



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1349

Introduced 2/18/2009, by Rep. William Davis

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Revised Uniform Anatomical Gift Act, proposed by the National Conference of Commissioners on Uniform State Laws. Contains provisions regarding: applicability; who may make an anatomical gift before a donor's death and the making, amending, or revoking of such a gift; the refusal to make an anatomical gift; who may make an anatomical gift of a decedent's body or part and the making, amending, or revoking of such a gift; documents of gift or other information identifying an individual as a donor or as an individual who made a refusal; the rights and duties of procurement organization and other parties; coordination of procurement and use; prohibition of the purchase of parts and other prohibitions; immunity; choice of law; presumptions; advance health-care directives; disability of a recipient of an anatomical gift; cooperation between coroners or medical examiners and procurement organizations; bodies under jurisdiction of a coroner or medical examiner; construction; and other matters. Repeals the Illinois Anatomical Gift Act. Amends various Acts to make conforming changes.

LRB096 04093 WGH 18977 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Revised Uniform Anatomical Gift Act.

6 Section 2. Definitions. In this Act:

7 (1) "Adult" means an individual who is at least 18 years of  
8 age.

9 (2) "Agent" means an individual:

10 (A) authorized to make health-care decisions on the  
11 principal's behalf by a power of attorney for health care  
12 or in accordance with the Health Care Surrogate Act; or

13 (B) expressly authorized to make an anatomical gift on  
14 the principal's behalf by any other record signed by the  
15 principal.

16 (3) "Anatomical gift" means a donation of all or part of a  
17 human body to take effect after the donor's death for the  
18 purpose of transplantation, therapy, research, or education.

19 (3.1) "Death" means the irreversible cessation of total  
20 brain function as determined according to the usual and  
21 customary standard of medical practice or the irreversible  
22 cessation of cardiac rhythm as determined according to the  
23 usual and customary standard of medical practice.

1           (4) "Decedent" means a deceased individual whose body or  
2 part is or may be the source of an anatomical gift. The term  
3 includes a stillborn infant and, subject to restrictions  
4 imposed by law other than this Act, a fetus.

5           (5) "Disinterested witness" means a witness other than the  
6 spouse, child, parent, sibling, grandchild, grandparent, or  
7 guardian of the individual who makes, amends, revokes, or  
8 refuses to make an anatomical gift, or another adult who  
9 exhibited special care and concern for the individual. The term  
10 does not include a person to which an anatomical gift could  
11 pass under Section 11.

12           (6) "Document of gift" means a donor card or other record  
13 used to make an anatomical gift. The term includes a statement  
14 or symbol on a driver's license, identification card, or donor  
15 registry.

16           (6.1) "Donation after cardiac death" means the donation of  
17 organs from a ventilated patient without a certification of  
18 brain death and with a do-not-resuscitate order, if a decision  
19 has been reached by the physician and the family to withdraw  
20 life support and if the donation does not occur until after the  
21 declaration of cardiac death.

22           (7) "Donor" means an individual whose body or part is the  
23 subject of an anatomical gift.

24           (8) "Donor registry" means a database that contains records  
25 of anatomical gifts and amendments to or revocations of  
26 anatomical gifts.

1           (9) "Driver's license" means a license or permit issued by  
2 the Secretary of State to operate a vehicle, whether or not  
3 conditions are attached to the license or permit.

4           (10) "Eye bank" means a person that is licensed, accredited  
5 by either the American Association of Tissue Banks, the Eye  
6 Bank Association of America, or the Association of Organ  
7 Procurement Organizations, or regulated under federal or state  
8 law to engage in the recovery, screening, testing, processing,  
9 storage, or distribution of human eyes or portions of human  
10 eyes.

11           (11) "Guardian" means a person appointed by a court to make  
12 decisions regarding the support, care, education, health, or  
13 welfare of an individual. The term does not include a guardian  
14 ad litem.

15           (12) "Hospital" means a facility licensed as a hospital  
16 under the law of any state or a facility operated as a hospital  
17 by the United States, a state, or a subdivision of a state.

18           (13) "Identification card" means an identification card  
19 issued by the Secretary of State.

20           (14) "Know" means to have actual knowledge.

21           (15) "Minor" means an individual who is under 18 years of  
22 age.

23           (16) "Organ procurement organization" means a person  
24 designated by the Secretary of the United States Department of  
25 Health and Human Services and accredited by either the American  
26 Association of Tissue Banks, the Eye Bank Association of

1 America, or the Association of Organ Procurement  
2 Organizations, as an organ procurement organization.

3 (17) "Parent" means a parent whose parental rights have not  
4 been terminated.

5 (18) "Part" means an organ, an eye, or tissue of a human  
6 being. The term does not include the whole body.

7 (19) "Person" means an individual, corporation, business  
8 trust, estate, trust, partnership, limited liability company,  
9 association, joint venture, public corporation, government or  
10 governmental subdivision, agency, or instrumentality, or any  
11 other legal or commercial entity.

12 (20) "Physician" means an individual authorized to  
13 practice medicine or osteopathy under the law of any state.

14 (21) "Procurement organization" means an eye bank, organ  
15 procurement organization, or tissue bank.

16 (22) "Prospective donor" means an individual who is dead or  
17 near death and has been determined by a procurement  
18 organization to have a part that could be medically suitable  
19 for transplantation, therapy, research, or education. The term  
20 does not include an individual who has made a refusal.

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

25 (24) "Recipient" means an individual into whose body a  
26 decedent's part has been or is intended to be transplanted.

1           (25) "Record" means information that is inscribed on a  
2 tangible medium or that is stored in an electronic or other  
3 medium and is retrievable in perceivable form.

4           (26) "Refusal" means a record created under Section 7 that  
5 expressly states an intent to bar other persons from making an  
6 anatomical gift of an individual's body or part.

7           (27) "Sign" means, with the present intent to authenticate  
8 or adopt a record:

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

10                (B) to attach to or logically associate with the record  
11 an electronic symbol, sound, or process.

12           (28) "State" means a state of the United States, the  
13 District of Columbia, Puerto Rico, the United States Virgin  
14 Islands, or any territory or insular possession subject to the  
15 jurisdiction of the United States.

16           (29) "Technician" means an individual determined to be  
17 qualified to remove or process parts by an appropriate  
18 organization that is licensed, accredited, or regulated under  
19 federal or state law. The term includes an enucleator.

20           (30) "Tissue" means a portion of the human body other than  
21 an organ or an eye. The term does not include blood unless the  
22 blood is donated for the purpose of research or education.

23           (31) "Tissue bank" means a person that is licensed,  
24 accredited by either the American Association of Tissue Banks,  
25 the Eye Bank Association of America, or the Association of  
26 Organ Procurement Organizations, or regulated under federal or

1 state law to engage in the recovery, screening, testing,  
2 processing, storage, or distribution of tissue.

3 (32) "Transplant hospital" means a hospital that furnishes  
4 organ transplants and other medical and surgical specialty  
5 services required for the care of transplant patients.

6 Section 3. Applicability. This Act applies to an  
7 anatomical gift or amendment to, revocation of, or refusal to  
8 make an anatomical gift, whenever made.

9 Section 4. Who may make anatomical gift before donor's  
10 death. Subject to Section 8, an anatomical gift of a donor's  
11 body or part may be made during the life of the donor for the  
12 purpose of transplantation, therapy, research, or education in  
13 the manner provided in Section 5 by:

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

16 (2) an agent of the donor, unless the power of attorney  
17 for health care or other record prohibits the agent from  
18 making an anatomical gift;

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

21 (4) the donor's guardian.

22 Section 5. Manner of making anatomical gift before donor's  
23 death.

1 (a) A donor may make an anatomical gift:

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

5 (2) in a will;

6 (3) during a terminal illness or injury of the donor,  
7 by any form of communication addressed to at least two  
8 adults, at least one of whom is a disinterested witness; or

9 (4) as provided in subsections (b) and (b-1).

10 (b) A donor or other person authorized to make an  
11 anatomical gift under Section 4 may make a gift by a donor card  
12 or other record signed by the donor or other person making the  
13 gift or by authorizing that a statement or symbol indicating  
14 that the donor has made an anatomical gift be included on a  
15 donor registry. If the donor or other person is physically  
16 unable to sign a record, the record may be signed by another  
17 individual at the direction of the donor or other person and  
18 must:

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

22 (2) state that it has been signed and witnessed as  
23 provided in paragraph (1).

24 (b-1) A gift under Section 4(1) may also be made by an  
25 individual consenting to have his or her name included in the  
26 First Person Consent organ and tissue donor registry maintained



1 by the Secretary of State under Section 6-117 of the Illinois  
2 Vehicle Code. An individual's consent to have his or her name  
3 included in the First Person Consent organ and tissue donor  
4 registry constitutes full legal authority for the donation of  
5 any of his or her organs or tissue. Consenting to be included  
6 in the First Person Consent organ and tissue donor registry is  
7 effective without regard to the presence or signature of  
8 witnesses.

9 (c) Revocation, suspension, expiration, or cancellation of  
10 a driver's license or identification card upon which an  
11 anatomical gift is indicated does not invalidate the gift.

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

16 Section 6. Amending or revoking anatomical gift before  
17 donor's death.

18 (a) Subject to Section 8, a donor or other person  
19 authorized to make an anatomical gift under Section 4 may amend  
20 or revoke an anatomical gift by:

21 (1) a record signed by:

22 (A) the donor;

23 (B) the other person; or

24 (C) subject to subsection (b), another individual  
25 acting at the direction of the donor or the other

1 person if the donor or other person is physically  
2 unable to sign; or

3 (2) a later-executed document of gift that amends or  
4 revokes a previous anatomical gift or portion of an  
5 anatomical gift, either expressly or by inconsistency.

6 (b) A record signed pursuant to subsection (a) (1) (C) must:

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

10 (2) state that it has been signed and witnessed as  
11 provided in paragraph (1).

12 (c) Subject to Section 8, a donor or other person  
13 authorized to make an anatomical gift under Section 4 may  
14 revoke an anatomical gift by the destruction or cancellation of  
15 the document of gift, or the portion of the document of gift  
16 used to make the gift, with the intent to revoke the gift.

17 (c-1) An individual may withdraw his or her consent to be  
18 listed in the First Person Consent organ and tissue donor  
19 registry maintained by the Secretary of State by notifying the  
20 Secretary of State in writing, or by any other means approved  
21 by the Secretary, of the individual's decision to have his or  
22 her name removed from the registry.

23 (d) A donor may amend or revoke an anatomical gift that was  
24 not made in a will by any form of communication during a  
25 terminal illness or injury addressed to at least two adults, at  
26 least one of whom is a disinterested witness.

1           (e) A donor who makes an anatomical gift in a will may  
2 amend or revoke the gift in the manner provided for amendment  
3 or revocation of wills or as provided in subsection (a).

4           Section 7. Refusal to make anatomical gift; effect of  
5 refusal.

6           (a) An individual may refuse to make an anatomical gift of  
7 the individual's body or part by:

8                 (1) a record signed by:

9                     (A) the individual; or

10                    (B) subject to subsection (b), another individual  
11 acting at the direction of the individual if the  
12 individual is physically unable to sign;

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

16                 (3) any form of communication made by the individual  
17 during the individual's terminal illness or injury  
18 addressed to at least two adults, at least one of whom is a  
19 disinterested witness.

20           (b) A record signed pursuant to subsection (a) (1) (B) must:

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

24                 (2) state that it has been signed and witnessed as  
25 provided in paragraph (1).

