

Issue Brief

Rite of Passage? Why Young Adults Become Uninsured and How New Policies Can Help

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This is a revision of the issue brief *Rite of Passage*, first released in May 2003. It updates analyses with new data from the March 2005 Current Population Survey, the 2003 Medical Expenditure Panel Survey, and the Commonwealth Fund Biennial Health Insurance Survey (2005). It also provides new information on state legislation and other proposals recently introduced to increase health insurance coverage among young adults.

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ABSTRACT: Young adults (ages 19 to 29) are one of the largest and fastest-growing segments of the U.S. population without health insurance: 13.7 million lacked coverage in 2004, an increase of 2.5 million since 2000. Young adults often lose coverage under their parents' policies, Medicaid, or the State Children's Health Insurance Program at age 19, or when they graduate from high school or college. Nearly two of five college graduates and one-half of high school graduates who do not go on to college will be uninsured for a period during the first year after graduation. Three policy changes could extend coverage to uninsured young adults and prevent others from losing it: extending eligibility for Medicaid and the State Children's Health Insurance Program beyond age 18; extending eligibility for dependents under private coverage beyond age 18 or 19 regardless of student status; and ensuring that colleges and universities require full- and part-time students to have insurance, and that they offer coverage to both.

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OVERVIEW

Young adults between the ages of 19 and 29 represent one of the largest and fastest-growing segments of the population without health insurance in the United States. Often dropped from their parents' policies or public insurance programs at age 19 or on graduation day, they are left to find insurance on their own as they make the transition from high school to work or college.

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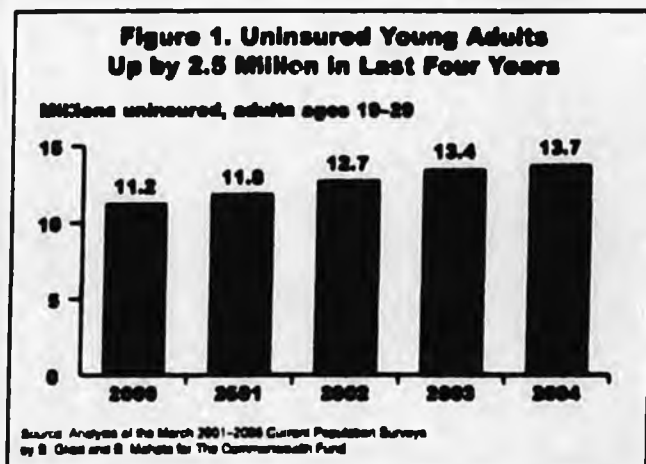
Yet, jobs available to young adults are usually low-wage or temporary—the type that generally do not come with health benefits. Young adults who are able to go to college full-time may have some protection through their parents' policies, but upon graduation usually lose access to family coverage.

Moving on and off coverage places the health of young adults at risk and subjects them and their families to financial stress just as they are starting out in the workforce. This issue brief assesses the scope of the health insurance problem facing young adults, its causes and implications, and what can be done to ensure stable and continuous coverage. It also offers some targeted policy steps that could help young adults stay insured as they make the transition to independent living.

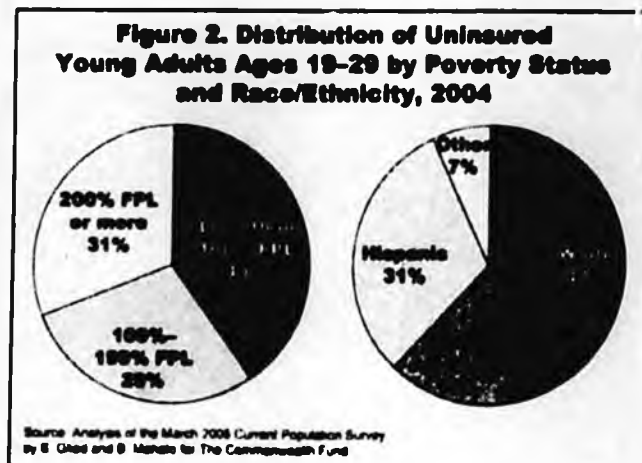
A LARGE AND GROWING PROBLEM

The number of uninsured young adults ages 19 to 29 climbed to 13.7 million in 2004, an increase of 2.5 million since 2000 (Figure 1). Young adults were the fastest-growing age group among the uninsured over this period, accounting for 40 percent of the increase in the uninsured under age 65. Even though they comprise just 17 percent of the under-65 population, young adults account for 30 percent of the nonelderly uninsured.¹

By far, the young adults most at risk of lacking coverage are those from low-income households.



These individuals, like children and older adults in low-income families, are disproportionately represented among the uninsured. About 23 percent of adults ages 19 to 29 live in households with incomes below 100 percent of the poverty level, but two-fifths (40%) of the 13.7 million young adults who are uninsured live in households with incomes below poverty (Figure 2).²



Nearly half of uninsured young adults are white. But Hispanics are disproportionately represented among the young and uninsured. While Hispanics comprise 19 percent of adults ages 19 to 29, they comprise 31 percent of uninsured young adults (Figure 2). Hispanics and African Americans are both at greater risk of being uninsured than white young adults: about 36 percent of African Americans and 52 percent of Hispanics ages 19 to 29 are uninsured, compared with 24 percent of whites in that age range (data not shown).

WHAT A DIFFERENCE A YEAR CAN MAKE

Nineteenth birthdays are crucial milestones in Americans' health insurance coverage. Both public and private insurance plans treat this age as a turning point for coverage decisions. Employer health

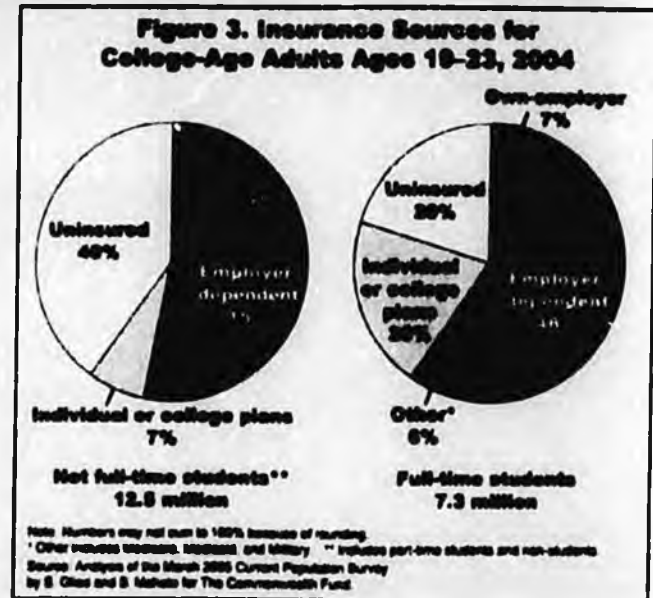
plans often do not cover young adults as dependents after age 18 or 19 if they do not go on to college. Public programs, such as Medicaid and the State Children's Health Insurance Program (SCHIP), also typically have one set of income and eligibility standards for children and another for adults, with the 19th birthday as the critical divide.

Losing Coverage Under a Parent's Policy

Employer-sponsored health insurance is the mainstay of most family and dependent coverage. Typically, such policies cover children as dependents as long as they meet eligibility rules. Age 18 or 19 tends to be a crucial turning point, after which coverage most often continues only for those young adults who attend college full-time. A 2004 Commonwealth Fund study found that, among employers who offer coverage, nearly 60 percent do not insure dependent children over age 18 or 19 if they do not attend college.¹

Young adults who enroll in college full-time when they graduate from high school are the most likely in their age group to have insurance coverage, primarily because they are able to maintain eligibility under their parents' employer's policies. A small share of full-time students also gains coverage through plans offered by universities. Roughly 25 percent of public universities and about 90 percent of private universities and colleges require that students have health insurance as a condition of enrollment.⁴ Idaho, Massachusetts, and New Jersey have passed either legislative or administrative rulings requiring that students have health insurance in order to enroll.⁵ About half (46%) of full-time students ages 19 to 23 receive health insurance through their parents' employer-sponsored plans, while another 20 percent have individual coverage, including college and university plans (Figure 3).

