  
6 **issued, or authorized in other states. A declaration, including a declaration**  
7 **containing an anatomical gift, do not resuscitate order, or DNR identification**  
8 **executed, issued, or authorized in another state or a territory or possession of the**  
9 **United States in compliance with the law of that jurisdiction is effective for purposes**  
10 **of this chapter.**

11 \* Sec. 17. AS 18.12.100 is amended by adding a new paragraph to read:

12 (12) "anatomical gift" means an anatomical gift under AS 13.50.

13 \* Sec. 18. AS 18.65.311 is amended to read:

14 **Sec. 18.65.311. Anatomical gift or living will.** (a) The department shall  
15 provide, at the time that an identification card is issued, a form for a document by  
16 which the card holder may make an anatomical gift under AS 13.50 (Uniform  
17 Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not  
18 Resuscitate Orders). The document (1) may not be larger than an identification card,  
19 (2) must contain sufficient space for the signature of two witnesses or a person who  
20 is qualified to take acknowledgments under AS 09.63.010, [TO THE DONOR'S  
21 ACT IF THE DONOR CANNOT SIGN, AND] (3) must use the forms and designs  
22 developed under AS 18.12.037, and (4) must provide a means by which the card  
23 holder [DONOR] may cancel the gift or the living will. If the document [MAKING  
24 AN ANATOMICAL GIFT] is executed by the applicant, it shall be sealed in plastic  
25 and attached to the identification card. A symbol developed under AS 18.12.037  
26 indicating the existence of the anatomical gift or living will document must be  
27 displayed in the lower right-hand corner on the face of the identification card.

28 (b) An employee of the department who processes an identification card  
29 application, other than an application received by mail, shall ask the applicant orally  
30 whether the applicant wishes to execute an anatomical gift or a living will. The  
31 department shall, by placement of posters and brochures in the office where the

1 application is taken, and by oral advice, if requested, make known to the applicant the  
2 procedure necessary to execute a gift under AS 13.50 or a living will under AS 18.12.

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

4 (c) An employee of the department who processes an application for  
5 registration or renewal of registration, other than an application received by mail, shall  
6 ask the applicant orally whether the applicant wishes to execute an anatomical gift or  
7 a living will. The department shall make known to all applicants the procedure for  
8 executing a gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will  
9 under AS 18.12 (Living Wills and Do No Resuscitate Orders) by displaying posters  
10 in the offices in which applications are taken, by providing a brochure or other written  
11 information to each person who applies in person or by mail, and, if requested, by  
12 providing oral advice.

13 \* Sec. 20. AS 28.15.061(d) is amended to read:

14 (d) An employee of the department who processes a driver's license  
15 application, other than an application received by mail, shall ask the applicant orally  
16 whether the applicant wishes to execute an anatomical gift or a living will. The  
17 department shall make known to all applicants the procedure for executing a gift under  
18 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living  
19 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which  
20 applications are taken, by providing a brochure or other written information to each  
21 person who applies in person or by mail, and, if requested, by providing oral advice.

22 \* Sec. 21. AS 28.15.111(b) is amended to read:

23 (b) The department shall provide, at the time that an operator's license is  
24 issued, a form for a document by which the owner of a license may make an  
25 anatomical gift under AS 13.50 or a living will under AS 18.12. The document (1)  
26 may not be larger than an operator's license, (2) must contain sufficient space for the  
27 signature of two witnesses or a person who is qualified to take acknowledgments  
28 under AS 09.63.010. [TO THE DONOR'S ACT OF EXECUTION OF THE  
29 DOCUMENT, AND] (3) must use the forms and designs developed under  
30 AS 18.12.037, and (4) must provide a means by which the owner [DONOR] may  
31 cancel the gift or the living will. If the document [MAKING AN ANATOMICAL

1 GIFT] is executed by the applicant, it shall be sealed in plastic and attached to the  
2 license. A symbol developed under AS 18.12.037 indicating the existence of the  
3 anatomical gift or living will document must be displayed in the lower right-hand  
4 corner on the face of the driver's license.