1 (c) An individual who has made a refusal may amend or  
2 revoke the refusal:

3 (1) in the manner provided in subsection (a) for making  
4 a refusal;

5 (2) by subsequently making an anatomical gift pursuant  
6 to Section 5 that is inconsistent with the refusal; or

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

10 (d) Except as otherwise provided in Section 8(h), in the  
11 absence of an express, contrary indication by the individual  
12 set forth in the refusal, an individual's unrevoked refusal to  
13 make an anatomical gift of the individual's body or part bars  
14 all other persons from making an anatomical gift of the  
15 individual's body or part.

16 Section 8. Preclusive effect of anatomical gift,  
17 amendment, or revocation.

18 (a) Except as otherwise provided in subsection (g) and  
19 subject to subsection (f), in the absence of an express,  
20 contrary indication by the donor, a person other than the donor  
21 is barred from making, amending, or revoking an anatomical gift  
22 of a donor's body or part if the donor made an anatomical gift  
23 of the donor's body or part under Section 5 or an amendment to  
24 an anatomical gift of the donor's body or part under Section 6.

25 (b) A donor's revocation of an anatomical gift of the

1 donor's body or part under Section 6 is not a refusal and does  
2 not bar another person specified in Section 4 or 9 from making  
3 an anatomical gift of the donor's body or part under Section 5  
4 or 10.

5 (c) If a person other than the donor makes an unrevoked  
6 anatomical gift of the donor's body or part under Section 5 or  
7 an amendment to an anatomical gift of the donor's body or part  
8 under Section 6, another person may not make, amend, or revoke  
9 the gift of the donor's body or part under Section 10.

10 (d) A revocation of an anatomical gift of a donor's body or  
11 part under Section 6 by a person other than the donor does not  
12 bar another person from making an anatomical gift of the body  
13 or part under Section 5 or 10.

14 (e) In the absence of an express, contrary indication by  
15 the donor or other person authorized to make an anatomical gift  
16 under Section 4, an anatomical gift of a part is neither a  
17 refusal to give another part nor a limitation on the making of  
18 an anatomical gift of another part at a later time by the donor  
19 or another person.

20 (f) In the absence of an express, contrary indication by  
21 the donor or other person authorized to make an anatomical gift  
22 under Section 4, an anatomical gift of a part for one or more  
23 of the purposes set forth in Section 4 is not a limitation on  
24 the making of an anatomical gift of the part for any of the  
25 other purposes by the donor or any other person under Section 5  
26 or 10.

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

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

7           Section 9. Who may make anatomical gift of decedent's body  
8 or part.

9           (a) Subject to subsections (b) and (c) and unless barred by  
10 Section 7 or 8, an anatomical gift of a decedent's body or part  
11 for purpose of transplantation, therapy, research, or  
12 education may be made after or immediately before death by any  
13 member of the following classes of persons who is reasonably  
14 available, in the order of priority listed:

15           (1) an agent of the decedent at the time of death who  
16 could have made an anatomical gift under Section 4(2)  
17 immediately before the decedent's death;

18           (2) the spouse of the decedent;

19           (3) adult children of the decedent;

20           (4) parents of the decedent;

21           (5) adult siblings of the decedent;

22           (6) adult grandchildren of the decedent;

23           (7) grandparents of the decedent;

24           (8) an adult who exhibited special care and concern for  
25 the decedent;

1           (9) the persons who were acting as the guardians of the  
2           person of the decedent at the time of death; and

3           (10) any other person having the authority to dispose  
4           of the decedent's body.

5           (b) If there is more than one member of a class listed in  
6           subsection (a) (1), (3), (4), (5), (6), (7), or (9) entitled to  
7           make an anatomical gift, an anatomical gift may be made by a  
8           member of the class unless that member or a person to which the  
9           gift may pass under Section 11 knows of an objection by another  
10          member of the class. If an objection is known, the gift may be  
11          made only by a majority of the members of the class who are  
12          reasonably available.

13          (c) A person may not make an anatomical gift if, at the  
14          time of the decedent's death, a person in a prior class under  
15          subsection (a) is reasonably available to make or to object to  
16          the making of an anatomical gift.

17          Section 10. Manner of making, amending, or revoking  
18          anatomical gift of decedent's body or part.

19          (a) A person authorized to make an anatomical gift under  
20          Section 9 may make an anatomical gift by a document of gift  
21          signed by the person making the gift or by that person's oral  
22          communication that is electronically recorded or is  
23          contemporaneously reduced to a record and signed by the  
24          individual receiving the oral communication.

25          (b) Subject to subsection (c), an anatomical gift by a

1 person authorized under Section 9 may be amended or revoked  
2 orally or in a record by any member of a prior class who is  
3 reasonably available. If more than one member of the prior  
4 class is reasonably available, the gift made by a person  
5 authorized under Section 9 may be:

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

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

11 (c) A revocation under subsection (b) is effective only if,  
12 before an incision has been made to remove a part from the  
13 donor's body or before invasive procedures have begun to  
14 prepare the recipient, the procurement organization,  
15 transplant hospital, or physician or technician knows of the  
16 revocation.

17 Section 11. Persons that may receive anatomical gift;  
18 purpose of anatomical gift.

19 (a) An anatomical gift may be made to the following persons  
20 named in the document of gift:

21 (1) a hospital; accredited medical school, dental  
22 school, college, or university; organ procurement  
23 organization; or other appropriate person, for research or  
24 education;

25 (2) subject to subsection (b), an individual



1 designated by the person making the anatomical gift if the  
2 individual is the recipient of the part;

3 (3) an eye bank or tissue bank.

4 (b) If an anatomical gift to an individual under subsection  
5 (a)(2) cannot be transplanted into the individual, the part  
6 passes in accordance with subsection (g) in the absence of an  
7 express, contrary indication by the person making the  
8 anatomical gift.

9 (c) If an anatomical gift of one or more specific parts or  
10 of all parts is made in a document of gift that does not name a  
11 person described in subsection (a) but identifies the purpose  
12 for which an anatomical gift may be used, the following rules  
13 apply:

14 (1) If the part is an eye and the gift is for the  
15 purpose of transplantation or therapy, the gift passes to  
16 the appropriate eye bank.

17 (2) If the part is tissue and the gift is for the  
18 purpose of transplantation or therapy, the gift passes to  
19 the appropriate tissue bank.

20 (3) If the part is an organ and the gift is for the  
21 purpose of transplantation or therapy, the gift passes to  
22 the appropriate organ procurement organization as  
23 custodian of the organ.

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

1 (d) For the purpose of subsection (c), if there is more  
2 than one purpose of an anatomical gift set forth in the  
3 document of gift but the purposes are not set forth in any  
4 priority, the gift must be used for transplantation or therapy,  
5 if suitable. If the gift cannot be used for transplantation or  
6 therapy, the gift may be used for research or education.

7 (e) If an anatomical gift of one or more specific parts is  
8 made in a document of gift that does not name a person  
9 described in subsection (a) and does not identify the purpose  
10 of the gift, the gift may be used only for transplantation or  
11 therapy, and the gift passes in accordance with subsection (g).

12 (f) If a document of gift specifies only a general intent  
13 to make an anatomical gift by words such as "donor", "organ  
14 donor", or "body donor", or by a symbol or statement of similar  
15 import, the gift may be used only for transplantation or  
16 therapy, and the gift passes in accordance with subsection (g).

17 (g) For purposes of subsections (b), (e), and (f) the  
18 following rules apply:

19 (1) If the part is an eye, the gift passes to the  
20 appropriate eye bank.

21 (2) If the part is tissue, the gift passes to the  
22 appropriate tissue bank.

23 (3) If the part is an organ, the gift passes to the  
24 appropriate organ procurement organization as custodian of  
25 the organ.

26 (h) An anatomical gift of an organ for transplantation or

1 therapy, other than an anatomical gift under subsection (a)(2),  
2 passes to the organ procurement organization as custodian of  
3 the organ.

4 (i) If an anatomical gift does not pass pursuant to  
5 subsections (a) through (h) or the decedent's body or part is  
6 not used for transplantation, therapy, research, or education,  
7 custody of the body or part passes to the person under  
8 obligation to dispose of the body or part.

9 (j) A person may not accept an anatomical gift if the  
10 person knows that the gift was not effectively made under  
11 Section 5 or 10 or if the person knows that the decedent made a  
12 refusal under Section 7 that was not revoked. For purposes of  
13 the subsection, if a person knows that an anatomical gift was  
14 made on a document of gift, the person is deemed to know of any  
15 amendment or revocation of the gift or any refusal to make an  
16 anatomical gift on the same document of gift.

17 (k) Except as otherwise provided in subsection (a)(2),  
18 nothing in this Act affects the allocation of organs for  
19 transplantation or therapy.

20 Section 12. Search and notification.

21 (a) The following persons shall make a reasonable search of  
22 an individual who the person reasonably believes is dead or  
23 near death for a document of gift or other information  
24 identifying the individual as a donor or as an individual who  
25 made a refusal:

1           (1) a law enforcement officer, firefighter, paramedic,  
2           or other emergency rescuer finding the individual; and

3           (2) if no other source of the information is  
4           immediately available, a hospital, as soon as practical  
5           after the individual's arrival at the hospital.

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

12          (c) A person is not subject to criminal or civil liability  
13          for failing to discharge the duties imposed by this Section but  
14          may be subject to administrative sanctions.

15          Section 13. Delivery of document of gift not required;  
16          right to examine.

17          (a) A document of gift need not be delivered during the  
18          donor's lifetime to be effective.

19          (b) Upon or after an individual's death, a person in  
20          possession of a document of gift or a refusal to make an  
21          anatomical gift with respect to the individual shall allow  
22          examination and copying of the document of gift or refusal by a  
23          person authorized to make or object to the making of an  
24          anatomical gift with respect to the individual or by a person  
25          to which the gift could pass under Section 11.

1           Section 14. Rights and duties of procurement organization  
2 and others.

3           (a) When a hospital refers an individual at or near death  
4 to a procurement organization, the organization shall make a  
5 reasonable search of the records of the Secretary of State and  
6 any donor registry that it knows exists for the geographical  
7 area in which the individual resides to ascertain whether the  
8 individual has made an anatomical gift.

9           (b) A procurement organization must be allowed reasonable  
10 access to information in the records of the Secretary of State  
11 to ascertain whether an individual at or near death is a donor.

12           (c) When a hospital refers an individual at or near death  
13 to a procurement organization, the organization may conduct any  
14 reasonable examination necessary to ensure the medical  
15 suitability of a part that is or could be the subject of an  
16 anatomical gift for transplantation, therapy, research, or  
17 education from a donor or a prospective donor. During the  
18 examination period, measures necessary to ensure the medical  
19 suitability of the part may not be withdrawn unless the  
20 hospital or procurement organization knows that the individual  
21 expressed a contrary intent.