Young adults who are not in school full-time post-high school graduation are much more likely to be uninsured, primarily because it is much harder for them to gain access to employer coverage.



Forty percent of part-time and non-students ages 19 to 23 are uninsured, compared with 20 percent of full-time students. Young adults who opt to enter the labor market rather than go to college are unlikely to be eligible for coverage under their parents' policies, and may have difficulty finding a job with health benefits. New entrants to the labor market without college educations are often candidates for positions that are the least likely to come with health benefits—those that pay low wages, are in small companies, or are part-time or temporary in nature.⁶ The Commonwealth Fund Biennial Health Insurance Survey (2005) found that 43 percent of all workers ages 19 to 29 who earn less than \$10 per hour are uninsured.⁷ Almost one-third (31%) of workers between ages 19 and 29 have jobs that pay less than \$10 per hour.⁸

Losing Medicaid/SCHIP Coverage at Age 19

Medicaid and SCHIP reclassify all teenagers as adults the day they turn 19. As a result, young adults who had been insured under Medicaid or SCHIP as children typically do not have an option to stay on public coverage unless they are able to qualify for Medicaid as adults. Regardless of

school, work, or dependent status, they lose their eligibility as dependents or children. Most low-income young adults become ineligible for public programs, since eligibility for adults generally is restricted to very low-income parents or disabled adults. Even teenagers with disabilities who qualified for Medicaid before their 19th birthdays have to go through a new set of screening tests to determine whether they will still be eligible for benefits as disabled adults.⁹

Net Impact of the 19th Birthday

As a result of the combined impact of such public and private insurance rules, uninsured rates jump sharply at age 19. Turning 19 increases the risk of being uninsured by more than twofold: the uninsured rate rises from 12 percent among children age 18 and under to 31 percent among those ages 19 to 29 (Figure 4).

Figure 4. Percent Uninsured, Children and Young Adults, by Poverty Level, 2004

Percent Uninsured	Children Age 18 and Under	Young Adults Ages 19-29
Total	12%	31%
<100% FPL	20	54
100%-199% FPL	17	42
≥200% FPL	7	18

Source: Analysis of the March 2000 Current Population Survey by E. Glass and B. Mahoney for The Commonwealth Fund.

Low-income young adults are particularly vulnerable. Among those living in families below the poverty level, more than half (54%) are uninsured, compared with about one of five (20%) children in low-income families. Those with slightly higher incomes (100% to 199% of poverty) fare only marginally better—roughly two of five (42%) are uninsured.

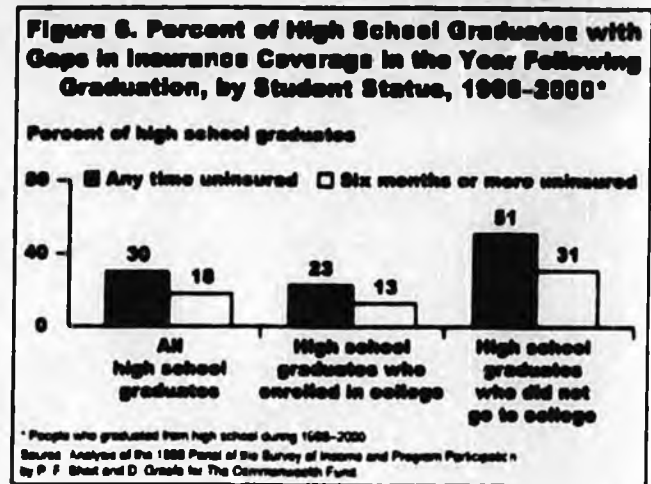
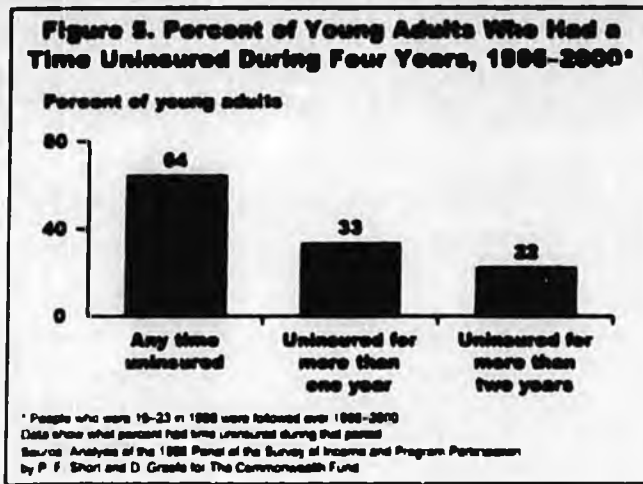
THE (UNINSURED) GRADUATE

The transitional nature of young adults' lives following their 19th birthday makes it difficult to secure a stable and consistent source of health insurance coverage. Young adults move in and out of school and jobs throughout their 20s. Full-time students might take a leave of absence from school, attend college part-time, or graduate—effectively closing off access to their parents' insurance policies or university-sponsored plans. In addition, job tenure is shorter among younger workers, thus increasing the risk that they will be without health insurance coverage for periods of weeks, months, or even years.

Surveys that track people over time provide an opportunity to examine what happens to the insurance coverage of young adults as they graduate from high school or college or move through their early adult years. The federal multiyear longitudinal survey known as SIPP (Survey of Income and Program Participation) interviewed a sample of people about their health insurance and other characteristics in 1996 and tracked their history through 2000.

The four-year insurance history of all young adults who were ages 19 to 23 at the beginning of 1996 reveals the extent to which life transitions disrupt insurance coverage. Over the 1996–2000 period, two-thirds (64%) of this cohort of young adults went without coverage for at least part of the time (Figure 5).¹⁰ One-third were uninsured for more than a year, while one-fifth were uninsured for more than two years.

Young adults from households with low incomes were most exposed: they were both more likely to go without insurance for at least some period and more likely to endure long periods without insurance. Nearly 80 percent of young adults living under 200 percent of the poverty level were uninsured for at least part of the four-year period; more than half (52%) were uninsured for 13 months or more (Table 1). Reflecting their generally lower incomes, Hispanic and African American young adults were at similarly high risk of losing insurance and experiencing long spells



without coverage. Fifteen percent of Hispanic young adults ages 19 to 23 at the beginning of the four years were uninsured for the entire period.

Graduation: High School and College

Tracking people over time also reveals how the major life events of early adulthood noted in this brief disrupt insurance coverage.

Graduation from high school marks a key juncture in the health insurance coverage of young adults. Tracking a sample of young adults in the year following graduation reveals the extent to which college enrollment is correlated with more secure insurance coverage. Among all young adults graduating from high school, three of 10 were uninsured for some time in the year following high school (Figure 6). Half of young adults who graduated from high school but did not go to college were uninsured for some time during the year following their graduation—twice the rate for young adults who attended college that year.

Among those young adults who go to college, the year following their college graduation also can be a time during which connections to the health system are fragile and break down. The protections afforded them by virtue of being a full-time student—coverage through a parent's employer policy or a student health plan—are lost

upon graduation. As new, albeit college-educated, entrants to the labor force, they confront similar hazards that high school graduates face: waiting periods, temporary positions, lower-wage jobs, employment in small firms, and job turnover. Of those college students who graduated during 1996 to 2000, 38 percent were uninsured for at least part of the time in the year following graduation, with 21 percent uninsured for six months or more (Figure 7). Based on the experiences of recent graduates, nearly two of five college graduates can expect to spend at least some time uninsured in the year just after graduation.