# Alaska State Legislature

*Chairman,*  
Judiciary Committee

*Member,*  
Resources Committee  
Rules Committee  
Committee on Committees




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Juneau, Alaska 99801-1182  
(907) 465-3873  
Fax: (907) 465-3922

352 Front Street  
Ketchikan, Alaska 99901  
(907) 225-8088  
Fax: (907) 225-0713

***Senator Robin L. Taylor***  
*Senate Majority Leader*

## MEMORANDUM

**To:** Representative Joe Green, Chairman  
House Judiciary Committee

**From:** Joe Ambrose 

**Date:** 4/16/97

**Ref:** Packet Information - SB 38

\*\*\*\*\*

Attached is the sponsor statement and other background information on Senate Bill 38.

I will be presenting the bill in Senator Taylor's absence. If possible, it would be easier to address this if the committee substitute we submitted (LS0183\L dated 4/4/97) could be adopted for discussion purposes before my presentation.

We anticipate testimony from Anchorage on this bill and would appreciate the Anchorage LIO being included on the teleconference network.

Thank you.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

# Alaska State Legislature

*Chairman,*  
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*Member,*  
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Rules Committee  
Committee on Committees



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Ketchikan, Alaska 99901  
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*Senator Robin L. Taylor*

## Sponsor Statement

### Senate Bill 38

This legislation modifies existing statute dealing with living wills and would add to that statute a provision by which those who execute living wills can choose to become organ or tissue donors. By adding this provision to the statutory language of a living will, loved ones and health professionals would be fully informed of the wishes of family members and patients.

We live in a technological age in which the need for tissue and organ donation has found a much greater demand than supply. While it is not a legitimate function of government to dictate whether or not a person should become an organ or tissue donor, it is certainly a wise practice for government to facilitate this process.

In addition to adding anatomical gifts to the language of a living will, Senate Bill 38 would also instruct the Division of Motor Vehicles to indicate on drivers' licenses not only the fact that the bearer has elected to become an organ donor, but also that the individual has a living will.

Other than nominal expenses, this legislation should cost little to enforce, but may become invaluable if it increases Alaskans' participation in organ and tissue donation. Certainly any one of us, our families and loved ones, could benefit by an organ or tissue donation made less complicated by this bill.

To get an idea of the scope of organ transplants involving Alaskans, we contacted the Center for Transplant Services at the University of Washington Hospital.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

**Sponsor Statement - SB 38**

**Page Two**

Since 1989, 19 Alaskans have received kidney transplants through that facility. Twelve Alaskans have received liver transplants and one state resident received both a kidney and a pancreas.

To understand the need to make organ donation as uncomplicated as possible, I would like to point out that as of January 24, 1997, this one facility had a waitlist of 20 Alaskans in need of kidney transplants, 11 seeking donor livers and one state resident waiting for a donated pancreas.

The Virginia-based United Network for Organ Sharing, the national clearing house for organ transplants, has 68 Alaskans on their waitlist.

Since 1988, the United Network for Organ Sharing documents 207 Alaskans who have received donor organs.

I ask your support for Senate Bill 38.

# Anchorage Daily News



Fuller A. Cowell  
Publisher

Kent Pollock  
Editor

Michael Carey, Editorial Page Editor

Gerald E. Grilly, Publisher, 1984-1993  
Katherine Fanning, Editor and Publisher, 1971-1983  
Lawrence Fanning, Editor and Publisher, 1967-1971  
Founded in 1946 by Norman C. Brown

## Extending life

### *Organ and tissue donations provide way*

In the midst of grief, an Alaska mother made a decision last year that gave two children a second chance at life. When Christina Ely's own kids — 5-year-old Jessica and 4-year-old Corey — were shot and killed by their father, Ms. Ely agreed to donate tissue from the bodies of both children.

Hers was an act of courage.

And it is an inspirational act that is repeated dozens of times a year in Alaska. Most recently, the family of Matthew Troutman, the toddler killed in Turnagain Arm, chose to donate his heart valves.