22           (c-1) If a prospective donor of any organ or an individual  
23 with the authority under Section 9 to donate an organ of a  
24 prospective donor who is not brain dead expresses an interest  
25 in organ donation and the potential donor is a patient at a

1 hospital that does not allow donation after cardiac death, the  
2 organ procurement organization shall orally inform the patient  
3 or the other individual if the patient does not have  
4 decision-making capacity that the hospital does not allow  
5 donation after cardiac death. In addition to providing oral  
6 notification, the organ procurement organization shall give to  
7 the patient or other individual if the patient does not have  
8 decision-making capacity a record stating that:

9 (i) the patient or the other individual has been given  
10 literature and has been counseled about organ donation  
11 after cardiac death by (representative's name) of the  
12 (organ procurement agency name);

13 (ii) all organ donation options have been explained to  
14 the patient or the other individual, including the option  
15 of donation after cardiac death;

16 (iii) the patient or the other individual is aware that  
17 the hospital where the prospective donor is a patient does  
18 not allow donation after cardiac death;

19 (iv) the patient or the other individual has been  
20 informed of the right to request a patient transfer to a  
21 facility allowing donation after cardiac death; and

22 (v) the patient or the other individual has been  
23 informed of another hospital that will allow donation after  
24 cardiac death and will accept a patient transfer for the  
25 purpose of donation after cardiac death and that the cost  
26 of transferring the patient to that other hospital will be

1 covered by the organ procurement organization with no  
2 additional cost to the patient or the other individual.

3 (d) Unless prohibited by law other than this Act, at any  
4 time after a donor's death, the person to which a part passes  
5 under Section 11 may conduct any reasonable examination  
6 necessary to ensure the medical suitability of the body or part  
7 for its intended purpose. If the procurement organization is  
8 provided information, or determines through independent  
9 examination, that there is evidence that the gift was exposed  
10 to the human immunodeficiency virus (HIV) or any other  
11 identified causative agent of acquired immunodeficiency  
12 syndrome (AIDS), the donee may reject the gift and shall treat  
13 the information and examination results as a confidential  
14 medical record; the donee may disclose only the results  
15 confirming HIV exposure, and only to the physician of the  
16 deceased donor. The donor's physician shall determine whether  
17 the person who executed the gift should be notified of the  
18 confirmed positive test result.

19 (e) Unless prohibited by law other than this Act, an  
20 examination under subsection (c) or (d) may include an  
21 examination of all medical and dental records of the donor or  
22 prospective donor.

23 (f) (Blank).

24 (g) Upon referral by a hospital under subsection (a), a  
25 procurement organization shall make a reasonable search for any  
26 person listed in Section 9 having priority to make an

1 anatomical gift on behalf of a prospective donor. If a  
2 procurement organization receives information that an  
3 anatomical gift to any other person was made, amended, or  
4 revoked, it shall promptly advise the other person of all  
5 relevant information.

6 (h) Subject to Sections 11(i) and 23, the rights of the  
7 person to which a part passes under Section 11 are superior to  
8 the rights of all others with respect to the part. The person  
9 may accept or reject an anatomical gift in whole or in part.  
10 Subject to the terms of the document of gift and this Act, a  
11 person that accepts an anatomical gift of an entire body may  
12 allow embalming, burial or cremation, and use of remains in a  
13 funeral service. If the gift is of a part, the person to which  
14 the part passes under Section 11, upon the death of the donor  
15 and before embalming, burial, or cremation, shall cause the  
16 part to be removed without unnecessary mutilation.

17 (i) Neither the physician who attends the decedent at death  
18 nor the physician who determines the time of the decedent's  
19 death may participate in the procedures for removing or  
20 transplanting a part from the decedent.

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

24 Section 15. Coordination of procurement and use. Each  
25 hospital in this State shall enter into agreements or



1 affiliations with procurement organizations for coordination  
2 of procurement and use of anatomical gifts. Coroners and  
3 medical examiners shall not interfere with agreements or  
4 affiliations with procurement organizations for coordination  
5 of procurement.

6 Section 16. Sale or purchase of parts prohibited.

7 (a) Except as otherwise provided in subsection (b), a  
8 person that for valuable consideration, knowingly purchases or  
9 sells a part for transplantation or therapy if removal of a  
10 part from an individual is intended to occur after the  
11 individual death shall be guilty of a Class 4 felony for the  
12 first conviction and a Class 2 felony for subsequent  
13 convictions; further provided, however, if a person is in the  
14 business of procuring or recovering parts, such person must be  
15 formed as a non-profit organization exempt from federal income  
16 taxation pursuant to Section 501(c)(3) of the Internal Revenue  
17 Code of 1986, as amended, otherwise such person shall be in  
18 violation of this Act and shall be guilty of a Class 4 felony  
19 for the first conviction and a Class 2 felony for subsequent  
20 convictions. Hospitals, physicians, or other licensed health  
21 care providers in the State of Illinois who recover or procure  
22 tissue for their own patients shall not be subject to the  
23 penalties contained in this provision.

24 (b) A person may charge a reasonable amount for the  
25 removal, processing, preservation, quality control, storage,

1 transportation, implantation, or disposal of a part.

2 Section 17. Other prohibited acts. A person that, in order  
3 to obtain a financial gain, intentionally falsifies, forges,  
4 conceals, defaces, or obliterates a document of gift, an  
5 amendment or revocation of a document of gift, or a refusal  
6 commits a Class 3 felony.

7 Section 18. Immunity.

8 (a) A person that acts in good faith in accordance with the  
9 terms of this Act, the Illinois Vehicle Code, and the AIDS  
10 Confidentiality Act, or with the applicable anatomical gift law  
11 of another state, including any person that participates in  
12 good faith and according to the usual and customary standards  
13 of medical practice in the preservation, removal, or  
14 transplantation, of any part of a decedent's body pursuant to  
15 an anatomical gift made under this Act or attempts in good  
16 faith to do so, is not liable for the act in a civil action,  
17 criminal prosecution, or administrative proceeding.

18 (a-1) For the purposes of any proceedings, civil or  
19 criminal, it shall be presumed that any anatomical gift made  
20 pursuant to this Act is valid and that any person participating  
21 in the removal or transplantation of any part of a decedent's  
22 body to effectuate an anatomical gift made pursuant to this Act  
23 acted in good faith.

24 (b) Neither the person making an anatomical gift nor the

1 donor's estate is liable for any injury or damage that results  
2 from the making or use of the gift.

3 (c) In determining whether an anatomical gift has been  
4 made, amended, or revoked under this Act, a person may rely  
5 upon representations of an individual listed in Section  
6 9(a)(2), (3), (4), (5), (6), (7), or (8) relating to the  
7 individual's relationship to the donor or prospective donor  
8 unless the person knows that the representation is untrue.

9 Section 19. Law governing validity; choice of law as to  
10 execution of document of gift; presumption of validity.

11 (a) A document of gift is valid if executed in accordance  
12 with:

13 (1) this Act;

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

16 (3) the laws of the state or country where the person  
17 making the anatomical gift was domiciled, has a place of  
18 residence, or was a national at the time the document of  
19 gift was executed.

20 (b) If a document of gift is valid under this Section, the  
21 law of this State governs the interpretation of the document of  
22 gift.

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

1 Section 20. (Blank).

2 Section 21. Effect of anatomical gift on advance  
3 health-care directive.

4 (a) In this Section:

5 (1) "Advance health-care directive" means a power of  
6 attorney for health care or a record signed or authorized  
7 by a prospective donor containing the prospective donor's  
8 direction concerning a health-care decision for the  
9 prospective donor.

10 (2) "Declaration" means a record signed by a  
11 prospective donor specifying the circumstances under which  
12 a life support system may be withheld or withdrawn from the  
13 prospective donor.

14 (3) "Health-care decision" means any decision  
15 regarding the health care of the prospective donor.

16 (b) If a prospective donor has a declaration or advance  
17 health-care directive and the terms of the declaration or  
18 directive and the express or implied terms of a potential  
19 anatomical gift are in conflict with regard to the  
20 administration of measures necessary to ensure the medical  
21 suitability of a part for transplantation or therapy, the  
22 prospective donor's attending physician and prospective donor  
23 shall confer to resolve the conflict. If the prospective donor  
24 is incapable of resolving the conflict, an agent acting under

1 the prospective donor's declaration or directive, or, if none  
2 or the agent is not reasonably available, another person  
3 authorized by law other than this Act to make health-care  
4 decisions on behalf of the prospective donor, shall act for the  
5 donor to resolve the conflict. The conflict must be resolved as  
6 expeditiously as possible. Information relevant to the  
7 resolution of the conflict may be obtained from the appropriate  
8 procurement organization and any other person authorized to  
9 make an anatomical gift for the prospective donor under Section  
10 9. Before resolution of the conflict, measures necessary to  
11 ensure the medical suitability of the part may not be withheld  
12 or withdrawn from the prospective donor if withholding or  
13 withdrawing the measures is not contraindicated by appropriate  
14 end-of-life care.

15 Section 21.1. Disability of recipient.

16 (a) No hospital, physician, procurement agency or other  
17 person shall determine the ultimate recipient of an anatomical  
18 gift based upon a potential recipient's physical or mental  
19 disability, except to the extent that the physical or mental  
20 disability has been found by a physician, following a case by  
21 case evaluation of the potential recipient, to be medically  
22 significant to the provision of the anatomical gift.

23 (b) Subsection (a) shall apply to each part of the organ  
24 transplant process.

25 (c) The court shall accord priority on its calendar and

1 handle expeditiously any action brought to seek any remedy  
2 authorized by law for purposes of enforcing compliance with  
3 this Section.

4 (d) This Section shall not be deemed to require referrals  
5 or recommendations for or the performance of medically  
6 inappropriate organ transplants.

7 (e) As used in this Section, "disability" has the same  
8 meaning as in the federal Americans with Disabilities Act of  
9 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be  
10 amended from time to time.

11 Section 22. Cooperation between coroner or medical  
12 examiner and procurement organization.

13 (a) A coroner or medical examiner shall cooperate with  
14 procurement organizations to maximize the opportunity to  
15 recover anatomical gifts for the purpose of transplantation,  
16 therapy, research, or education.

17 (b) If a coroner or medical examiner receives notice from a  
18 procurement organization that an anatomical gift might be  
19 available or was made with respect to a decedent whose body is  
20 under the jurisdiction of the coroner or medical examiner and a  
21 post-mortem examination is going to be performed, unless the  
22 coroner or medical examiner denies recovery in accordance with  
23 Section 23, the coroner or medical examiner or designee shall  
24 conduct a post-mortem examination of the body or the part in a  
25 manner and within a period compatible with its preservation for

1 the purposes of the gift.

2 (c) A part may not be removed from the body of a decedent  
3 under the jurisdiction of a coroner or medical examiner for  
4 transplantation, therapy, research, or education unless the  
5 part is the subject of an anatomical gift or in accordance with  
6 subsection (d). The body of a decedent under the jurisdiction  
7 of the coroner or medical examiner may not be delivered to a  
8 person for research or education unless the body is the subject  
9 of an anatomical gift. This subsection does not preclude a  
10 coroner or medical examiner from performing the medicolegal  
11 investigation upon the body or parts of a decedent under the  
12 jurisdiction of the coroner or medical examiner.

13 (d) Upon request by a physician licensed to practice  
14 medicine in all its branches, or by an eye bank certified by  
15 the Eye Bank Association of America, and approved by the  
16 coroner or county medical examiner, in any case in which a  
17 patient is in need of corneal tissue for a transplant, a  
18 coroner or county medical examiner who orders the performance  
19 of an autopsy may provide corneal tissue of a decedent whenever  
20 all of the following conditions are met:

21 (1) The decedent from whom the tissue is taken is under  
22 the jurisdiction of the coroner or county medical examiner.

23 (2) There has been a reasonable and good faith effort  
24 by the coroner or county medical examiner or any authorized  
25 individual acting for the coroner or county medical  
26 examiner to contact an appropriate person as set forth in

1 subsection (b) of this Section.