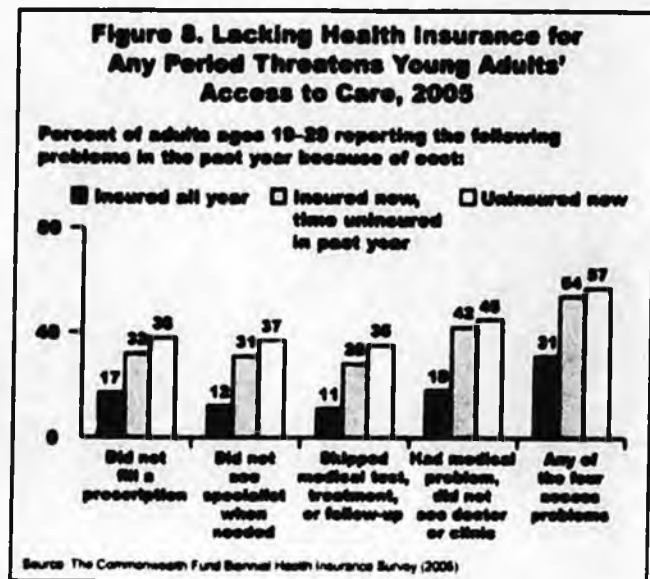
WHY COVERAGE IS IMPORTANT FOR YOUNG ADULTS

Although young adults in general constitute a healthy group, going without insurance disrupts their access to the health care system, introduces barriers to care when it is needed, and leaves young adults and their families at risk for high out-of-pocket costs in the event of a severe illness or injury. Young adults, particularly women, are in need of regular preventive care. If young adults lose their coverage at age 19 or upon graduation from college, their ties with primary care physicians may be severed at precisely the time they should be forming stronger links to the health care system and taking responsibility for their own care. The following are just a few reasons coverage is so important for young adults:

- Fourteen percent of adults ages 18 to 29 are obese. In the 1990s, obesity increased by 70 percent in this age group—the fastest rate of increase among all adults.¹¹
- There are 3.5 million pregnancies each year among the 21 million women ages 19 to 29.¹²
- One-third of all HIV diagnoses are made among young adults.¹³
- Injury-related visits to emergency rooms are far more common among young adults than they are among either children or older adults.¹⁴
- More than 20,000 people with congenital heart disease reach their 19th birthday each year.¹⁵

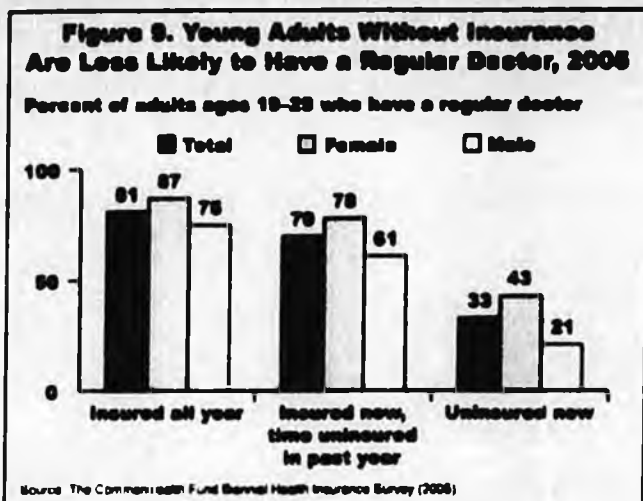
The Commonwealth Fund Biennial Health Insurance Survey (2005) shows that being uninsured or having unstable health insurance hampers access to the health care system. More than half (54%–57%) of young adults ages 19 to 29 who either were uninsured for the entire year or had a time without coverage said that they had gone without needed health care because of cost (Figure 8).

Forgone care included failing to fill a prescription, not seeing a doctor or specialist when sick, or skipping a recommended medical test, treatment, or follow-up visit.



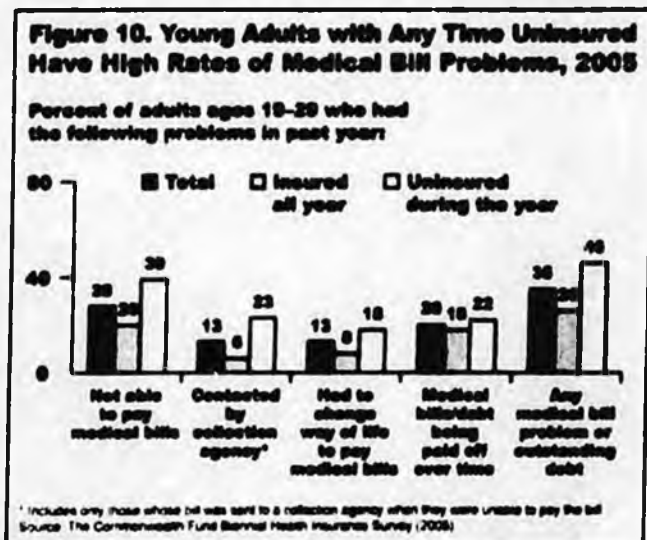
In addition, uninsured young adults are far less likely than those with coverage to have a regular doctor. Only one-third of uninsured young adults ages 19 to 29 had a regular doctor, compared with 81 percent of those who were insured all year (Figure 9). Uninsured female young adults had regular doctors at about half the rate of young women who were insured all year. Male young adults who were uninsured had the most fragile link to the health care system: just 21 percent had a regular doctor compared with 75 percent of male young adults who were insured all year.

Many young adults have problems paying medical bills or are paying off medical debt over time. More than one-third (35%) of all young adults, both insured and uninsured, said that they had experienced problems with medical bills: having trouble making payments, being contacted by a collection agency because of inability to pay



bills, significantly changing their way of life in order to pay medical bills, or paying off medical debt over time (Figure 10). About one of five (20%) young adults were paying off medical debt over time. Uninsured young adults were the most burdened with medical bills and debt; 46 percent reported at least one of the aforementioned problems.

Contrary to conventional wisdom, young adults appear to value the protection that health insurance coverage provides. The Commonwealth



Fund Biennial Health Insurance Survey (2005) found that nearly three-quarters (73%) of employed young adults accept health insurance coverage when it is offered to them, only slightly less than the take-up rate (82%) of workers age 30 or older (Table 2).

POLICY OPTIONS TO HELP YOUNG ADULTS STAY INSURED

Health insurance coverage of young adults would be improved by system-wide changes to expand access to and stabilize coverage among the general population. Some recent proposals to achieve near-universal coverage would build on the existing health insurance system, and several have included specific provisions to increase coverage among young adults in current private and public insurance arrangements.¹⁶ For example, The Commonwealth Fund's Karen Davis and Cathy Schoen have proposed a framework for achieving near-universal coverage that includes a requirement for companies to extend coverage to dependent young adults under age 23 through their parents' insurance plan.¹⁷ Other proposals would expand coverage for children as well as young adults, or exclusively target young adults. Senator Jay Rockefeller (D-W.Va.) and Representative Pete Stark (D-Calif.) have introduced legislation creating a Medicare-like program for children that will eventually cover young adults up to age 23.¹⁸ Representative Vic Snyder (D-Ark.) and Senator Blanche Lincoln (D-Ark.) have introduced legislation that would permit states to cover low-income young adults under Medicaid and SCHIP up to age 23.¹⁹ Senate Republicans have proposed financial incentives for colleges and universities that provide or require health insurance for full-time students.²⁰

Recent State Action

In the absence of federal action to expand coverage, several states have recently passed or are considering legislation to substantially increase the age

of dependency for young adults for private insurance coverage eligibility status.²¹ In general, these laws apply to plans covered under state insurance regulations and thus would not apply to self-insured employers.