*Last year, families of 149 donors allowed medical personnel to remove body organs and/or body tissue from dead or brain-dead loved ones for transplant. 'It's rather incredible the neighbor-helping-neighbor attitude that we see so many times,' says Jens Saakvitne of Life Alaska*

About 70 percent of bereaved families contacted by the nonprofit Life Alaska Transplant agree to organ or tissue donations, says executive director Jens Saakvitne. High-pressure tactics aren't used, either. "We will never, ever, ever ask a family to donate," he notes. "We will say, 'One of your options may be that of tissue donation, but there's no wrong decision.'"

Last year, families of 149 donors allowed medical personnel to remove body organs and/or body tissue from dead or brain-dead loved ones for transplant. "It's rather incredible the neighbor-helping-neighbor attitude that we see so many times," says Mr. Saakvitne.

### *Transplant.*

Because of that generosity of spirit, a 3-year-old Chicago girl received Jessica Ely's aortic heart valve earlier this month, and a Seattle newborn received her pulmonary valve at, appropriately enough, Thanksgiving time. (Life Alaska's policy is to first offer donated tissue to Alaska patients and physicians before making it available outside the state.)

Alaskans who sign on as organ donors when they apply for or renew their state driver's or operator's license, identification card or vehicle registration may be surprised to know that their stated wish may not be honored. "The problem, most of the time, is that donor cards are not found," explains Mr. Saakvitne. To complicate matters, the medical community cannot tap into state Department of Motor Vehicle records to see if a dead or dying person wanted to be an organ and tissue donor.

A bill introduced by Sen. Robin Taylor may alleviate some of the confusion. It would require the department to design a symbol for, say, a driver's license to notify emergency or medical personnel of the cardholder's donor status. The symbol, which also could be used on necklaces or bracelets, also would apply to Alaskans with living wills or standing do-not-resuscitate orders.

The changes wouldn't be foolproof. Saakvitne of Life Alaska thinks the ideal solution would be 24-hour computer access to state DMV records pertaining to living wills, organ donations and do-not-resuscitate orders. But the proposed changes would be a step forward for Alaskans who want their life's end to provide a new beginning for someone else.

Sunday 2/16/97



Jessica Ely



Corey Ely

## Transplants a salve in Ely tragedy

By DANIELLE STANTON  
Denain News reporter

Two Outside children are alive today because of heart tissue donated by 5-year-old Jessica Ely, who was fatally shot by her father last year, family members said Friday.

Jessica's aortic heart valve was transplanted into a 3-year-old Chicago girl a few days before Monday when Jessica would have turned 6 years old. Her pulmonary valve was given to a 4-day-old Seattle boy in late November.

"It makes me feel really good that there are two (children) out there that are alive due to my kids," Jessica's mother, Christina, said. "It makes me feel like they're still kind of alive."

Both children are in good condition, said Jens Saakvitne, director of Life Alaska Treatment in Anchorage.

"It's a little bit of nice on a godawful situation," Saakvitne said.

Jessica and her 4-year-old brother, Corey, were shot to death last October by their father, Paul Ely Jr. The elder Ely also killed an Anchorage police officer before killing himself. Christina Ely suffered a gunshot wound during the attack.

Life Alaska approached Christina Ely while she was in the hospital. The decision was easy, she said Friday. "They asked if I wanted to donate the kids' organs, and I said, 'Yes, if it will help another kid's life, then that's what I'd like to do.'"

"I would never ever want any parent to go through what I went through, and now their kids are alive," she said.

Two of Corey's heart valves also will be transplanted when a matching recipient is found, Saakvitne said.

Alaska may have the highest rate of organ and tissue donors per capita in the Northwest, Saakvitne said, based on his experience in the business. No official numbers are recorded, he said.

Last year alone Alaska had 72 heart valve donors, he said.

"Most families approached about donating, despite their pain, are willing to make a father's gift," Saakvitne said.