2 (3) No objection by the decedent or, after the  
3 decedent's death, by an appropriate person as set forth in  
4 subsection (e) of this Section is known to the coroner or  
5 county medical examiner or authorized individual acting  
6 for the coroner or county medical examiner prior to removal  
7 of the corneal tissue.

8 (4) The person designated to remove the tissue is  
9 qualified to do so under this Act.

10 (5) Removal of the tissue will not interfere with the  
11 subsequent course of an investigation or autopsy.

12 (6) The individual when living did not make known in  
13 writing his or her objection on religious grounds to the  
14 removal of his or her corneal tissue.

15 (e) Objection to the removal of corneal tissue may be made  
16 known to the coroner or county medical examiner or authorized  
17 individual acting for the coroner or county medical examiner by  
18 the individual during his or her lifetime or by the following  
19 persons, in the order of priority stated, after the decedent's  
20 death: (1) an individual acting as the decedent's agent under a  
21 power of attorney for health care; (2) the decedent's surrogate  
22 decision maker identified by the attending physician in  
23 accordance with the Health Care Surrogate Act; (3) the guardian  
24 of the decedent's person at the time of death; (4) the  
25 decedent's spouse; (5) any of the decedent's adult sons or  
26 daughters; (6) either of the decedent's parents; (7) any of the



1 decedent's adult brothers or sisters; (8) any adult grandchild  
2 of the decedent; (9) a close friend of the decedent; (10) the  
3 guardian of the decedent's estate; or (11) any other person  
4 authorized or under legal obligation to dispose of the body.

5 (f) If the coroner or county medical examiner or any  
6 authorized individual acting for the coroner or county medical  
7 examiner has actual notice of any contrary indications by the  
8 decedent or actual notice that any member within the same class  
9 specified in subsection (e), paragraphs (1) through (11), of  
10 this Section, in the same order of priority, objects to the  
11 removal, the coroner or county medical examiner shall not  
12 approve the removal of corneal tissue.

13 (g) The coroner or county medical examiner or any  
14 authorized individual acting for the coroner or county medical  
15 examiner authorizing the removal of corneal tissue, or the  
16 persons or organizations listed in subsection (d) of this  
17 Section, shall not be liable in any civil or criminal action  
18 for removing corneal tissue from a decedent and using the same  
19 for transplant purposes if there has been compliance with the  
20 provisions of this Section.

21 Section 23. Facilitation of anatomical gift from decedent  
22 whose body is under jurisdiction of coroner or medical  
23 examiner.

24 (a) Upon request of a procurement organization, a coroner  
25 or medical examiner shall release to the procurement

1 organization the name, contact information, and available  
2 medical and social history of a decedent whose body is under  
3 the jurisdiction of the coroner or medical examiner. If the  
4 decedent's body or part is medically suitable for  
5 transplantation, therapy, research, or education, the coroner  
6 or medical examiner shall release post-mortem examination  
7 results to the procurement organization. The procurement  
8 organization may make a subsequent disclosure of the  
9 post-mortem examination results or other information received  
10 from the coroner or medical examiner only if relevant to  
11 transplantation or therapy.

12 (b) The coroner or medical examiner may conduct a  
13 medicolegal examination by reviewing all medical records,  
14 laboratory test results, x-rays, other diagnostic results, and  
15 other information that any person possesses about a donor or  
16 prospective donor whose body is under the jurisdiction of the  
17 coroner or medical examiner which the coroner or medical  
18 examiner determines may be relevant to the investigation.

19 (c) A person that has any information requested by a  
20 coroner or medical examiner pursuant to subsection (b) shall  
21 provide that information as expeditiously as possible to allow  
22 the coroner or medical examiner to conduct the medicolegal  
23 investigation within a period compatible with the preservation  
24 of parts for the purpose of transplantation, therapy, research,  
25 or education.

26 (d) If an anatomical gift has been or might be made of a

1 part of a decedent whose body is under the jurisdiction of the  
2 coroner or medical examiner and a post-mortem examination is  
3 not required, or the coroner or medical examiner determines  
4 that a post-mortem examination is required but that the  
5 recovery of the part that is the subject of an anatomical gift  
6 will not interfere with the examination, the coroner or medical  
7 examiner and procurement organization shall cooperate in the  
8 timely removal of the part from the decedent for the purpose of  
9 transplantation, therapy, research, or education.

10 (e) If an anatomical gift of a part from the decedent under  
11 the jurisdiction of the coroner or medical examiner has been or  
12 might be made, but the coroner or medical examiner initially  
13 believes that the recovery of the part could interfere with the  
14 post-mortem investigation into the decedent's cause or manner  
15 of death, the coroner or medical examiner shall consult with  
16 the procurement organization or physician or technician  
17 designated by the procurement organization about the proposed  
18 recovery. After consultation, the coroner or medical examiner  
19 may allow the recovery.

20 (f) Following the consultation under subsection (e), in the  
21 absence of mutually agreed-upon protocols to resolve conflict  
22 between the coroner or medical examiner and the procurement  
23 organization, if the coroner or medical examiner intends to  
24 deny recovery, the coroner or medical examiner or designee, at  
25 the request of the procurement organization, shall attend the  
26 removal procedure for the part before making a final

1 determination not to allow the procurement organization to  
2 recover the part. During the removal procedure, the coroner or  
3 medical examiner or designee may allow recovery by the  
4 procurement organization to proceed, or, if the coroner or  
5 medical examiner or designee reasonably believes that the part  
6 may be involved in determining the decedent's cause or manner  
7 of death, deny recovery by the procurement organization.

8 (g) If the coroner or medical examiner or designee denies  
9 recovery under subsection (f), the coroner or medical examiner  
10 or designee shall:

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

13 (2) include the specific reasons in the records of the  
14 coroner or medical examiner; and

15 (3) provide a record with the specific reasons to the  
16 procurement organization.

17 (h) If the coroner or medical examiner or designee allows  
18 recovery of a part under subsection (d), (e), or (f), the  
19 procurement organization, upon request, shall cause the  
20 physician or technician who removes the part to provide the  
21 coroner or medical examiner with a record describing the  
22 condition of the part, a biopsy, a photograph, and any other  
23 information and observations that would assist in the  
24 post-mortem examination.

25 (i) If a coroner or medical examiner or designee is  
26 required to be present at a removal procedure under subsection

1 (f), upon request the procurement organization requesting the  
2 recovery of the part shall reimburse the coroner or medical  
3 examiner or designee for the additional costs incurred in  
4 complying with subsection (f).

5 Section 24. Uniformity of application and construction. In  
6 applying and construing this uniform Act, consideration must be  
7 given to the need to promote uniformity of the law with respect  
8 to its subject matter among states that enact it.

9 Section 25. Relation to Electronic Signatures in Global and  
10 National Commerce Act. This Act modifies, limits, and  
11 supersedes the Electronic Signatures in Global and National  
12 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not  
13 modify, limit or supersede Section 101(a) of that Act, 15  
14 U.S.C. Section 7001, or authorize electronic delivery of any of  
15 the notices described in Section 103(b) of that Act, 15 U.S.C.  
16 Section 7003(b).

17 (755 ILCS 50/Act rep.)

18 Section 26. Repeals. The following Act is repealed:

19 The Illinois Anatomical Gift Act.

20 Section 26.1. The Department of Public Health Powers and  
21 Duties Law of the Civil Administrative Code of Illinois is  
22 amended by changing Section 2310-330 as follows:

1           (20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)  
2           Sec. 2310-330. Sperm and tissue bank registry; AIDS test  
3 for donors; penalties.

4           (a) The Department shall establish a registry of all sperm  
5 banks and tissue banks operating in this State. All sperm banks  
6 and tissue banks operating in this State shall register with  
7 the Department by May 1 of each year. Any person, hospital,  
8 clinic, corporation, partnership, or other legal entity that  
9 operates a sperm bank or tissue bank in this State and fails to  
10 register with the Department pursuant to this Section commits a  
11 business offense and shall be subject to a fine of \$5000.

12           (b) All donors of semen for purposes of artificial  
13 insemination, or donors of corneas, bones, organs, or other  
14 human tissue for the purpose of injecting, transfusing, or  
15 transplanting any of them in the human body, shall be tested  
16 for evidence of exposure to human immunodeficiency virus (HIV)  
17 and any other identified causative agent of acquired  
18 immunodeficiency syndrome (AIDS) at the time of or after the  
19 donation but prior to the semen, corneas, bones, organs, or  
20 other human tissue being made available for that use. However,  
21 when in the opinion of the attending physician the life of a  
22 recipient of a bone, organ, or other human tissue donation  
23 would be jeopardized by delays caused by testing for evidence  
24 of exposure to HIV and any other causative agent of AIDS,  
25 testing shall not be required.

1 (c) Except as otherwise provided in subsection (c-5), no  
2 person may intentionally, knowingly, recklessly, or  
3 negligently use the semen, corneas, bones, organs, or other  
4 human tissue of a donor unless the requirements of subsection  
5 (b) have been met. Except as otherwise provided in subsection  
6 (c-5), no person may intentionally, knowingly, recklessly, or  
7 negligently use the semen, corneas, bones, organs, or other  
8 human tissue of a donor who has tested positive for exposure to  
9 HIV or any other identified causative agent of AIDS. Violation  
10 of this subsection (c) shall be a Class 4 felony.

11 (c-5) It is not a violation of this Section for a person to  
12 perform a solid organ transplant of an organ from an HIV  
13 infected donor to a person who has tested positive for exposure  
14 to HIV or any other identified causative agent of AIDS and who  
15 is in immediate threat of death unless the transplant is  
16 performed. A tissue bank that provides an organ from an HIV  
17 infected donor under this subsection (c-5) may not be  
18 criminally or civilly liable for the furnishing of that organ  
19 under this subsection (c-5).

20 (d) For the purposes of this Section:

21 "Human tissue" shall not be construed to mean organs or  
22 whole blood or its component parts.

23 "Tissue bank" means any facility or program operating in  
24 Illinois that is certified or accredited by American  
25 Association of Tissue Banks, the Eye Bank Association of  
26 America, or the Association of Organ Procurement Organizations

1 and is involved in procuring, furnishing, donating,  
2 processing, or distributing corneas, bones, or other human  
3 tissue for the purpose of injecting, transfusing, or  
4 transplanting any of them into the human body. "Tissue bank"  
5 does not include a licensed blood bank. For the purposes of  
6 this Act, "tissue" does not include organs or blood or blood  
7 products ~~has the same meaning as set forth in the Illinois~~  
8 ~~Anatomical Gift Act.~~

9 "Solid organ transplant" means the surgical  
10 transplantation of internal organs including, but not limited  
11 to, the liver, kidney, pancreas, lungs, or heart. "Solid organ  
12 transplant" does not mean a bone marrow based transplant or a  
13 blood transfusion.

14 "HIV infected donor" means a deceased donor who was  
15 infected with HIV or a living donor known to be infected with  
16 HIV and who is willing to donate a part or all of one or more of  
17 his or her organs. A determination of the donor's HIV infection  
18 is made by the donor's medical history or by specific tests  
19 that document HIV infection, such as HIV RNA or DNA, or by  
20 antibodies to HIV.