In a law taking effect in May 2006, New Jersey will require most group health plans to cover single adult dependents up to age 30 (Table 3).²² A Colorado law that became effective in January 2006 requires group and privately purchased individual health plans to cover unmarried dependents up to age 25.²³ Dependents must be unmarried or financially dependent, or live at the same address as the parent(s), but eligibility is not dependent on full-time enrollment in school. The New Jersey and Colorado laws both allow insurers to charge a separate premium for extended dependent coverage.

As part of Massachusetts' April 2006 health insurance expansion law, young adults are considered dependents for insurance purposes up to age 25 or for two years after they are no longer claimed on their parents' tax returns, whichever comes first.²⁴

Utah has required insurance policies that include dependent coverage to cover unmarried dependents through age 26 since 1994,²⁵ and New Mexico requires that all insurance policies provide coverage for unmarried dependents up to age 25, regardless of school enrollment.²⁶

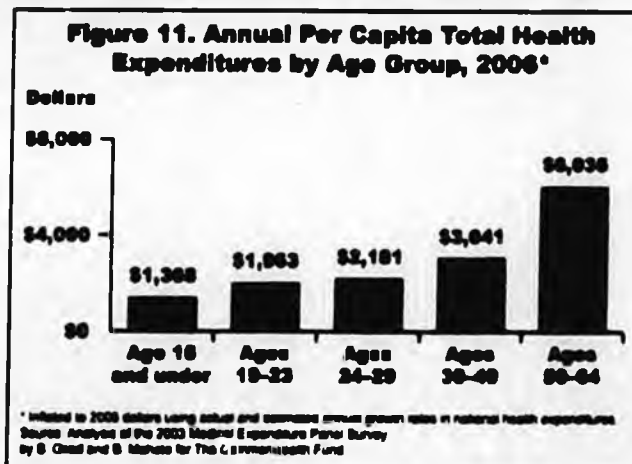
A Texas law effective in September 2003 allows full-time students up to age 25 to be covered by their parents' insurance plans.²⁷ South Dakota prohibits any insurance provider that offers dependent benefits from terminating coverage before age 19, or 24 if the dependent is a student.²⁸

Several state legislatures are considering similar laws. Rhode Island is currently considering a bill that would phase in, through 2009, coverage of unmarried and financially dependent young adults up to age 25.²⁹ And a California bill that was passed by the state legislature but vetoed by the governor would have prohibited health plans that cover dependent children from establishing a limiting age for coverage of less than 26 years.³⁰ The

bill is expected to be submitted to the governor for consideration again this year.

Targeted Policy Options

Whether as part of a broader expansion plan or implemented on their own, targeted policy options like those recently pursued by states could improve access to coverage for young adults and help them stay insured during the transition to independence. This is a relatively low-cost group to insure: young adults generally are healthier than older adults and therefore have far lower per capita health care expenditures (Figure 11).³¹ Indeed, keeping young adults in insurance pools may have the effect of lowering the average costs for group insurance.



Three different public or private policy changes could extend coverage to a substantial portion of uninsured young adults and prevent others from losing coverage in the future.

1. *Extend eligibility for Medicaid/SCHIP public coverage beyond age 18.* Congress could allow or require states to extend coverage to those young adults in Medicaid and SCHIP who lose their eligibility because of age, with federal matching funds provided. Young

adults in households with incomes under 100 percent of poverty are by far the group most at risk of lacking health insurance coverage. Such an expansion would have the biggest impact in terms of lowering the number of uninsured young adults. Young adults with incomes of 100 percent to 199 percent of poverty also lack insurance at a high rate. As proposed in the Snyder and Lincoln legislation, states would have the option of extending coverage up to a target age such as 23, and could phase in coverage one year at a time. Alternatively, Congress could require states to extend coverage to those currently enrolled in the programs and who "age off," just as states are now required to extend Medicaid coverage to those who become ineligible because of higher earnings.¹² Such a policy change could help the 2.9 million uninsured young adults ages 19 to 23 with incomes under 100 percent of poverty.

2. *Extend eligibility for dependents under private coverage beyond age 18 or 19.* Private insurers and both public and private employers could be required to define dependent coverage as all unmarried dependents beyond age 18 or 19. As noted above, many states have recently redefined the age at which a young adult is no longer a dependent—from age 25 in Colorado and New Mexico up to age 30 in New Jersey. Some private and public employers already provide such coverage voluntarily. Under the Federal Employees Health Benefits Program, federal employees and members of Congress currently enjoy coverage for unmarried dependent children under age 22.¹³ Such an expanded benefit could either be structured as a rider with a supplemental premium or simply be extended to all policies and covered by the family premium. Even increasing the age

to 23 could cover an estimated 1 million unmarried, dependent young adults.¹⁴ If the benefit requirement were extended to family policies, the average premium for those plans would rise by about 3 to 5 percent.¹⁵

3. *States could ensure that all colleges and universities require full-time and part-time students to have health insurance, and that they offer health insurance coverage to both.* Many colleges and universities already require health insurance coverage as a condition of enrollment, and a handful of states (Idaho, Massachusetts, New Jersey) have legislative or administrative rulings requiring all students at local institutions to be covered. Students at these institutions generally can choose to enroll in a school health plan or provide proof of coverage from another source, usually a parent's employer-based plan. The cost of the school plans, which ranges from about \$500 to \$2,400 per year, is usually added to tuition along with other required fees.¹⁶ Increasing the number of schools that require students to have health insurance coverage and that offer such coverage through state mandates could help cover the 1.9 million part-time and full-time uninsured students ages 19 to 23. Federal or state subsidies for premiums would help offset the costs of insurance coverage for students.

NOTES

¹ All analyses of the March Annual Social and Economic Supplement to the Current Population Survey (CPS), 1987–2005, are from S. Glied and B. Mahato, Columbia University, for The Commonwealth Fund. See *Methodology* for a description of the CPS.