## Life Alaska, Inc.

Tissue Procurement Service  
P. O. Box 230785  
Anchorage, AK 99523  
1-907-562-5433 • 1-800-719-5433  
Fax 1-907-562-5333



February 14, 1997

**ATTN:** The Honorable Senator Robin Taylor  
Chair, Senate Judiciary Committee  
Health Education and Social Services

**FROM:** Fran McNeill  
Family Care Coordinator  
Life Alaska, Inc.

**RE:** Senate Bill 38

My name is Fran McNeill. I am employed by Life Alaska, Inc. as the Family Care Coordinator. I am here today in place of my Director, Jens Saakvitne, who had a medical emergency.

Life Alaska, Inc. supports Senate Bill 38. This bill facilitates the communication of an individual's wishes regarding living wills, do not resuscitate orders, and anatomical gifts. It supports individual autonomy and self-determination and respects the individual's right to make this very personal decision. Furthermore, it ensures that people will have an opportunity to make these choices independent of crisis and would encourage them to discuss their decisions with family members. The family burden is eased by knowing what a loved one wants, and families may approach these decisions knowing that they have honored their loved one's request.

Sincerely,

A handwritten signature in cursive script that reads "Fran McNeill". The signature is written in dark ink and is positioned above the printed name and title.

Fran McNeill  
Family Care Coordinator

# Life Alaska, Inc.

Tissue Procurement Service  
P. O. Box 230785  
Anchorage, AK 99523  
1-907-562-5433 • 1-800-719-5433  
Fax 1-907-562-5333



RECEIVED FEB 20 1997

February 17, 1997

The Honorable Robin Taylor  
Room 30  
State Capitol  
Juneau, AK 99801-1182

RE: SB38

Dear Senator Taylor:

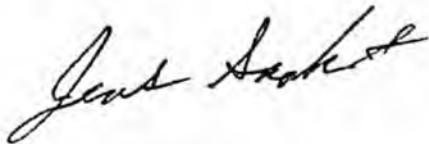
Regarding the amendment to Sec.3. AS 13.50.030 addressing persons or agencies authorized to remove or transplant part of a decedent's body:

- ◆ It is accepted practice in all fifty states for trained non-physician technical staff to procure tissues such as corneas, heart-valves, bone, and skin from non-heartbeating cadavers.
- ◆ While most states do not address the issue, it is universal practice for medically licensed surgeons to perform the more technically complex organ procurement such as kidney, heart, and liver donation.
- ◆ All tissue and organ transplant into living patients must be performed by licensed physicians. Typically, surgery is performed by specially trained transplant surgeons.
- ◆ In Alaska, trained technical staff have performed all tissue donations. Several MDs have assisted in training the local staff.
- ◆ In Alaska, surgeons who fly up from Seattle, Portland, or California perform most organ donation surgery. Occasionally, kidneys are procured by an Alaska surgeon who has received specific training.
- ◆ Life Alaska would welcome the assistance of a physician in Wrangle, Bethel or anywhere else performing donor surgery if we cannot arrive in time, or working with us if they have an interest. This has happened several times already.
- ◆ Organs and tissues are given to the most medically urgent person waiting for a transplant. Potential tissue and organ recipients decide who their transplant surgeon will be.
- ◆ Donation surgery is typically done by whatever tissue or organ bank provides donor coverage for that region. The Tissue or organ bank will send the technician or surgeon on call to perform the donation surgery.

Because the donor technician or surgeon is decided by which transplant agency covers an area, nearly all states have deleted the concept of designating the surgeon or physician (or even agency) to remove a part of a donor's body. Donors are universally allowed to designate a particular recipient if they desire (most don't designate, which allows the tissue or organ to be placed with the most urgent recipient). The amended wording (including "appropriate Alaska organ or tissue bank or") will not have any negative effect.

I hope this is helpful in clarifying current practices. Thank you again for all of your efforts in support of donation, transplantation and the families. Please call me at any time with questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jens Saakvitne".

