



LAWS OF ALASKA

1970

Source

HB 707 am S

Chapter No.

131

AN ACT

Establishing the Alaska Uniform Anatomical Gift Act.

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

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

CHAPTER 14. UNIFORM ANATOMICAL GIFT ACT.

Sec. 13.14.010. PERSONS WHO MAY EXECUTE AN ANATOMICAL GIFT. (a) A person of sound mind who is 19 or more years of age may make a gift to take effect upon death, of all or a part of his body for a purpose specified in sec. 20 of this chapter.

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

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

obligation to dispose of the body.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by (b) of this section may make the gift after or immediately before death.

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

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

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

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

(2) an accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy; or

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

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

Sec. 13.14.030. MANNER OF EXECUTING ANATOMICAL GIFTS.

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

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

(c) A gift may be made to a specified donee or without specifying a donee. If a donee is not specified, the gift may be accepted by the attending physician as donee upon or after death. If the gift is made to a

specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee.

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

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

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

Sec. 13.14.050. AMENDMENT OR REVOCATION OF THE GIFT.

(a) If the will, card, or other document or executed copy of it is delivered to a specified donee, the donor may amend or revoke the gift by:

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

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

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

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

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

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

Sec. 13.14.060. RIGHTS AND DUTIES AT DEATH. (aa)

The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall have the part removed without unnecessary mutilation. After removal of the part of the body, custody of the remainder of the body vests in the surviving spouse, next of kin, or a person other than the spouse or next of kin who is authorized to dispose of the body.

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

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

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

Sec. 13.14.070. DEFINITIONS. In this chapter

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

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

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

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

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

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

(7) "state" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

Sec. 13.14.080. UNIFORMITY OF INTERPRETATION. This chapter shall be construed and interpreted as to carry out its general purpose to make uniform the laws in those

states which enact it.

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

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

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

* Sec. 3. AS 13.05.035 is repealed.