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 Section 26.2. The Hospital Licensing Act is amended by  
23 changing Sections 6.16 and 10.4 as follows:

24 (210 ILCS 85/6.16)



1           Sec. 6.16. Agreement with designated organ procurement  
2 agency. Each hospital licensed under this Act shall have an  
3 agreement with its federally designated organ procurement  
4 agency providing for notification of the organ procurement  
5 agency when potential organ donors become available,~~as~~  
6 ~~required in Section 5-25 of the Illinois Anatomical Gift Act.~~

7 (Source: P.A. 93-794, eff. 7-22-04.)

8           (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

9           Sec. 10.4. Medical staff privileges.

10           (a) Any hospital licensed under this Act or any hospital  
11 organized under the University of Illinois Hospital Act shall,  
12 prior to the granting of any medical staff privileges to an  
13 applicant, or renewing a current medical staff member's  
14 privileges, request of the Director of Professional Regulation  
15 information concerning the licensure status and any  
16 disciplinary action taken against the applicant's or medical  
17 staff member's license, except: (1) for medical personnel who  
18 enter a hospital to obtain organs and tissues for transplant  
19 from a donor in accordance with the Illinois Anatomical Gift  
20 Act or the Revised Uniform Anatomical Gift Act; or (2) for  
21 medical personnel who have been granted disaster privileges  
22 pursuant to the procedures and requirements established by  
23 rules adopted by the Department. Any hospital and any employees  
24 of the hospital or others involved in granting privileges who,  
25 in good faith, grant disaster privileges pursuant to this

1 Section to respond to an emergency shall not, as a result of  
2 their acts or omissions, be liable for civil damages for  
3 granting or denying disaster privileges except in the event of  
4 willful and wanton misconduct, as that term is defined in  
5 Section 10.2 of this Act. Individuals granted privileges who  
6 provide care in an emergency situation, in good faith and  
7 without direct compensation, shall not, as a result of their  
8 acts or omissions, except for acts or omissions involving  
9 willful and wanton misconduct, as that term is defined in  
10 Section 10.2 of this Act, on the part of the person, be liable  
11 for civil damages. The Director of Professional Regulation  
12 shall transmit, in writing and in a timely fashion, such  
13 information regarding the license of the applicant or the  
14 medical staff member, including the record of imposition of any  
15 periods of supervision or monitoring as a result of alcohol or  
16 substance abuse, as provided by Section 23 of the Medical  
17 Practice Act of 1987, and such information as may have been  
18 submitted to the Department indicating that the application or  
19 medical staff member has been denied, or has surrendered,  
20 medical staff privileges at a hospital licensed under this Act,  
21 or any equivalent facility in another state or territory of the  
22 United States. The Director of Professional Regulation shall  
23 define by rule the period for timely response to such requests.

24 No transmittal of information by the Director of  
25 Professional Regulation, under this Section shall be to other  
26 than the president, chief operating officer, chief

1 administrative officer, or chief of the medical staff of a  
2 hospital licensed under this Act, a hospital organized under  
3 the University of Illinois Hospital Act, or a hospital operated  
4 by the United States, or any of its instrumentalities. The  
5 information so transmitted shall be afforded the same status as  
6 is information concerning medical studies by Part 21 of Article  
7 VIII of the Code of Civil Procedure, as now or hereafter  
8 amended.

9 (b) All hospitals licensed under this Act, except county  
10 hospitals as defined in subsection (c) of Section 15-1 of the  
11 Illinois Public Aid Code, shall comply with, and the medical  
12 staff bylaws of these hospitals shall include rules consistent  
13 with, the provisions of this Section in granting, limiting,  
14 renewing, or denying medical staff membership and clinical  
15 staff privileges. Hospitals that require medical staff members  
16 to possess faculty status with a specific institution of higher  
17 education are not required to comply with subsection (1) below  
18 when the physician does not possess faculty status.

19 (1) Minimum procedures for pre-applicants and  
20 applicants for medical staff membership shall include the  
21 following:

22 (A) Written procedures relating to the acceptance  
23 and processing of pre-applicants or applicants for  
24 medical staff membership, which should be contained in  
25 medical staff bylaws.

26 (B) Written procedures to be followed in

1 determining a pre-applicant's or an applicant's  
2 qualifications for being granted medical staff  
3 membership and privileges.

4 (C) Written criteria to be followed in evaluating a  
5 pre-applicant's or an applicant's qualifications.

6 (D) An evaluation of a pre-applicant's or an  
7 applicant's current health status and current license  
8 status in Illinois.

9 (E) A written response to each pre-applicant or  
10 applicant that explains the reason or reasons for any  
11 adverse decision (including all reasons based in whole  
12 or in part on the applicant's medical qualifications or  
13 any other basis, including economic factors).

14 (2) Minimum procedures with respect to medical staff  
15 and clinical privilege determinations concerning current  
16 members of the medical staff shall include the following:

17 (A) A written notice of an adverse decision.

18 (B) An explanation of the reasons for an adverse  
19 decision including all reasons based on the quality of  
20 medical care or any other basis, including economic  
21 factors.

22 (C) A statement of the medical staff member's right  
23 to request a fair hearing on the adverse decision  
24 before a hearing panel whose membership is mutually  
25 agreed upon by the medical staff and the hospital  
26 governing board. The hearing panel shall have

1 independent authority to recommend action to the  
2 hospital governing board. Upon the request of the  
3 medical staff member or the hospital governing board,  
4 the hearing panel shall make findings concerning the  
5 nature of each basis for any adverse decision  
6 recommended to and accepted by the hospital governing  
7 board.

8 (i) Nothing in this subparagraph (C) limits a  
9 hospital's or medical staff's right to summarily  
10 suspend, without a prior hearing, a person's  
11 medical staff membership or clinical privileges if  
12 the continuation of practice of a medical staff  
13 member constitutes an immediate danger to the  
14 public, including patients, visitors, and hospital  
15 employees and staff. A fair hearing shall be  
16 commenced within 15 days after the suspension and  
17 completed without delay.

18 (ii) Nothing in this subparagraph (C) limits a  
19 medical staff's right to permit, in the medical  
20 staff bylaws, summary suspension of membership or  
21 clinical privileges in designated administrative  
22 circumstances as specifically approved by the  
23 medical staff. This bylaw provision must  
24 specifically describe both the administrative  
25 circumstance that can result in a summary  
26 suspension and the length of the summary

1 suspension. The opportunity for a fair hearing is  
2 required for any administrative summary  
3 suspension. Any requested hearing must be  
4 commenced within 15 days after the summary  
5 suspension and completed without delay. Adverse  
6 decisions other than suspension or other  
7 restrictions on the treatment or admission of  
8 patients may be imposed summarily and without a  
9 hearing under designated administrative  
10 circumstances as specifically provided for in the  
11 medical staff bylaws as approved by the medical  
12 staff.

13 (iii) If a hospital exercises its option to  
14 enter into an exclusive contract and that contract  
15 results in the total or partial termination or  
16 reduction of medical staff membership or clinical  
17 privileges of a current medical staff member, the  
18 hospital shall provide the affected medical staff  
19 member 60 days prior notice of the effect on his or  
20 her medical staff membership or privileges. An  
21 affected medical staff member desiring a hearing  
22 under subparagraph (C) of this paragraph (2) must  
23 request the hearing within 14 days after the date  
24 he or she is so notified. The requested hearing  
25 shall be commenced and completed (with a report and  
26 recommendation to the affected medical staff

1 member, hospital governing board, and medical  
2 staff) within 30 days after the date of the medical  
3 staff member's request. If agreed upon by both the  
4 medical staff and the hospital governing board,  
5 the medical staff bylaws may provide for longer  
6 time periods.

7 (D) A statement of the member's right to inspect  
8 all pertinent information in the hospital's possession  
9 with respect to the decision.

10 (E) A statement of the member's right to present  
11 witnesses and other evidence at the hearing on the  
12 decision.

13 (F) A written notice and written explanation of the  
14 decision resulting from the hearing.

15 (F-5) A written notice of a final adverse decision  
16 by a hospital governing board.

17 (G) Notice given 15 days before implementation of  
18 an adverse medical staff membership or clinical  
19 privileges decision based substantially on economic  
20 factors. This notice shall be given after the medical  
21 staff member exhausts all applicable procedures under  
22 this Section, including item (iii) of subparagraph (C)  
23 of this paragraph (2), and under the medical staff  
24 bylaws in order to allow sufficient time for the  
25 orderly provision of patient care.

26 (H) Nothing in this paragraph (2) of this

1 subsection (b) limits a medical staff member's right to  
2 waive, in writing, the rights provided in  
3 subparagraphs (A) through (G) of this paragraph (2) of  
4 this subsection (b) upon being granted the written  
5 exclusive right to provide particular services at a  
6 hospital, either individually or as a member of a  
7 group. If an exclusive contract is signed by a  
8 representative of a group of physicians, a waiver  
9 contained in the contract shall apply to all members of  
10 the group unless stated otherwise in the contract.

11 (3) Every adverse medical staff membership and  
12 clinical privilege decision based substantially on  
13 economic factors shall be reported to the Hospital  
14 Licensing Board before the decision takes effect. These  
15 reports shall not be disclosed in any form that reveals the  
16 identity of any hospital or physician. These reports shall  
17 be utilized to study the effects that hospital medical  
18 staff membership and clinical privilege decisions based  
19 upon economic factors have on access to care and the  
20 availability of physician services. The Hospital Licensing  
21 Board shall submit an initial study to the Governor and the  
22 General Assembly by January 1, 1996, and subsequent reports  
23 shall be submitted periodically thereafter.

24 (4) As used in this Section:

25 "Adverse decision" means a decision reducing,  
26 restricting, suspending, revoking, denying, or not



1 renewing medical staff membership or clinical privileges.

2 "Economic factor" means any information or reasons for  
3 decisions unrelated to quality of care or professional  
4 competency.

5 "Pre-applicant" means a physician licensed to practice  
6 medicine in all its branches who requests an application  
7 for medical staff membership or privileges.

8 "Privilege" means permission to provide medical or  
9 other patient care services and permission to use hospital  
10 resources, including equipment, facilities and personnel  
11 that are necessary to effectively provide medical or other  
12 patient care services. This definition shall not be  
13 construed to require a hospital to acquire additional  
14 equipment, facilities, or personnel to accommodate the  
15 granting of privileges.

16 (5) Any amendment to medical staff bylaws required  
17 because of this amendatory Act of the 91st General Assembly  
18 shall be adopted on or before July 1, 2001.

19 (c) All hospitals shall consult with the medical staff  
20 prior to closing membership in the entire or any portion of the  
21 medical staff or a department. If the hospital closes  
22 membership in the medical staff, any portion of the medical  
23 staff, or the department over the objections of the medical  
24 staff, then the hospital shall provide a detailed written  
25 explanation for the decision to the medical staff 10 days prior  
26 to the effective date of any closure. No applications need to

1 be provided when membership in the medical staff or any  
2 relevant portion of the medical staff is closed.

3 (Source: P.A. 95-331, eff. 8-21-07.)

4 Section 26.3. The AIDS Confidentiality Act is amended by  
5 changing Section 7 as follows:

6 (410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

7 Sec. 7. (a) Notwithstanding the provisions of Sections 4, 5  
8 and 6 of this Act, informed consent is not required for a  
9 health care provider or health facility to perform a test when  
10 the health care provider or health facility procures,  
11 processes, distributes or uses a human body part donated for a  
12 purpose specified under the Illinois Anatomical Gift Act or the  
13 Revised Uniform Anatomical Gift Act, or semen provided prior to  
14 the effective date of this Act for the purpose of artificial  
15 insemination, and such a test is necessary to assure medical  
16 acceptability of such gift or semen for the purposes intended.