Jens Saakvitne  
Director

## United Network for Organ Sharing

1

Transplants performed between January 1, 1988 and September 30, 1996

Reported Patient State of Residency: ALASKA  
By Year and Organ

Year of Transplant	Organ					Total
	Heart	Kidney	Liver	Lung	Pancreas	
1988	3	1	2	1	0	7
1989	3	6	3	0	0	12
1990	3	10	6	0	0	19
1991	4	21	6	1	1	33
1992	3	13	4	0	1	21
1993	5	15	11	2	0	33
1994	1	18	4	1	0	24
1995	6	24	6	2	0	38
1996	2	15	1	2	0	20
Total	20	123	43	9	2	207

Based on UNOS OPTN/Scientific Registry Data as of January 27, 1997  
Data subject to change due to future data submission or correction

United Network for Organ Sharing  
 Number of Registrations on the Wait List from Reported Residents of Alaska

Organ					
Heart	Kidney	Kidney-Pancreas	Liver	Lung	Total
Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations
2	51	2	12	1	68

Based on UNOS OPTN/Scientific Registry data as of January 27, 1997  
 Data subject to change based on future data submission or correction.

# Alaska State Legislature

Chairman,  
Judiciary Committee

Member,  
Resources Committee  
Rules Committee  
Committee on Committees



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*Senator Robin L. Taylor*

## MEMORANDUM

**To:** Representative Joe Green, Chairman  
House Judiciary Committee

**From:** Senator Robin L. Taylor *R.L.T.*

**Date:** 3/24/97

**Ref:** Suggested CS - Senate Bill 38

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Please consider the attached committee substitute for Senate Bill 38.

The regional clearing house for organ transplant, LifeCenter Northwest, requested the change which appears on page 4, beginning at line 6 of this draft.

Many people who have living wills do not want their lives sustained by procedures that merely prolong the dying process. Many of these same people also want to become organ donors in the event of their death.

This committee substitute allows time for the evaluation of such a person as a suitable candidate for organ donation before a do not resuscitate order is carried out.

I would appreciate the opportunity to explain this CS to your committee at your earliest convenience.

0-LS0183VH  
Bannister  
3/13/97

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 38( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to anatomical gifts, living wills, and do not resuscitate orders."

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

3 \* Section 1. AS 13.50.010(a) is amended to read:

4 (a) A competent person [OF SOUND MIND] who is 18 or more years of age  
5 may make a gift to take effect upon death [,] of all or a part of the person's body for  
6 a purpose specified in AS 13.50.020.

7 \* Sec. 2. AS 13.50.030(b) is repealed and reenacted to read:

8 (b) A gift of all or a part of the body under AS 13.50.010(a) may be made by  
9 a document other than a will, and including a declaration under AS 18.12. The gift  
10 takes effect upon the death of the donor. The document, which may be a card  
11 designed to be carried on the person, shall be signed by the donor, or another person  
12 at the donor's direction. If signed by another person at the donor's direction, the  
13 signer shall sign in the presence of two persons or a person who is qualified to take  
14 acknowledgments under AS 09.63.010. Delivery of the document of gift during the  
15 donor's lifetime is not necessary to make the gift valid.

1 \* Sec. 3. AS 13.50.030(d) is amended to read:

2 (d) The donor may designate in a will, card, or other document of gift,  
3 including a declaration under AS 18.12, the surgeon or physician to carry out the  
4 appropriate procedure for removing or transplanting a part of the decedent's body. In  
5 the absence of a designation or if the designee is not available, the donee or other  
6 person authorized to accept the gift may employ or authorize any surgeon, any [OR]  
7 physician, or any appropriate Alaska organ or tissue bank, for the purpose of  
8 removing or transplanting a part of the decedent's body.