- ² In 2004, the under-65 poverty thresholds were \$9,827 for one person, \$12,649 for two adults, \$13,020 for two adults and one child under 18, and \$19,157 for two adults and two children under 18. See C. DeNavas-Walt, B. D. Proctor and R. J. Mills, *Income, Poverty, and Health Insurance Coverage in the United States: 2004*, Current Population Reports, Consumer Income (Washington, D.C.: U.S. Census Bureau, Aug. 2005).
- ³ S. R. Collins, C. Schoen, M. M. Doty, and A. L. Holmgren, *Job-Based Health Insurance in the Balance: Employer Views of Coverage in the Workplace* (New York: The Commonwealth Fund, Mar. 2004).
- ⁴ Communication with S. Beckley, Stephen L. Beckley & Associates, Inc., Fort Collins, Colo.
- ⁵ Ibid.
- ⁶ S. R. Collins, K. Davis, and A. Ho, "A Shared Responsibility: U.S. Employers and the Provision of Health Insurance to Employees," *Inquiry*, Spring 2005 42(1):6-15; S. R. Collins, K. Davis, M. M. Doty, and A. Ho, *Wages, Health Benefits, and Workers' Health* (New York: The Commonwealth Fund, Oct. 2004); S. R. Collins, C. Schoen, D. Colasanto, and D. A. Downey, *On the Edge: Low-Wage Workers and Their Health Insurance Coverage. Findings from the 2001 Health Insurance Survey* (New York: The Commonwealth Fund, Mar. 2003); B. Garret, L. M. Nichols, and E. K. Greenman, *Workers Without Health Insurance: Who Are They and How Can Policy Reach Them?* (Washington, D.C.: The Urban Institute, Sept. 2001); S. H. Long and M. S. Marquis, "Low-Wage Workers and Health Insurance Coverage: Can Policymakers Target Them Through Their Employers?" *Inquiry*, Fall 2001 38(3):331-37.
- ⁷ Authors' analysis of the Commonwealth Fund Biennial Health Insurance Survey (2005).
- ⁸ Ibid.
- ⁹ E. Fishman, "Aging Out of Coverage: Young Adults with Special Health Needs," *Health Affairs*, Nov./Dec. 2001 20(6):254-66.
- ¹⁰ All analyses of the 1996 Panel of the Survey of Income and Program Participation (SIPP) are from P. F. Short and D. Graefe, Pennsylvania State University, for The Commonwealth Fund. See Methodology for a description of the SIPP.
- ¹¹ A. H. Mokdad, E. S. Ford, B. A. Bowman et al., "Prevalence of Obesity, Diabetes, and Obesity-Related Health Risk Factors, 2001," *Journal of the American Medical Association*, Jan. 1, 2003 289(1):76-79; T. A. Hillier and K. L. Pedula, "Complications in Young Adults with Early Onset Type 2 Diabetes: Losing the Relative Protection of Youth," *Diabetes Care*, Nov. 2003 26(11):2999-3005; A. H. Mokdad et al., "The Spread of the Obesity Epidemic in the United States, 1991-1998," *Journal of the American Medical Association*, Oct. 27, 1999 282(16): 1519-22.
- ¹² K. Quinn, C. Schoen, and L. Buatti, *On Their Own: Young Adults Living Without Health Insurance* (New York: The Commonwealth Fund, May 2000).
- ¹³ Ibid.
- ¹⁴ National Center for Health Statistics, *Health, United States, 2005* (Hyattsville, Md.: NCHS, Nov. 2005), Table 89.
- ¹⁵ G. Rosenthal, "Prevalence of Congenital Heart Disease," in *The Science and Practice of Pediatric Cardiology*, Second Edition, A. Garson, J. T. Bricker, D. J. Fisher, and S. R. Neish (eds.) (Baltimore: Williams and Wilkins, 1998), pp. 1095-96.
- ¹⁶ J. M. Lambrew, J. D. Podesta, and T. L. Shaw, "Change in Challenging Times: A Plan for Extending and Improving Health Coverage," *Health Affairs Web Exclusive* (Mar. 23, 2005):W5-119-W5-132; S. R. Collins, K. Davis, and J. M. Lambrew, *Health Care Reform Returns to the National Agenda: The 2004 Presidential Candidates' Proposals* (New York: The Commonwealth Fund, updated Oct. 2004).
- ¹⁷ K. Davis and C. Schoen, "Creating Consensus on Coverage Choices," *Health Affairs Web Exclusive* (Apr. 23, 2003):W3-199-W3-211.
- ¹⁸ S. 1303, MediKids Health Insurance Act of 2005; H.R. 3055 MediKids Health Insurance Act of 2005.
- ¹⁹ H.R. 3040 Health Care for Young Adults Act of 2005; S. 1298 Health Care for Young Adults Act of 2005.
- ²⁰ U.S. Senate Republican Task Force on Health Care Costs and the Uninsured, *Building on a Record of Creative Solutions* (May 2004).
- ²¹ See National Conference of State Legislatures, <http://www.ncsl.org/programs/health/dependentstatus.htm>.

- ²² New Jersey Public Act 2005 c.375, http://www.njleg.state.nj.us/2004/Bills/PL05/375_.pdf.
- ²³ Colorado H.B. 05-1101 Section 10-16-104.3, C.R.S., http://www.leg.state.co.us/Clics2005a/csl.nsf/0billcont3/C496911BCAEEEE00987256F5100652C3E?Open&file=1101_enr.pdf.
- ²⁴ Massachusetts H.B. 4850, <http://www.mass.gov/legis/bills/house/ht04/ht04850.htm>.
- ²⁵ Utah Code, Title 31A-22-610.5, <http://www.le.state.ut.us/~code/TITLE31A/htm/31A17101.htm>.
- ²⁶ New Mexico H.B. 335, <http://legis.state.nm.us/Sessions/05%20Regular/final/HB0335.pdf>.
- ²⁷ Texas H.B. 1446, <http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=78&SESS=R&CHAMBER=H&BILLTYPE=B&BILLSUFFIX=01446&VERSION=5&TYPE=B>.
- ²⁸ South Dakota H.B. 1045, Chapter No. 265, <http://legis.state.sd.us/sessions/2005/bills/HB1045enr.pdf>.
- ²⁹ Rhode Island S.B. 2211, <http://www.rilin.state.ri.us/Billtext/BillText06/SenateText06/S2211.pdf>.
- ³⁰ California A.B. 1698, http://www.leginfo.ca.gov/pub/bill/asm/ab_1651-1700/ab_1698_bill_20050913_enrolled.pdf.
- ³¹ Analysis of the Medical Expenditure Panel Survey (MEPS), 2003, by S. Glied and B. Mahato, Columbia University, for The Commonwealth Fund. See *Methodology* for a description of the MEPS.
- ³² J. M. Lambrew and A. Garson, Jr., *Small But Significant Steps to Help the Uninsured* (New York: The Commonwealth Fund, Jan. 2003).
- ³³ Federal Employees Health Benefits Program Handbook, see <http://www.opm.gov/insure/handbook/fehb28.asp>.
- ³⁴ Analysis of the March 2005 Annual Social and Economic Supplement to the CPS, S. Glied and B. Mahato.
- ³⁵ This estimate is based on the costs of adding the estimated number of adults 19 to 23 who currently do not have employer-sponsored health insurance to different types of family policies. The range reflects the average premium increases resulting from spreading those costs across family policies with dependent children (5%) or all non-single policies (3%).
- ³⁶ The range reflects the costs of those school health plans that are consistent with standards recommended by the American College Health Association. Communication with S. Beckley, Stephen L. Beckley & Associates, Inc., Fort Collins, Colo.; L. Rosellini, "Healthcare Headaches," *U.S. News & World Report*, Apr. 15, 2002, p. 52.

Table 1. Months Uninsured Among Young Adults, 1996-2000

	Population in millions	Any part of 4-year period	13 months or more	25 months or more	48 months
Total 19-23*	17	64%	33%	22%	6%
Poverty					
≤ 200% FPL	5	79	52	37	12
> 200% FPL	12	57	25	15	3
Race					
White	12	61	29	18	3
Black	2	65	38	25	11
Hispanic	2	76	52	39	15

* People who were 19-23 at beginning of survey in 1996.

Source: Analysis of the 1996 Panel of the Survey of Income and Program Participation by P. F. Short and D. Graefe for The Commonwealth Fund.

**Table 2. Availability of and Workers' Eligibility for Employer Insurance
(base: workers ages 19-64)**

	Total	Ages 19-29	Ages 30-64
Total (millions)	125.8	26.0	99.8
Eligibility			
Employer offers a plan	77%	71%	78%
Eligible for employer plan	71	62	73
Coverage			
Covered through own employer	57	45	60
Covered through someone else's employer	17	15	17
Covered through public program	4	6	3
Individual	5	5	6
Other	3	6	2
Uninsured	15	23	13
Take-up rate of own-employer insurance	80	73	82

Note: Workers include full-time and part-time workers.

Source: The Commonwealth Fund Biennial Health Insurance Survey (2005).

**Table 3. State Laws That Increase the Age Up to Which
Young Adults Are Considered Dependents for Insurance Purposes**

State	Year law passed or implemented	Limiting age of dependency status	Applies to non-students?
Colorado	2006	25	Yes
Massachusetts	2006	25 ¹	Yes
New Jersey	2006	30	Yes
New Mexico	2005	25	Yes
South Dakota	2005	24 ²	No
Texas	2003	25	No
Utah	1994	26	Yes

¹ Or for two years after they are no longer claimed on their parents' tax returns, whichever comes first.

² Age 19 for non-students.