17 (b) Informed consent is not required for a health care  
18 provider or health facility to perform a test when a health  
19 care provider or employee of a health facility, or a  
20 firefighter or an EMT-A, EMT-I or EMT-P, is involved in an  
21 accidental direct skin or mucous membrane contact with the  
22 blood or bodily fluids of an individual which is of a nature  
23 that may transmit HIV, as determined by a physician in his  
24 medical judgment. Should such test prove to be positive, the

1 patient and the health care provider, health facility employee,  
2 firefighter, EMT-A, EMT-I, or EMT-P shall be provided  
3 appropriate counseling consistent with this Act.

4 (c) Informed consent is not required for a health care  
5 provider or health facility to perform a test when a law  
6 enforcement officer is involved in the line of duty in a direct  
7 skin or mucous membrane contact with the blood or bodily fluids  
8 of an individual which is of a nature that may transmit HIV, as  
9 determined by a physician in his medical judgment. Should such  
10 test prove to be positive, the patient shall be provided  
11 appropriate counseling consistent with this Act. For purposes  
12 of this subsection (c), "law enforcement officer" means any  
13 person employed by the State, a county or a municipality as a  
14 policeman, peace officer, auxiliary policeman, correctional  
15 officer or in some like position involving the enforcement of  
16 the law and protection of the public interest at the risk of  
17 that person's life.

18 (Source: P.A. 95-7, eff. 6-1-08.)

19 Section 26.4. The Illinois Vehicle Code is amended by  
20 changing Sections 6-110 and 6-117 as follows:

21 (625 ILCS 5/6-110) (from Ch. 95 1/2, par. 6-110)

22 Sec. 6-110. Licenses issued to drivers.

23 (a) The Secretary of State shall issue to every qualifying  
24 applicant a driver's license as applied for, which license

1 shall bear a distinguishing number assigned to the licensee,  
2 the legal name, zip code, date of birth, residence address, and  
3 a brief description of the licensee, and a space where the  
4 licensee may write his usual signature.

5 Licenses issued shall also indicate the classification and  
6 the restrictions under Section 6-104 of this Code.

7 In lieu of the social security number, the Secretary may in  
8 his discretion substitute a federal tax number or other  
9 distinctive number.

10 A driver's license issued may, in the discretion of the  
11 Secretary, include a suitable photograph of a type prescribed  
12 by the Secretary.

13 (a-1) If the licensee is less than 18 years of age, unless  
14 one of the exceptions in subsection (a-2) apply, the license  
15 shall, as a matter of law, be invalid for the operation of any  
16 motor vehicle during the following times:

17 (A) Between 11:00 p.m. Friday and 6:00 a.m. Saturday;

18 (B) Between 11:00 p.m. Saturday and 6:00 a.m. on  
19 Sunday; and

20 (C) Between 10:00 p.m. on Sunday to Thursday,  
21 inclusive, and 6:00 a.m. on the following day.

22 (a-2) The driver's license of a person under the age of 18  
23 shall not be invalid as described in subsection (a-1) of this  
24 Section if the licensee under the age of 18 was:

25 (1) accompanied by the licensee's parent or guardian or  
26 other person in custody or control of the minor;

1           (2) on an errand at the direction of the minor's parent  
2 or guardian, without any detour or stop;

3           (3) in a motor vehicle involved in interstate travel;

4           (4) going to or returning home from an employment  
5 activity, without any detour or stop;

6           (5) involved in an emergency;

7           (6) going to or returning home from, without any detour  
8 or stop, an official school, religious, or other  
9 recreational activity supervised by adults and sponsored  
10 by a government or governmental agency, a civic  
11 organization, or another similar entity that takes  
12 responsibility for the licensee, without any detour or  
13 stop;

14           (7) exercising First Amendment rights protected by the  
15 United States Constitution, such as the free exercise of  
16 religion, freedom of speech, and the right of assembly; or

17           (8) married or had been married or is an emancipated  
18 minor under the Emancipation of Minors Act.

19           (a-2.5) The driver's license of a person who is 17 years of  
20 age and has been licensed for at least 12 months is not invalid  
21 as described in subsection (a-1) of this Section while the  
22 licensee is participating as an assigned driver in a Safe Rides  
23 program that meets the following criteria:

24           (1) the program is sponsored by the Boy Scouts of  
25 America or another national public service organization;  
26 and

1           (2) the sponsoring organization carries liability  
2 insurance covering the program.

3           (a-3) If a graduated driver's license holder over the age  
4 of 18 committed an offense against traffic regulations  
5 governing the movement of vehicles or any violation of Section  
6 6-107 or Section 12-603.1 of this Code in the 6 months prior to  
7 the graduated driver's license holder's 18th birthday, and was  
8 subsequently convicted of the offense, the provisions of  
9 subsection (a-1) shall continue to apply until such time as a  
10 period of 6 consecutive months has elapsed without an  
11 additional violation and subsequent conviction of an offense  
12 against traffic regulations governing the movement of vehicles  
13 or Section 6-107 or Section 12-603.1 of this Code.

14           (b) Until the Secretary of State establishes a First Person  
15 Consent organ and tissue donor registry under Section 6-117 of  
16 this Code, the Secretary of State shall provide a format on the  
17 reverse of each driver's license issued which the licensee may  
18 use to execute a document of gift conforming to the provisions  
19 of the Revised Uniform Illinois Anatomical Gift Act. The format  
20 shall allow the licensee to indicate the gift intended, whether  
21 specific organs, any organ, or the entire body, and shall  
22 accommodate the signatures of the donor and 2 witnesses. The  
23 Secretary shall also inform each applicant or licensee of this  
24 format, describe the procedure for its execution, and may offer  
25 the necessary witnesses; provided that in so doing, the  
26 Secretary shall advise the applicant or licensee that he or she

1 is under no compulsion to execute a document of gift. A  
2 brochure explaining this method of executing an anatomical gift  
3 document shall be given to each applicant or licensee. The  
4 brochure shall advise the applicant or licensee that he or she  
5 is under no compulsion to execute a document of gift, and that  
6 he or she may wish to consult with family, friends or clergy  
7 before doing so. The Secretary of State may undertake  
8 additional efforts, including education and awareness  
9 activities, to promote organ and tissue donation.

10 (c) The Secretary of State shall designate on each driver's  
11 license issued a space where the licensee may place a sticker  
12 or decal of the uniform size as the Secretary may specify,  
13 which sticker or decal may indicate in appropriate language  
14 that the owner of the license carries an Emergency Medical  
15 Information Card.

16 The sticker may be provided by any person, hospital,  
17 school, medical group, or association interested in assisting  
18 in implementing the Emergency Medical Information Card, but  
19 shall meet the specifications as the Secretary may by rule or  
20 regulation require.

21 (d) The Secretary of State shall designate on each driver's  
22 license issued a space where the licensee may indicate his  
23 blood type and RH factor.

24 (e) The Secretary of State shall provide that each original  
25 or renewal driver's license issued to a licensee under 21 years  
26 of age shall be of a distinct nature from those driver's

1 licenses issued to individuals 21 years of age and older. The  
2 color designated for driver's licenses for licensees under 21  
3 years of age shall be at the discretion of the Secretary of  
4 State.

5 (e-1) The Secretary shall provide that each driver's  
6 license issued to a person under the age of 21 displays the  
7 date upon which the person becomes 18 years of age and the date  
8 upon which the person becomes 21 years of age.

9 (f) The Secretary of State shall inform all Illinois  
10 licensed commercial motor vehicle operators of the  
11 requirements of the Uniform Commercial Driver License Act,  
12 Article V of this Chapter, and shall make provisions to insure  
13 that all drivers, seeking to obtain a commercial driver's  
14 license, be afforded an opportunity prior to April 1, 1992, to  
15 obtain the license. The Secretary is authorized to extend  
16 driver's license expiration dates, and assign specific times,  
17 dates and locations where these commercial driver's tests shall  
18 be conducted. Any applicant, regardless of the current  
19 expiration date of the applicant's driver's license, may be  
20 subject to any assignment by the Secretary. Failure to comply  
21 with the Secretary's assignment may result in the applicant's  
22 forfeiture of an opportunity to receive a commercial driver's  
23 license prior to April 1, 1992.

24 (g) The Secretary of State shall designate on a driver's  
25 license issued, a space where the licensee may indicate that he  
26 or she has drafted a living will in accordance with the



1 Illinois Living Will Act or a durable power of attorney for  
2 health care in accordance with the Illinois Power of Attorney  
3 Act.

4 (g-1) The Secretary of State, in his or her discretion, may  
5 designate on each driver's license issued a space where the  
6 licensee may place a sticker or decal, issued by the Secretary  
7 of State, of uniform size as the Secretary may specify, that  
8 shall indicate in appropriate language that the owner of the  
9 license has renewed his or her driver's license.

10 (h) A person who acts in good faith in accordance with the  
11 terms of this Section is not liable for damages in any civil  
12 action or subject to prosecution in any criminal proceeding for  
13 his or her act.

14 (Source: P.A. 94-75, eff. 1-1-06; 94-930, eff. 6-26-06; 95-310,  
15 eff. 1-1-08; 95-747, eff. 7-22-08.)

16 (625 ILCS 5/6-117) (from Ch. 95 1/2, par. 6-117)

17 Sec. 6-117. Records to be kept by the Secretary of State.

18 (a) The Secretary of State shall file every application for  
19 a license or permit accepted under this Chapter, and shall  
20 maintain suitable indexes thereof. The records of the Secretary  
21 of State shall indicate the action taken with respect to such  
22 applications.

23 (b) The Secretary of State shall maintain appropriate  
24 records of all licenses and permits refused, cancelled,  
25 disqualified, revoked, or suspended and of the revocation,

1 suspension, and disqualification of driving privileges of  
2 persons not licensed under this Chapter, and such records shall  
3 note the reasons for such action.

4 (c) The Secretary of State shall maintain appropriate  
5 records of convictions reported under this Chapter. Records of  
6 conviction may be maintained in a computer processible medium.

7 (d) The Secretary of State may also maintain appropriate  
8 records of any accident reports received.

9 (e) The Secretary of State shall also maintain appropriate  
10 records of any disposition of supervision or records relative  
11 to a driver's referral to a driver remedial or rehabilitative  
12 program, as required by the Secretary of State or the courts.  
13 Such records shall only be available for use by the Secretary,  
14 the driver licensing administrator of any other state, law  
15 enforcement agencies, the courts, and the affected driver or,  
16 upon proper verification, such affected driver's attorney.

17 (f) The Secretary of State shall also maintain or contract  
18 to maintain appropriate records of all photographs and  
19 signatures obtained in the process of issuing any driver's  
20 license, permit, or identification card. The record shall be  
21 confidential and shall not be disclosed except to those  
22 entities listed under Section 6-110.1 of this Code.

23 (g) The Secretary of State may establish a First Person  
24 Consent organ and tissue donor registry in compliance with the  
25 Revised Uniform ~~subsection (b-1) of Section 5-20 of the~~  
26 ~~Illinois~~ Anatomical Gift Act, as follows:

1           (1) The Secretary shall offer, to each applicant  
2           for issuance or renewal of a driver's license or  
3           identification card who is 18 years of age or older, the  
4           opportunity to have his or her name included in the First  
5           Person Consent organ and tissue donor registry. The  
6           Secretary must advise the applicant or licensee that he or  
7           she is under no compulsion to have his or her name included  
8           in the registry. An individual who agrees to having his or  
9           her name included in the First Person Consent organ and  
10          tissue donor registry has given full legal consent to the  
11          donation of any of his or her organs or tissue upon his or  
12          her death. A brochure explaining this method of executing  
13          an anatomical gift must be given to each applicant for  
14          issuance or renewal of a driver's license or identification  
15          card. The brochure must advise the applicant or licensee  
16          (i) that he or she is under no compulsion to have his or  
17          her name included in this registry and (ii) that he or she  
18          may wish to consult with family, friends, or clergy before  
19          doing so.