9 \* Sec. 4. AS 13.50.030 is amended by adding a new subsection to read:

10 (f) A gift may, but need not be, in the following form:  
11 In the event of my death, I donate the following part(s)  
12 of my body for the purposes identified in AS 13.50.020:

13 Tissue:  
14 \_\_\_\_\_ Eyes  
15 \_\_\_\_\_ Bone and connective tissue  
16 \_\_\_\_\_ Skin  
17 \_\_\_\_\_ Heart  
18 \_\_\_\_\_ Other: \_\_\_\_\_

19 Limitations: \_\_\_\_\_

20 Organ:  
21 \_\_\_\_\_ Heart  
22 \_\_\_\_\_ Kidney(s)  
23 \_\_\_\_\_ Liver  
24 \_\_\_\_\_ Lung(s)  
25 \_\_\_\_\_ Pancreas  
26 Other: \_\_\_\_\_

27 I designate \_\_\_\_\_ (name of surgeon or physician)  
28 to carry out the appropriate procedure(s) for removing or  
29 transplanting the body part(s) identified above.

30 \* Sec. 5. AS 13.50.050 is amended by adding a new subsection to read:

31 (d) A gift made in a declaration under AS 18.12 may be amended as provided

1 in (a) of this section, and may be revoked as provided in AS 18.12.020(a) or in (a) of  
2 this section.

3 \* Sec. 6. AS 13.50 is amended by adding a new section to read:

4 **Sec. 13.50.075. Recognition of gifts executed, issued, or authorized in other**  
5 **states.** A gift executed, issued, or authorized in another state or a territory or  
6 possession of the United States in compliance with the law of that jurisdiction is  
7 effective for the purposes of this chapter.

8 \* Sec. 7. AS 18.12.010(a) is repealed and reenacted to read:

9 (a) A competent person who is at least 18 years old may execute a declaration  
10 at any time directing that life-sustaining procedures be withheld or withdrawn from  
11 that person. The declaration is given operative effect only if the declarant's condition  
12 is determined to be terminal and the declarant is not able to make treatment decisions,  
13 except that, if the declaration contains an anatomical gift under AS 13.50, the gift  
14 takes effect upon the death of the person. The declaration shall be signed by the  
15 declarant, or another person at the declarant's direction. If signed by another person  
16 at the declarant's direction, the signer shall sign in the presence of two persons or a  
17 person who is qualified to take acknowledgements under AS 09.63.010. A person may  
18 not charge a fee for preparing a declaration.

19 \* Sec. 8. AS 18.12.010(b) is amended to read:

20 (b) Except as provided under AS 13.50.014 - 13.50.016 for an anatomical  
21 gift contained in the declaration, it [IT] is the responsibility of the declarant to  
22 provide a copy of the declaration to the declarant's physician. A physician or other  
23 health care provider who is provided a copy of the declaration shall make it a part of  
24 the declarant's medical records.

25 \* Sec. 9. AS 18.12.010(c) is amended to read:

26 (c) A declaration may, but need not, be in the following form:

27 **DECLARATION**

28 If I should have an incurable or irreversible condition that will  
29 cause my death within a relatively short time, it is my desire that my  
30 life not be prolonged by administration of life-sustaining procedures.

31 If my condition is terminal and I am unable to participate in

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decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain. I [ ] do [ ] do not desire that nutrition or hydration (food and water) be provided by gastric tube or intravenously if necessary.

Notwithstanding the other provisions of this declaration, if I have donated an organ under this declaration or by another method, I do not want a do not resuscitate order to take effect until the donated organ can be evaluated to determine if the organ is suitable for donation.

OPTIONAL: In the event of my death, I donate the following part(s) of my body for the purposes identified in AS 13.50.020:

Tissue:

- \_\_\_\_\_ Eyes
- \_\_\_\_\_ Bone and connective tissue
- \_\_\_\_\_ Skin
- \_\_\_\_\_ Heart
- \_\_\_\_\_ Other: \_\_\_\_\_

Limitations: \_\_\_\_\_

Organ:

- \_\_\_\_\_ Heart
- \_\_\_\_\_ Kidney(s)
- \_\_\_\_\_ Liver
- \_\_\_\_\_ Lung(s)
- \_\_\_\_\_ Pancreas
- \_\_\_\_\_ Other: \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature \_\_\_\_\_

Place \_\_\_\_\_

If another person is to sign for the declarant at the

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declarant's direction, the person signing for the declarant must sign in the presence of two persons or a person who is qualified to take acknowledgments under AS 09.63.010. The witness form below may be used for the two witnesses. The acknowledgement form below may be used for the person qualified to take acknowledgements. [THE DECLARANT IS KNOWN TO ME AND VOLUNTARILY SIGNED OR VOLUNTARILY DIRECTED ANOTHER TO SIGN THIS DOCUMENT IN MY PRESENCE.]