Notes: Four states have passed laws to extend the dependency eligibility age for young adults in the military or who are disabled. Pennsylvania requires that full-time students whose studies are interrupted by military service are considered dependents until they finish school, regardless of age; Illinois requires that full-time students whose studies are interrupted by military service are considered dependents for the amount of time they spent serving, up to age 25. Oregon includes disabled adult children in the definition of dependent; Maine requires that children with a mental or physical disability that prevents them from enrolling in school are considered dependents up to age 24.

Source: National Conference of State Legislatures, *Changing Definition of Dependent: Who Is Insured and For How Long?* (Washington, D.C.: NCSL). Available at <http://www.ncsl.org/programs/health/dependentstatus.htm>.

METHODOLOGY

Most data in this issue brief are from four surveys: the March Annual Social and Economic Supplement to the Current Population Survey (CPS), 2000–2005; the Medical Expenditure Panel Survey (MEPS), 2003; the 1996 Panel of the Survey of Income and Program Participation (SIPP); and the Commonwealth Fund Biennial Health Insurance Survey (2005). Sherry Glied and Bisundev Mahato of Columbia University, Mailman School of Public Health, provided analysis of the CPS and MEPS. Pamela Farley Short and Deborah Graefe of Pennsylvania State University, Center for Health Care and Policy Research, provided analysis of the SIPP. The authors analyzed the Commonwealth Fund Biennial Health Insurance Survey.

The CPS, MEPS, and SIPP are federal surveys sponsored by the Census Bureau (CPS and SIPP) and the Agency for Healthcare Research and Quality (MEPS). The CPS, the primary source of information on U.S. labor force characteristics, is conducted monthly on a sample of about 57,000 households representing approximately 140,000 people. The Annual Social and Economic Supplement to the CPS is conducted in March of each year with a sample of about 99,000 households. The MEPS uses an overlapping panel design in which data are collected in a series of five interviews over a 30-month period, with a new panel started each year. The sample size in 2003 was about 13,000 families, representing 33,000 people. The SIPP is a multiyear panel survey that interviews a sample of households every four months for several years. The 1996 panel was fielded for four years and consisted of about 37,000 households.

The Commonwealth Fund Biennial Health Insurance Survey (2005) was conducted by Princeton Survey Research Associates International from August 18, 2005, through January 5, 2006. The survey consisted of 25-minute telephone interviews in either English or Spanish and was conducted among a random, nationally representative sample of 4,350 adults age 19 and older living in the continental United States. The analysis in this report is based on 603 adults ages 19 to 29 in the sample. Statistical results are weighted to correct for the disproportionate sample design and to make the final total sample results representative of all adults age 19 and older living in the continental U.S. The data are weighted to the U.S. adult population by age, sex, race/ethnicity, education, household size, geographic region, and telephone service interruption, using the U.S. Census Bureau's 2005 Annual Social and Economic Supplement. The resulting weighted sample is representative of the approximately 212 million adults age 19 and older, including 35.5 million young adults ages 19 to 29.

The Commonwealth Fund is a private foundation that undertakes independent research on health care issues and makes grants to improve health care practice and policy. The views presented here are those of the authors and not necessarily those of The Commonwealth Fund or its directors, officers, or staff, or of The Commonwealth Fund Commission on a High Performance Health System or its members.

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Senator Bettye Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Senate Bill 179(), 25-LS0936\M

"An Act requiring family health care insurance coverage for dependent children who are less than 26 years of age."

EXPLANATION OF HOW A MANDATED INSURANCE OFFER REQUIREMENT IS IMPLEMENTED

This explanation should assure insurers that SB 179 does not wrest control of benefits and premium costs from them. SB 179 adds a new subsection "(e)" to AS 21.42.345 "Required provision for coverage of dependents." This is similar to the addition to the same subsection in SB 170 sponsored by Senator McGuire which is in Senate Rules regarding well-baby exams.

Linda Hall, Director of Division of Insurance, Department of Commerce, Community and Economic Development in a letter to Senator Green on March 18, 2008 concerning SB 170 compared insurance Coverage for Well-Baby Exams to existing mandates for dental, vision, and hearing in AS 21.42.385. Ms. Hall wrote in part:

1. "With respect to how a mandated offer requirement is implemented, first, all insurers who write health care insurance and offer dependent coverage would be required to provide coverage forms which include coverage . . .(for this benefit).
2. Second, insurers are responsible for assuring compliance with the mandate and we have seen insurers comply with AS 21.42.385 (i.e., dental, vision, hearing) in a number of different ways, including:
 - a. offering the specified benefit in their health policies. If the insurer already includes the coverage, no additional offer would need to be made;
 - b. developing and offering a separate rider or amendment that provides the specified benefit and which is then offered in conjunction with a base health insurance policy for a separate premium (the application form would provide an option to select the specified benefit);
 - c. developing and offering a stand-alone policy that contains the required benefit; or
 - d. offering the benefit as one of several available optional benefits from which employers or individuals can select and which, if selected, on the application form, is incorporated directly into that employer's or individual's health insurance policy an premium."

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 179(L&C)

BY SENATOR DAVIS

- 1 Page 1, lines 1 - 4:
- 2 Delete all material and insert:
- 3 **""An Act relating to family health care insurance for dependent children who are**
- 4 **less than 26 years of age.""**

SB

181

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 5/15/07

FURTHER: State Affairs
Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/18/08

Health, Education and Social Services Committee considered

SENATE BILL NO. 181

SB 181 ANATOMICAL GIFTS

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

and recommends:

- be replaced with SCS or CS SB 181 (HES)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

H.S.S.	2/11/08				✓

PREVIOUS FISCAL NOTE(S):

APPROPRIATION - no fiscal note

<i>K. V. Ellis</i>	<i>Ellis</i>	✓			
<i>J. J. Thomas</i>	<i>Thomas</i>	✓			
<i>Robert Dizon</i>	<i>Dizon</i>	✓			
CHAIR: <i>Bettye Davis</i>	<i>PARVIS</i>	✓			

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Chair
Senate State Affairs
Administrative Regulation Review

Member
Senate Judiciary Committee
Senate Resources Committee

SENATOR LESIL MCGUIRE

MEMORANDUM

To: Senator Bettye Davis
Senate Health, Education & Social Services Committee Chair

From: Senator Lesil McGuire

Date: January 28, 2008

Re: Request for hearing, SB 181 – *Anatomical Gifts*

I respectfully request that SB 181 – *Anatomical Gifts* be scheduled for a hearing at your earliest convenience. Attached you will find the most current version of the resolution, a proposed committee substitute, the sponsor statement, and backup information.

If you have any questions or concerns please feel free to contact me personally, or my staff, Trevor Fulton at x3579. Thank you for your time and consideration.

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Chair
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Senate Judiciary Committee
Senate Resources Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT

SB181 – Anatomical Gifts

For nearly forty years, the Uniform Anatomical Gift Act (UAGA) has served as a template for harmonizing anatomical gift laws in all 50 states. By facilitating organ and tissue donation and transplantation, this important piece of federal legislation aims to increase participation in organ donor programs and remove obstacles in the donation process.

Using the 2008 Revised UAGA as a template, SB 181 clarifies Alaska statutes governing anatomical gifts and brings them in sync with technological and methodological changes in the donation and transplantation field over the years.

Alaskans have shown their deep commitment to the community by joining the Alaska Donor Registry (ADR) in record numbers since its inception in 2004. Over 330,000 Alaskans have joined the ADR, representing more than 68% of licensed drivers and close to 50% of the state's population. 800 – 1,000 new registrations are added each week. These impressive numbers certainly underscore Alaskans' support for organ and tissue donation and their willingness to participate in these much needed programs, but more can be done.