20          (2) The Secretary of State may establish  
21          additional methods by which an individual may have his or  
22          her name included in the First Person Consent organ and  
23          tissue donor registry.

24          (3) When an individual has agreed to have his or  
25          her name included in the First Person Consent organ and  
26          tissue donor registry, the Secretary of State shall note

1 that agreement in the First Person consent organ and tissue  
2 donor registry. Representatives of federally designated  
3 organ procurement agencies and tissue banks may inquire of  
4 the Secretary of State whether a potential organ donor's  
5 name is included in the First Person Consent organ and  
6 tissue donor registry, and the Secretary of State may  
7 provide that information to the representative.

8 (4) An individual may withdraw his or her consent  
9 to be listed in the First Person Consent organ and tissue  
10 donor registry maintained by the Secretary of State by  
11 notifying the Secretary of State in writing, or by any  
12 other means approved by the Secretary, of the individual's  
13 decision to have his or her name removed from the registry.

14 (5) The Secretary of State may undertake  
15 additional efforts, including education and awareness  
16 activities, to promote organ and tissue donation.

17 (6) In the absence of gross negligence or willful  
18 misconduct, the Secretary of State and his or her employees  
19 are immune from any civil or criminal liability in  
20 connection with an individual's consent to be listed in the  
21 organ and tissue donor registry.

22 (Source: P.A. 94-75, eff. 1-1-06; 95-382, eff. 8-23-07.)

23 Section 26.5. The Criminal Code of 1961 is amended by  
24 changing Sections 12-20 and 12-20.5 as follows:

1 (720 ILCS 5/12-20) (from Ch. 38, par. 12-20)

2 Sec. 12-20. Sale of body parts.

3 (a) Except as provided in subsection (b), any person who  
4 knowingly buys or sells, or offers to buy or sell, a human body  
5 or any part of a human body, is guilty of a Class A misdemeanor  
6 for the first conviction and a Class 4 felony for subsequent  
7 convictions.

8 (b) This Section does not prohibit:

9 (1) An anatomical gift made in accordance with the  
10 Illinois Anatomical Gift Act or the Revised Uniform  
11 Anatomical Gift Act.

12 (2) The removal and use of a human cornea in accordance  
13 with the Illinois Anatomical Gift Act or the Revised  
14 Uniform Anatomical Gift Act.

15 (3) Reimbursement of actual expenses incurred by a  
16 living person in donating an organ, tissue or other body  
17 part or fluid for transplantation, implantation, infusion,  
18 injection, or other medical or scientific purpose,  
19 including medical costs, loss of income, and travel  
20 expenses.

21 (4) Payments provided under a plan of insurance or  
22 other health care coverage.

23 (5) Reimbursement of reasonable costs associated with  
24 the removal, storage or transportation of a human body or  
25 part thereof donated for medical or scientific purposes.

26 (6) Purchase or sale of blood, plasma, blood products

1 or derivatives, other body fluids, or human hair.

2 (7) Purchase or sale of drugs, reagents or other  
3 substances made from human bodies or body parts, for use in  
4 medical or scientific research, treatment or diagnosis.

5 (Source: P.A. 93-794, eff. 7-22-04.)

6 (720 ILCS 5/12-20.5)

7 Sec. 12-20.5. Dismembering a human body.

8 (a) A person commits the offense of dismembering a human  
9 body when he or she knowingly dismembers, severs, separates,  
10 dissects, or mutilates any body part of a deceased's body.

11 (b) This Section does not apply to:

12 (1) an anatomical gift made in accordance with the  
13 Illinois Anatomical Gift Act or the Revised Uniform  
14 Anatomical Gift Act;

15 (2) the removal and use of a human cornea in accordance  
16 with the Illinois Anatomical Gift Act or the Revised  
17 Uniform Anatomical Gift Act;

18 (3) the purchase or sale of drugs, reagents, or other  
19 substances made from human body parts, for the use in  
20 medical or scientific research, treatment, or diagnosis;

21 (4) persons employed by a county medical examiner's  
22 office or coroner's office acting within the scope of their  
23 employment while performing an autopsy;

24 (5) the acts of a licensed funeral director or embalmer  
25 while performing acts authorized by the Funeral Directors

1 and Embalmers Licensing Code;

2 (6) the acts of emergency medical personnel or  
3 physicians performed in good faith and according to the  
4 usual and customary standards of medical practice in an  
5 attempt to resuscitate a life; or

6 (7) physicians licensed to practice medicine in all of  
7 its branches or holding a visiting professor, physician, or  
8 resident permit under the Medical Practice Act of 1987,  
9 performing acts in accordance with usual and customary  
10 standards of medical practice, or a currently enrolled  
11 student in an accredited medical school in furtherance of  
12 his or her education at the accredited medical school.

13 (c) It is not a defense to a violation of this Section that  
14 the decedent died due to natural, accidental, or suicidal  
15 causes.

16 (d) Sentence. Dismembering a human body is a Class X  
17 felony.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 Section 26.6. The Illinois Power of Attorney Act is amended  
20 by changing Sections 4-7 and 4-10 as follows:

21 (755 ILCS 45/4-7) (from Ch. 110 1/2, par. 804-7)

22 Sec. 4-7. Duties of health care providers and others in  
23 relation to health care agencies. Each health care provider and  
24 each other person with whom an agent deals under a health care

1 agency shall be subject to the following duties and  
2 responsibilities:

3 (a) It is the responsibility of the agent or patient to  
4 notify the health care provider of the existence of the health  
5 care agency and any amendment or revocation thereof. A health  
6 care provider furnished with a copy of a health care agency  
7 shall make it a part of the patient's medical records and shall  
8 enter in the records any change in or termination of the health  
9 care agency by the principal that becomes known to the  
10 provider. Whenever a provider believes a patient may lack  
11 capacity to give informed consent to health care which the  
12 provider deems necessary, the provider shall consult with any  
13 available health care agent known to the provider who then has  
14 power to act for the patient under a health care agency.

15 (b) A health care decision made by an agent in accordance  
16 with the terms of a health care agency shall be complied with  
17 by every health care provider to whom the decision is  
18 communicated, subject to the provider's right to administer  
19 treatment for the patient's comfort care or alleviation of  
20 pain; but if the provider is unwilling to comply with the  
21 agent's decision, the provider shall promptly inform the agent  
22 who shall then be responsible to make the necessary  
23 arrangements for the transfer of the patient to another  
24 provider. It is understood that a provider who is unwilling to  
25 comply with the agent's decision will continue to afford  
26 reasonably necessary consultation and care in connection with



1 the transfer.

2 (c) At the patient's expense and subject to reasonable  
3 rules of the health care provider to prevent disruption of the  
4 patient's health care, each health care provider shall give an  
5 agent authorized to receive such information under a health  
6 care agency the same right the principal has to examine and  
7 copy any part or all of the patient's medical records that the  
8 agent deems relevant to the exercise of the agent's powers,  
9 whether the records relate to mental health or any other  
10 medical condition and whether they are in the possession of or  
11 maintained by any physician, psychiatrist, psychologist,  
12 therapist, hospital, nursing home or other health care  
13 provider.

14 (d) If and to the extent a health care agency empowers the  
15 agent to (1) make an anatomical gift on behalf of the principal  
16 under the Illinois Anatomical Gift Act or the Revised Uniform  
17 Anatomical Gift Act, ~~as now or hereafter amended~~, or (2)  
18 authorize an autopsy of the principal's body pursuant to  
19 Section 2 of "An Act in relation to autopsy of dead bodies",  
20 approved August 13, 1965, as now or hereafter amended, or (3)  
21 direct the disposition of the principal's remains, the decision  
22 by an authorized agent as to anatomical gift, autopsy approval  
23 or remains disposition shall be deemed the act of the principal  
24 and shall control over the decision of other persons who might  
25 otherwise have priority; and each person to whom a direction by  
26 the agent in accordance with the terms of the agency is

1 communicated shall comply with such direction.

2 (Source: P.A. 93-794, eff. 7-22-04.)

3 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

4 Sec. 4-10. Statutory short form power of attorney for  
5 health care.

6 (a) The following form (sometimes also referred to in this  
7 Act as the "statutory health care power") may be used to grant  
8 an agent powers with respect to the principal's own health  
9 care; but the statutory health care power is not intended to be  
10 exclusive nor to cover delegation of a parent's power to  
11 control the health care of a minor child, and no provision of  
12 this Article shall be construed to invalidate or bar use by the  
13 principal of any other or different form of power of attorney  
14 for health care. Nonstatutory health care powers must be  
15 executed by the principal, designate the agent and the agent's  
16 powers, and comply with Section 4-5 of this Article, but they  
17 need not be witnessed or conform in any other respect to the  
18 statutory health care power. When a power of attorney in  
19 substantially the following form is used, including the  
20 "notice" paragraph at the beginning in capital letters, it  
21 shall have the meaning and effect prescribed in this Act. The  
22 statutory health care power may be included in or combined with  
23 any other form of power of attorney governing property or other  
24 matters.

25 "ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR HEALTH

1 CARE

2 (NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE  
3 THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO MAKE  
4 HEALTH CARE DECISIONS FOR YOU, INCLUDING POWER TO REQUIRE,  
5 CONSENT TO OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL  
6 TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT YOU  
7 TO OR DISCHARGE YOU FROM ANY HOSPITAL, HOME OR OTHER  
8 INSTITUTION. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR AGENT TO  
9 EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE EXERCISED, YOUR  
10 AGENT WILL HAVE TO USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN  
11 ACCORDANCE WITH THIS FORM AND KEEP A RECORD OF RECEIPTS,  
12 DISBURSEMENTS AND SIGNIFICANT ACTIONS TAKEN AS AGENT. A COURT  
13 CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS THE AGENT IS  
14 NOT ACTING PROPERLY. YOU MAY NAME SUCCESSOR AGENTS UNDER THIS  
15 FORM BUT NOT CO-AGENTS, AND NO HEALTH CARE PROVIDER MAY BE  
16 NAMED. UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN  
17 THE MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A  
18 COURT ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY  
19 EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN  
20 AFTER YOU BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT, YOUR  
21 RIGHT TO REVOKE THOSE POWERS AND THE PENALTIES FOR VIOLATING  
22 THE LAW ARE EXPLAINED MORE FULLY IN SECTIONS 4-5, 4-6, 4-9 AND  
23 4-10(b) OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE  
24 LAW" OF WHICH THIS FORM IS A PART (SEE THE BACK OF THIS FORM).  
25 THAT LAW EXPRESSLY PERMITS THE USE OF ANY DIFFERENT FORM OF  
26 POWER OF ATTORNEY YOU MAY DESIRE. IF THERE IS ANYTHING ABOUT

1 THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER  
2 TO EXPLAIN IT TO YOU.)

3 POWER OF ATTORNEY made this .....day of  
4 .....  
5 (month) (year)

6 1. I, .....,  
7 (insert name and address of principal)

8 hereby appoint:

9 .....  
10 (insert name and address of agent)

11 as my attorney-in-fact (my "agent") to act for me and in my  
12 name (in any way I could act in person) to make any and all  
13 decisions for me concerning my personal care, medical  
14 treatment, hospitalization and health care and to require,  
15 withhold or withdraw any type of medical treatment or  
16 procedure, even though my death may ensue. My agent shall have  
17 the same access to my medical records that I have, including  
18 the right to disclose the contents to others. My agent shall  
19 also have full power to authorize an autopsy and direct the  
20 disposition of my remains. Effective upon my death, my agent  
21 has the full power to make an anatomical gift of the following  
22 (initial one):

23 ....Any organs, tissues, or eyes suitable for  
24 transplantation or used for research or education.