WITNESS FORM

Witness \_\_\_\_\_  
Address \_\_\_\_\_  
Witness \_\_\_\_\_  
Address \_\_\_\_\_  
State of \_\_\_\_\_  
\_\_\_\_\_ Judicial District

ACKNOWLEDGEMENT FORM

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

\_\_\_\_\_  
Signature of Person Taking  
Acknowledgement  
\_\_\_\_\_  
Title or Rank  
\_\_\_\_\_  
Serial Number, if any

[THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER AS 09.63.010].

\* Sec. 10. AS 18.12.010(d) is amended to read:

(d) A physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter, that an

1 anatomical gift in the declaration complies with this chapter and AS 13.50, and  
2 that the declaration, including any anatomical gift contained in the declaration,  
3 is valid.

4 \* Sec. 11. AS 18.12.020(a) is amended to read:

5 (a) Except as provided in AS 13.50.050 for an anatomical gift, a [A]  
6 declaration may be revoked at any time and in any manner by which the declarant is  
7 able to communicate an intent to revoke, without regard to mental or physical  
8 condition. A revocation is only effective as to the attending physician or any health  
9 care provider acting under the guidance of that physician upon communication to the  
10 physician or health care provider by the declarant or by another to whom the  
11 revocation was communicated.

12 \* Sec. 12. AS 18.12.035 is amended by adding a new subsection to read:

13 (d) Notwithstanding (c) of this section, if a person has made an anatomical gift  
14 of an organ under AS 13.50 or this chapter, a do not resuscitate order may not be  
15 implemented until the donated organ can be evaluated to determine if it is suitable for  
16 donation.

17 \* Sec. 13. AS 18.12.037 is amended to read:

18 **Sec. 18.12.037. Living will, organ donation, and DNR identification.** The  
19 Department of Health and Social Services shall develop standardized designs and  
20 symbols for DNR identification cards, forms, necklaces, and bracelets that signify,  
21 when carried or worn, that the possessor has executed a declaration under this chapter,  
22 that the declaration contains an anatomical gift, or that the possessor is a patient  
23 for whom a physician has issued a do not resuscitate order.

24 \* Sec. 14. AS 18.12.090 is amended to read:

25 **Sec. 18.12.090. Recognition of declarations and orders executed, [OR]**  
26 **issued, or authorized in other states.** A declaration, including a declaration  
27 containing an anatomical gift, do not resuscitate order, or DNR identification  
28 executed, issued, or authorized in another state or a territory or possession of the  
29 United States in compliance with the law of that jurisdiction is effective for purposes  
30 of this chapter.

31 \* Sec. 15. AS 18.12.100 is amended by adding a new paragraph to read:

1 (12) "anatomical gift" means an anatomical gift under AS 13.50.

2 \* Sec. 16. AS 18.65.311 is amended to read:

3 Sec. 18.65.311. Anatomical gift or living will. (a) The department shall  
4 provide, at the time that an identification card is issued, a form for a document by  
5 which the card holder may make an anatomical gift under AS 13.50 (Uniform  
6 Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not  
7 Resuscitate Orders). The document (1) may not be larger than an identification card,  
8 (2) must contain sufficient space for the signature of two witnesses or a person who  
9 is qualified to take acknowledgments under AS 09.63.010. [TO THE DONOR'S  
10 ACT IF THE DONOR CANNOT SIGN, AND] (3) must use the forms and designs  
11 developed under AS 18.12.037, and (4) must provide a means by which the card  
12 holder [DONOR] may cancel the gift or the living will. If the document [MAKING  
13 AN ANATOMICAL GIFT] is executed by the applicant, it shall be sealed in plastic  
14 and attached to the identification card. A symbol developed under AS 18.12.037  
15 indicating the existence of the anatomical gift or living will document must be  
16 displayed in the lower right-hand corner on the face of the identification card.