At last count, the organ transplant waiting list in the U.S. had grown to nearly 100,000 patients in length, eighteen of which die each day while waiting for a transplant. Right now in Alaska 180 patients in need of a life-saving transplant are waiting for a donated organ to become available and hundreds more are waiting for tissue transplants.

By mirroring language in the 2008 revision of the UAGA, SB 181 improves anatomical gift law in Alaska and, in doing so, encourages and facilitates badly needed organ donations that save and improve lives all over the state and throughout the country.

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Senate Resources Committee

SENATOR LESIL MCGUIRE

SB 181 – Anatomical Gifts

Changes from Original Bill to Draft CS

- Page 15, line 22:
Delete "or implied"
- Page 16, line 5:
Delete "is contraindicated by"
Insert "conflicts with"
- Page 16, line 28:
Delete "shall"
Insert "may"
- Page 17, line 29:
Delete "shall"
Insert "may"
- Page 18, lines 2 – 12:
Delete all material
- Page 18, line 13:
Delete "(g)"
Insert "(f)"
- Page 18, line 14:
Delete "under (f) of this section"
Insert "of a part"
- Page 18, line 22:
Delete ", (c), or (f)"
Insert "or (c)"
- Page 18, line 27:
Delete "(i)"
Insert "(h)"
Delete "is required"
Insert "elects"
- Page 18, line 28:
Delete "under (f) of this section"
- Page 18, line 30:
Delete "(f) of"

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SUMMARY OF CHANGES

SB 181 – Anatomical Gifts

Following discussions with the Department of Law, the Department of Health and Social Services, and representatives of the National Conference of Commissioners on Uniform State Laws, it was agreed that the following changes would be incorporated into a draft committee substitute for SB 181:

1. Reference to “implied terms” of an advance care directive in Sec. 13.52.253 would be deleted;
2. Duties imposed on the State Medical Examiner in Sec. 13.52.257(a) and (e) would be changed to optional, not mandatory;
3. Mandatory attendance at certain medical procedures by the State Medical Examiner in Sec. 13.52.257(f) would be deleted.

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 6, 2008

SUBJECT: Sectional summary of CSSB 181() relating to the Uniform Anatomical Gift Act (Work Order No. 25-LS0578\E)

TO: Senator Lesil McGuire
Attn: Trevor Fulton

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Makes a conforming amendment to a section dealing with the donor registry program.

Section 2. Limits the purpose of donations to in-state promotions of anatomical donations.

Section 3. Limits the anatomical gift purpose of the fund to in-state promotions.

Section 4. Makes a conforming amendment to a definition for the donor registry program.

Section 5. Makes a conforming amendment to a definition for the donor registry program.

Section 6. Makes a conforming amendment to certain requirements for individual instructions.

Section 7. Makes an exception, based on a new anatomical gift section, to the language addressing when advance health care directives from other states are valid.

Section 8. Makes a conforming amendment to the section addressing the revocation of an advance health care directive.

Section 9. Makes a conforming amendment.

Section 10. Makes a conforming amendment.

Section 11. Makes a conforming amendment.

Section 12. Makes a conforming amendment to the provision addressing guardian compliance with individual instruction and revocation of health care directives.

Section 13. Makes a conforming amendment to the provision addressing the compliance of health care providers, health care institutions, and health care facilities with individual instructions and certain health care decisions.

Section 14.

Sec. 13.52.173 allows for the making of an anatomical gift of a donor's body or part before the donor's death. Permitted purposes are transplantation, therapy, research, and education. Describes who can make the gift.

Sec. 13.52.177 describes how and when a donor may make an anatomical gift before the donor's death. Includes by will, by indication on a driver's license or identification card, during a terminal illness, or by a donor card or another record. States that revocation, suspension, expiration, or cancellation of a driver's license or an identification card doesn't invalidate the gift on the license or card. States that invalidation of a will after the donor's death doesn't invalidate the gift.

Section 15.

Sec. 13.52.183 explains how certain anatomical gifts may be amended or revoked. Includes signing a record and executing a document of gift. Specifies certain witnessing requirements. Includes destruction and cancellation of the document of gift and communication in any form during a terminal condition to at least two adults.

Sec. 13.52.187 states that a person may refuse to make an anatomical gift. Indicates how this may be done. Allows a person who has made a refusal to amend or revoke the refusal and indicates how. States generally that a person's refusal to make a gift of the person's body or part bars other persons from making the gifts.

Section 16.

Sec. 13.52.193 generally bars other persons from making, amending, or revoking a gift of a donor's body or part if the donor made the gift or amended the donor's gift. States that a donor's revocation of a gift is not considered a refusal to make a gift and doesn't bar certain other persons from making the gift. Bars certain persons from making, amending, or revoking a gift if a person other than the donor has made or amended the gift. States that revocation of a gift by a person who is not the donor does not bar another person from making the gift. States generally that a gift of one part is not a refusal to give or a

future limitation on the giving of another part. States generally that making a gift for one purpose does not prevent the making of a gift for another purpose. Allows the parent of a deceased unemancipated minor to revoke or amend a gift or to revoke a refusal.

Sec. 13.52.197 allows for the making of a gift of a decedent's body or part. Permitted purposes are transplantation, therapy, research, and education. Provides a prioritized list of the classes of persons who may make the gift. Addresses some problems of dealing with the classes.

Section 17.

Sec. 13.52.203 describes how a person may make an anatomical gift after another person dies. Includes a document of gift and oral communication. States that a gift may be amended or revoked by one or more members of a prior class (as listed under AS 13.52.197). Indicates by what stage in the removal of a part the revocation must be made.

Sec. 13.52.207 states to whom a gift may be made. Indicates to whom the part passes if the gift can't be transplanted into the named recipient. Provides guidance on the situation where the purpose of the gift is stated but the recipient is not. Establishes some priorities where there is more than one purpose stated for the gift and they are not prioritized. Indicates the use of a gift where the gift does not name an allowed recipient or a purpose. Indicates to whom a gift passes when a gift cannot be transplanted, when there is no recipient or purpose named, or when other conditions are met. Prohibits a person from accepting a gift knowing the gift was not effectively made or the decedent made an unrevoked refusal.

Section 18.

Sec. 13.51.213 requires the listed persons to search a deceased individual or an individual near death for a document of gift or other information indicating a gift or a refusal to make a gift. Requires the person finding a document of gift or a refusal to send it to the hospital, if any, to which the deceased or dying person is taken. Except as provided by two other sections, removes criminal and civil liability for failing to comply with this section. But does allow administrative sanctions.

Sec. 13.52.217 states that a document of gift does not have to be delivered during the donor's lifetime to be effective. After death, requires a person holding a document of gift or refusal to allow the document to be examined and copied by certain persons, including a person to whom the gift could pass.

Section 19.

Sec. 13.52.223 requires a procurement organization to make a reasonable search of department records and a donor registry for an individual whom a hospital refers to the

organization as being at or near death. Requires the department to allow a procurement organization reasonable access to the department's records to determine if a person at or near death is a donor. Allows the organization to conduct a reasonable examination to determine medical suitability of a part. Generally allows a prospective gift recipient to conduct a reasonable examination to ensure medical suitability of the part. Generally allows for examination of all the donor's medical and dental records.

Requires at an unemancipated minor's death, if the minor was a donor or had signed a refusal, an organization to search for the parents and provide them with the opportunity to revoke or amend the gift or revoke the refusal. Directs an organization to search for certain persons having priority to make donations for a prospective donor. Gives a recipient superior rights regarding the part. Allows the person to accept or reject the gift in whole or in part. Generally allows the person to allow embalming, burial, or cremation but prohibits unnecessary mutilation when removing a part. Prohibits the physician attending at death and determining the time of death from participating in the removal or transplant of a part.

Sec. 13.52.227 requires a hospital to enter into agreements with procurement organizations to coordinate the procurement and use of anatomical gifts.