25 ....Specific organs: .....

26 (THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS

1 POSSIBLE SO THAT YOUR AGENT WILL HAVE AUTHORITY TO MAKE ANY  
 2 DECISION YOU COULD MAKE TO OBTAIN OR TERMINATE ANY TYPE OF  
 3 HEALTH CARE, INCLUDING WITHDRAWAL OF FOOD AND WATER AND OTHER  
 4 LIFE-SUSTAINING MEASURES, IF YOUR AGENT BELIEVES SUCH ACTION  
 5 WOULD BE CONSISTENT WITH YOUR INTENT AND DESIRES. IF YOU WISH  
 6 TO LIMIT THE SCOPE OF YOUR AGENT'S POWERS OR PRESCRIBE SPECIAL  
 7 RULES OR LIMIT THE POWER TO MAKE AN ANATOMICAL GIFT, AUTHORIZE  
 8 AUTOPSY OR DISPOSE OF REMAINS, YOU MAY DO SO IN THE FOLLOWING  
 9 PARAGRAPHS.)

10 2. The powers granted above shall not include the following  
 11 powers or shall be subject to the following rules or  
 12 limitations (here you may include any specific limitations you  
 13 deem appropriate, such as: your own definition of when  
 14 life-sustaining measures should be withheld; a direction to  
 15 continue food and fluids or life-sustaining treatment in all  
 16 events; or instructions to refuse any specific types of  
 17 treatment that are inconsistent with your religious beliefs or  
 18 unacceptable to you for any other reason, such as blood  
 19 transfusion, electro-convulsive therapy, amputation,  
 20 psychosurgery, voluntary admission to a mental institution,  
 21 etc.):

- 22 .....
- 23 .....
- 24 .....
- 25 .....
- 26 .....

1 (THE SUBJECT OF LIFE-SUSTAINING TREATMENT IS OF PARTICULAR  
 2 IMPORTANCE. FOR YOUR CONVENIENCE IN DEALING WITH THAT SUBJECT,  
 3 SOME GENERAL STATEMENTS CONCERNING THE WITHHOLDING OR REMOVAL  
 4 OF LIFE-SUSTAINING TREATMENT ARE SET FORTH BELOW. IF YOU AGREE  
 5 WITH ONE OF THESE STATEMENTS, YOU MAY INITIAL THAT STATEMENT;  
 6 BUT DO NOT INITIAL MORE THAN ONE):

7 I do not want my life to be prolonged nor do I want  
 8 life-sustaining treatment to be provided or continued if my  
 9 agent believes the burdens of the treatment outweigh the  
 10 expected benefits. I want my agent to consider the relief of  
 11 suffering, the expense involved and the quality as well as the  
 12 possible extension of my life in making decisions concerning  
 13 life-sustaining treatment.

14 Initialled.....

15 I want my life to be prolonged and I want life-sustaining  
 16 treatment to be provided or continued unless I am in a coma  
 17 which my attending physician believes to be irreversible, in  
 18 accordance with reasonable medical standards at the time of  
 19 reference. If and when I have suffered irreversible coma, I  
 20 want life-sustaining treatment to be withheld or discontinued.

21 Initialled.....

22 I want my life to be prolonged to the greatest extent  
 23 possible without regard to my condition, the chances I have for  
 24 recovery or the cost of the procedures.

25 Initialled.....

26 (THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU IN THE

1 MANNER PROVIDED IN SECTION 4-6 OF THE ILLINOIS "POWERS OF  
 2 ATTORNEY FOR HEALTH CARE LAW" (SEE THE BACK OF THIS FORM).  
 3 ABSENT AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS  
 4 POWER OF ATTORNEY WILL BECOME EFFECTIVE AT THE TIME THIS POWER  
 5 IS SIGNED AND WILL CONTINUE UNTIL YOUR DEATH, AND BEYOND IF  
 6 ANATOMICAL GIFT, AUTOPSY OR DISPOSITION OF REMAINS IS  
 7 AUTHORIZED, UNLESS A LIMITATION ON THE BEGINNING DATE OR  
 8 DURATION IS MADE BY INITIALING AND COMPLETING EITHER OR BOTH OF  
 9 THE FOLLOWING:)

10 3. ( ) This power of attorney shall become effective on  
 11 .....  
 12 .....  
 13 (insert a future date or event during your lifetime, such as  
 14 court determination of your disability, when you want this  
 15 power to first take effect)

16 4. ( ) This power of attorney shall terminate on .....  
 17 .....  
 18 (insert a future date or event, such as court determination of  
 19 your disability, when you want this power to terminate prior to  
 20 your death)

21 (IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAMES AND  
 22 ADDRESSES OF SUCH SUCCESSORS IN THE FOLLOWING PARAGRAPH.)

23 5. If any agent named by me shall die, become incompetent,  
 24 resign, refuse to accept the office of agent or be unavailable,  
 25 I name the following (each to act alone and successively, in  
 26 the order named) as successors to such agent:

1 .....  
2 .....

3 For purposes of this paragraph 5, a person shall be considered  
4 to be incompetent if and while the person is a minor or an  
5 adjudicated incompetent or disabled person or the person is  
6 unable to give prompt and intelligent consideration to health  
7 care matters, as certified by a licensed physician. (IF YOU  
8 WISH TO NAME YOUR AGENT AS GUARDIAN OF YOUR PERSON, IN THE  
9 EVENT A COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY,  
10 BUT ARE NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING  
11 PARAGRAPH. THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS  
12 THAT SUCH APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND  
13 WELFARE. STRIKE OUT PARAGRAPH 6 IF YOU DO NOT WANT YOUR AGENT  
14 TO ACT AS GUARDIAN.)

15 6. If a guardian of my person is to be appointed, I  
16 nominate the agent acting under this power of attorney as such  
17 guardian, to serve without bond or security.

18 7. I am fully informed as to all the contents of this form  
19 and understand the full import of this grant of powers to my  
20 agent.

21 Signed.....  
22 (principal)

23 The principal has had an opportunity to read the above form  
24 and has signed the form or acknowledged his or her signature or  
25 mark on the form in my presence.

26 ..... Residing at.....



1 (witness)

2 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND  
3 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU  
4 INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST  
5 COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE  
6 AGENTS.)

7 Specimen signatures of I certify that the signatures of my  
8 agent (and successors). agent (and successors) are correct.

9 .....

10 (agent) (principal)

11 .....

12 (successor agent) (principal)

13 .....

14 (successor agent) (principal)"

15 (b) The statutory short form power of attorney for health  
16 care (the "statutory health care power") authorizes the agent  
17 to make any and all health care decisions on behalf of the  
18 principal which the principal could make if present and under  
19 no disability, subject to any limitations on the granted powers  
20 that appear on the face of the form, to be exercised in such  
21 manner as the agent deems consistent with the intent and  
22 desires of the principal. The agent will be under no duty to  
23 exercise granted powers or to assume control of or  
24 responsibility for the principal's health care; but when  
25 granted powers are exercised, the agent will be required to use  
26 due care to act for the benefit of the principal in accordance

1 with the terms of the statutory health care power and will be  
2 liable for negligent exercise. The agent may act in person or  
3 through others reasonably employed by the agent for that  
4 purpose but may not delegate authority to make health care  
5 decisions. The agent may sign and deliver all instruments,  
6 negotiate and enter into all agreements and do all other acts  
7 reasonably necessary to implement the exercise of the powers  
8 granted to the agent. Without limiting the generality of the  
9 foregoing, the statutory health care power shall include the  
10 following powers, subject to any limitations appearing on the  
11 face of the form:

12 (1) The agent is authorized to give consent to and  
13 authorize or refuse, or to withhold or withdraw consent to,  
14 any and all types of medical care, treatment or procedures  
15 relating to the physical or mental health of the principal,  
16 including any medication program, surgical procedures,  
17 life-sustaining treatment or provision of food and fluids  
18 for the principal.

19 (2) The agent is authorized to admit the principal to  
20 or discharge the principal from any and all types of  
21 hospitals, institutions, homes, residential or nursing  
22 facilities, treatment centers and other health care  
23 institutions providing personal care or treatment for any  
24 type of physical or mental condition. The agent shall have  
25 the same right to visit the principal in the hospital or  
26 other institution as is granted to a spouse or adult child

1 of the principal, any rule of the institution to the  
2 contrary notwithstanding.

3 (3) The agent is authorized to contract for any and all  
4 types of health care services and facilities in the name of  
5 and on behalf of the principal and to bind the principal to  
6 pay for all such services and facilities, and to have and  
7 exercise those powers over the principal's property as are  
8 authorized under the statutory property power, to the  
9 extent the agent deems necessary to pay health care costs;  
10 and the agent shall not be personally liable for any  
11 services or care contracted for on behalf of the principal.

12 (4) At the principal's expense and subject to  
13 reasonable rules of the health care provider to prevent  
14 disruption of the principal's health care, the agent shall  
15 have the same right the principal has to examine and copy  
16 and consent to disclosure of all the principal's medical  
17 records that the agent deems relevant to the exercise of  
18 the agent's powers, whether the records relate to mental  
19 health or any other medical condition and whether they are  
20 in the possession of or maintained by any physician,  
21 psychiatrist, psychologist, therapist, hospital, nursing  
22 home or other health care provider.

23 (5) The agent is authorized: to direct that an autopsy  
24 be made pursuant to Section 2 of "An Act in relation to  
25 autopsy of dead bodies", approved August 13, 1965,  
26 including all amendments; to make a disposition of any part

1           or all of the principal's body pursuant to the Illinois  
2           Anatomical Gift Act or the Revised Uniform Anatomical Gift  
3           Act ~~, as now or hereafter amended~~; and to direct the  
4           disposition of the principal's remains.

5           (Source: P.A. 93-794, eff. 7-22-04.)

6           Section 27. (Blank).

1		INDEX
2		Statutes amended in order of appearance
3	New Act	
4	755 ILCS 50/Act rep.	
5	20 ILCS 2310/2310-330	was 20 ILCS 2310/55.46
6	210 ILCS 85/6.16	
7	210 ILCS 85/10.4	from Ch. 111 1/2, par. 151.4
8	410 ILCS 305/7	from Ch. 111 1/2, par. 7307
9	625 ILCS 5/6-110	from Ch. 95 1/2, par. 6-110
10	625 ILCS 5/6-117	from Ch. 95 1/2, par. 6-117
11	720 ILCS 5/12-20	from Ch. 38, par. 12-20
12	720 ILCS 5/12-20.5	
13	755 ILCS 45/4-7	from Ch. 110 1/2, par. 804-7
14	755 ILCS 45/4-10	from Ch. 110 1/2, par. 804-10