17 (b) An employee of the department who processes an identification card  
18 application, other than an application received by mail, shall ask the applicant orally  
19 whether the applicant wishes to execute an anatomical gift or a living will. The  
20 department shall, by placement of posters and brochures in the office where the  
21 application is taken, and by oral advice, if requested, make known to the applicant the  
22 procedure necessary to execute a gift under AS 13.50 or a living will under AS 18.12.

23 \* Sec. 17. AS 28.10.021(c) is amended to read:

24 (c) An employee of the department who processes an application for  
25 registration or renewal of registration, other than an application received by mail, shall  
26 ask the applicant orally whether the applicant wishes to execute an anatomical gift or  
27 a living will. The department shall make known to all applicants the procedure for  
28 executing a gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will  
29 under AS 18.12 (Living Wills and Do No Resuscitate Orders) by displaying posters  
30 in the offices in which applications are taken, by providing a brochure or other written  
31 information to each person who applies in person or by mail, and, if requested, by

1 providing oral advice.

2 \* Sec. 18. AS 28.15.061(d) is amended to read:

3 (d) An employee of the department who processes a driver's license  
4 application, other than an application received by mail, shall ask the applicant orally  
5 whether the applicant wishes to execute an anatomical gift or a living will. The  
6 department shall make known to all applicants the procedure for executing a gift under  
7 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living  
8 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which  
9 applications are taken, by providing a brochure or other written information to each  
10 person who applies in person or by mail, and, if requested, by providing oral advice.

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

12 (b) The department shall provide, at the time that an operator's license is  
13 issued, a form for a document by which the owner of a license may make an  
14 anatomical gift under AS 13.50 or a living will under AS 18.12. The document (1)  
15 may not be larger than an operator's license, (2) must contain sufficient space for the  
16 signature of two witnesses or a person who is qualified to take acknowledgments  
17 under AS 09.63.010, [TO THE DONOR'S ACT OF EXECUTION OF THE  
18 DOCUMENT, AND] (3) must use the forms and designs developed under  
19 AS 18.12.037, and (4) must provide a means by which the owner [DONOR] may  
20 cancel the gift or the living will. If the document [MAKING AN ANATOMICAL  
21 GIFT] is executed by the applicant, it shall be sealed in plastic and attached to the  
22 license. A symbol developed under AS 18.12.037 indicating the existence of the  
23 anatomical gift or living will document must be displayed in the lower right-hand  
24 corner on the face of the driver's license.

# Alaska State Legislature

Chairman,  
Judiciary Committee

Member,  
Resources Committee  
Rules Committee  
Committee on Committees



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*Senator Robin L. Taylor*

## MEMORANDUM

**To: Representative Joe Green, Chairman  
House Judiciary Committee**

**From: Senator Robin L Taylor** *R.L.T.*

**Date: 3/14/97**

**Ref: Proposed Committee Substitute - SB 38**

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This is in follow-up to my request for a hearing on SB 38.

In reviewing SB 38 with representatives of LifeCenter Northwest, the regional organ donor bank, we discovered a flaw in section 9 of the bill.

Attached is a suggested committee substitute which corrects the problem.

The new language appears on page 4, beginning at line 6. It insures that the wishes of an organ donor will be carried out by providing time to evaluate the suitability of a donor organ.

For clarification, organ donations are those intended for transplant which must be harvested at the time of death. Tissue donations can be made for a longer period of time after death.

Please contact me or Joe Ambrose if you have questions.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

SB38 - Organ Donation

We have ~~offnet~~ witness

→ Karyn Denton online  
from Life Center

→ Joe Ambrose is here  
for SB38 Sponsor

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→ Jens Saakvitne  
in Anch L10

SB3

I heard Sen Pearce is on  
the floor

I called Martin's office &  
witnesses for HB 234  
and told them we would  
NOT hear that Bill