Section 20.

Sec. 13.52.233 establishes a criminal penalty for knowingly selling or purchasing an anatomical part to be removed after death. Allows a person to charge a reasonable amount for services related to the handling of anatomical parts.

Section 21.

Sec. 13.52.243 removes, with exceptions, civil, criminal, and administrative liability for a person who complies, or attempts in good faith to act, under these gift provisions (or those of another state). Subject to two other statutes, precludes a person making a gift and the donor's estate from being liable for making or using a gift. Allows persons to rely on representations made by certain other persons unless known to be false.

Sec. 13.52.247 states which state's laws a document of gift may be executed under in order to be valid. Applies the law of this state to the interpretation of gift documents determined to be valid. Allows a person to presume that a document of gift is valid unless known to be invalidly executed or to be revoked.

Section 22.

Sec. 13.52.253 describes how to resolve a conflict between an anatomical gift and an advance health care directive with regard to the administration of measures necessary to ensure medical suitability of a part.

Sec. 13.52.255 requires a coroner and a state medical examiner to cooperate with procurement organizations to maximize the recovery of anatomical gifts. Requires postmortem examinations to be done in a manner and time to preserve gifts. Aside from the medicolegal investigation, prohibits the removal of a part, or delivery of the body to another person, if the body is under the jurisdiction of a coroner or state medical examiner, unless the part or body is the subject of an anatomical gift.

Sec. 13.52.257 allows a coroner or the state medical examiner to release information to a procurement organization. Limits a procurement organization's subsequent disclosures of information. Allows the coroner or state medical examiner to review all relevant records held by any person. Requires a person with relevant information to provide the information to the coroner or state medical examiner on request and as expeditiously as possible.

If, for a body under the jurisdiction of the coroner or state medical examiner, a postmortem examination is not required, or if the examination is required but the part recovery won't interfere with an investigation, requires the coroner or state medical examiner and the procurement organization to cooperate in the timely removal of the part. If the part recovery may interfere with a postmortem investigation, allows the coroner or state medical examiner to consult with the procurement organization or its physician or technician and then to allow recovery.

If recovery is denied, requires a record explaining the reasons. If recovery is allowed, requires the procurement organization to provide, on request, information on the part to the coroner or state medical examiner. Requires a procurement organization to pay the extra costs of complying with this section if a coroner or state medical examiner elects to be present at a removal procedure.

Section 23. States how these gift sections relate to the federal Electronic Signatures in Global and National Commerce Act.

Section 24.

Sec. 13.52.267 requires that interstate uniformity be considered when construing the gift sections.

Sec. 13.52.268 defines terms for the anatomical gift sections.

Section 25. Amends the definition of "anatomical gift" for general application in AS 13.52.

Section 26. Amends the definition of "part" for general application in AS 13.52.

Section 27. Makes a conforming amendment in a section related to the state identification card section.

Section 28. Makes a conforming amendment in a section related to vehicle registration.

Section 29. Makes a conforming amendment in a section relating to driver's license applications.

Section 30. Makes a conforming amendment in a section relating to the issuance of drivers' licenses.

Section 31. Adds donations (to the anatomical gift awareness fund) to a list of program receipts that are accounted for separately.

Section 32. Repeals the current sections and definitions in AS 13.52 that relate to anatomical gifts.

Section 33. Provides that anatomical gifts made under repealed sections continue to be effective until the anatomical gifts are revoked.

If I may be of further assistance, please advise.

TLB:ljw
08-060.ljw

25-LS0578\E
Bannister
1/25/08

CS FOR SENATE BILL NO. 181()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR MCGUIRE

A BILL
FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) Except in the case of mental illness under (c) of this section and except as
28 provided by AS 13.52.183, a principal may revoke all or part of an advance health
29 care directive, other than the designation of an agent, at any time and in any manner
30 that communicates an intent to revoke.
31

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

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

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

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

15 (1) the spouse, unless legally separated;

16 (2) an adult child;

17 (3) a parent; or

18 (4) an adult sibling.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) emancipated; or

16 (B) authorized under state law to apply for a driver's license
17 because the donor is at least 16 years of age;

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

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

21 (4) the donor's guardian; or

22 (5) a surrogate.

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

24 (a) A donor may make an anatomical gift

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

28 (2) in a will;

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

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

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

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

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

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

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

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

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

24 (1) a record signed by
25 (A) the donor;
26 (B) the other person; or
27 (C) subject to (b) of this section, another individual acting at
28 the direction of the donor or the other person if the donor or other person is
29 physically unable to sign; or

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

1 inconsistency.

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

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

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

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

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

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

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

20 (1) a record signed by

21 (A) the individual; or

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

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

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

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

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

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

3 (c) An individual who has made a refusal may amend or revoke the refusal

4 (1) in the manner provided in (a) of this section for making a refusal;

5 (2) by subsequently making an anatomical gift under AS 13.52.177
6 that is inconsistent with the refusal; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 body.

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

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

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

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

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

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

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

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

1 revocation.

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

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

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

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

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

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

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

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

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

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

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

1 education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) AS 13.52.173 - 13.52.268;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 allow the recovery.

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

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

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

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

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

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

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

21 **Sec. 13.52.265. Relation to Electronic Signatures in Global and National**
22 **Commerce Act.** AS 13.52.173 - 13.52.267 modify, limit, and supersede 15 U.S.C.
23 7001 - 7031 (Electronic Signatures in Global and National Commerce Act), except
24 that AS 13.52.173 - 13.52.267 do not modify, limit or supersede 15 U.S.C. 7001, or
25 authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

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

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

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

1 AS 13.52.390, in AS 13.52.173 - 13.52.268,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 perceivable form;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 AS 13.50.150.

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

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

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



**LIFECENTER
NORTHWEST**

Saving Lives through Organ Donation



**LIVING
LEGACY
FOUNDATION**

Saving Lives through Organ & Tissue Donation

**Revised Uniform Anatomical Gift Act (UAGA) 2008
House Bill 1637 - Senate Bill 5657
Information Sheet**

Each day, 18 people in the U.S. die waiting for a life-saving organ transplant.

Nearly 100,000 people are currently on the national organ transplant waiting list.

Updating the laws that govern anatomical gifts is imperative in order to serve the **1,500+ patients currently waiting for an organ transplant in this state**. Last year, **about 100 of those people died** while waiting for a life-saving transplant that never came.

This act was written by the National Conference of Commissioners on Uniform State Laws (NCCUSL), which develops and drafts acts for State Legislatures to consider when nationwide consistency is desirable.

The intent of the 2008 revision is to update and modernize the UAGA in every state, and to ensure consistency in policy and practice across the nation. Uniformity is important because we must ensure people across the US receive the same high level of service, benefit from the same resources, and are protected by the same laws.

Washington's UAGA will be updated in a number of vital ways:

- It harmonizes Washington's UAGA with federal law, current technology and Advance Medical Directives.
- It clarifies the rules for donation decision-making when a registry record is not in place, further defining who can make or refuse a gift on the behalf of the potential donor.
- It strengthens an adult's right to refuse a gift if they so desire, as well as the right of a parent or guardian to refuse a gift on behalf of a minor.
- It clarifies the roles and responsibilities of donation agencies, indicating who is responsible for tracking and managing potential donors and who can receive and process an anatomical gift.
- It provides new guidelines for cooperation and coordination between organ donation agencies and medical examiners and coroners, particularly in cases where a potential donor's death circumstances placed them under the jurisdiction of the Medical Examiner or coroner.
- It more clearly prioritizes donation for transplantation over donation for research.
- This revision of the UAGA is strongly supported by local and national organ and tissue donation agencies and governing bodies as well as multiple medical associations, societies, and foundations.

Please support this important legislation...lives depend on it.