

1989 Assembly Bill 550

Date of enactment: **April 23, 1990**

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1989 WISCONSIN ACT 298

AN ACT to repeal 979.22 (3) (c) 3; **to amend** 146.025 (2) (a) 1 and 1r and (5) (a) 5, 343.14 (2) (g) 3, 343.16 (1) (a) 1, 343.17 (1) (b) and (c), 343.17 (3) (b), 343.175 (2) (title) and (a) to (b), 343.50 (3), 979.22 (3) (c) (intro.), 1 and 2 and 979.22 (3) (d) and (e); and **to repeal and recreate** 157.06 of the statutes; and **to affect** 1989 Wisconsin Act ... (Assembly Bill 605), **relating to:** the uniform anatomical gift act and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was developed by the legislative council's special committee on uniform anatomical gift act.

The special committee was directed to review the Wisconsin anatomical gift act to determine whether modifications should be made in that act. The changes proposed in this bill are based primarily on revisions in the uniform anatomical gift act, which were proposed by the national conference of commissioners on uniform state laws in 1987 (hereafter referred to as the "1987 uniform act").

The national conference first approved the uniform anatomical gift act in 1968. The uniform anatomical gift act, with some modifications, was enacted by the Wisconsin legislature in 1969. Since the approval of the uniform anatomical gift act by the national conference in 1968, the act has been enacted, in some form, in all 50 states and the District of Columbia.

This bill makes changes in the Wisconsin anatomical gift act which are intended to promote the objective of the 1987 uniform act, and related laws; namely, to encourage and facilitate organ donation and thereby increase the number of organs available for transplant or therapeutic purposes. The changes made by the bill are described in NOTES placed in the text of the bill.

SECTION 2. 146.025 (2) (a) 1. and 1r and (5) (a) 5. of the statutes are amended to read:

146.025 (2) (a) 1. Except as provided in subd. 1g, a health care provider who procures, processes, distributes or uses a human body part or human tissue donated ~~for a purpose~~ as specified under s. 157.06 ~~(3) (6) (a) or (b)~~ shall, without obtaining consent to the testing, test for the presence of HIV or an antibody to HIV in order to assure

medical acceptability of the gift for the purpose intended. The health care provider shall use as a test for the presence of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable to detect the presence of HIV or an antibody to HIV. If the validated test result of the donor from the test or series of tests performed is positive, the human body part or human tissue donated for use or proposed for donation may not be used.

1r. A health care provider who procures, processes, distributes or uses human sperm or ova donated ~~for a purpose~~ as specified under s. 157.06 ~~(3) (6) (a) or (b)~~ shall, prior to the procurement, processing, distribution or use and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use as a test for the presence of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under s. 146.023 (1r) to detect the presence of HIV or an antibody to HIV. The health care provider shall test the donor initially and, if the initial test result is negative, shall perform a 2nd test on a date that is not less than 90 days from the date of initial testing. If the donor continues after the date of the 2nd test to donate sperm or ova, the health care provider shall test the donor at least every 3 months from the date of the 2nd test. If any validated test result of the donor for the presence of HIV or an antibody to HIV is positive, the sperm or ova donated

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for use may not be used and, if donated, shall be destroyed.

(5) (a) 5. To a health care provider who procures, processes, distributes or uses a human body part donated for a purpose as specified under s. 157.06 (3) ~~(6) (a) or (b)~~, for the purpose of assuring medical acceptability of the gift for the purpose intended.

NOTE: Section 146.025 (2) (a) 1. and 1r and (5) (a) 5. makes cross-reference changes.

SECTION 3. 157.06 of the statutes is repealed and recreated to read:

157.06 Uniform Anatomical Gift Act. (1) DEFINITIONS. In this section:

(a) "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death of the donor.

(b) "Decedent" means a deceased individual.

(c) 1. Before January 1, 1991, "document of gift" means a card, a statement attached to or imprinted on a regular operator's license or chauffeur's license issued under ch. 343, a will or other writing used to make an anatomical gift.

2. After December 31, 1990, "document of gift" means a card, a statement attached to or imprinted on a license under s. 343.175 (2) or on an identification card under s. 343.50 (3), a will or another writing used to make an anatomical gift.

(d) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body.

(e) "Enucleator" means an individual who meets the requirements of sub. (8) (c) for authorization to remove donated eyes or parts of eyes.

(f) "Hospital" means a facility approved as a hospital under s. 50.35 or a facility operated as a hospital by the federal government, a state or a subdivision of a state.

(g) "Part" means an organ, tissue, eye, bone, artery, blood, fluid or other body portion.

(h) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(i) "Procurement organization" means a person licensed, accredited or approved under the laws of any state for procurement, distribution or storage of human bodies or parts of human bodies.

NOTE: Subsection (1) creates new definitions of the following terms: anatomical gift, document of gift, enucleator and procurement organization.

(2) MAKING, AMENDING, REVOKING AND REFUSING TO MAKE ANATOMICAL GIFTS BY THE DONOR. (a) An individual who is at least 18 years of age may do any of the following:

1. Make an anatomical gift for any of the purposes stated in sub. (6) (a).

2. Limit an anatomical gift to one or more of the purposes stated in sub. (6) (a).

3. Refuse to make an anatomical gift.

(b) An anatomical gift under par. (a) may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift shall be signed by another individual and by 2 witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and the document of gift shall state that it has been so signed.

(c) 1. Before January 1, 1991, if a document of gift is attached to or imprinted on the donor's license to operate a motor vehicle or identification card issued by the department of transportation, the document of gift shall comply with par. (b) and s. 343.17 or 343.50. Revocation, suspension, expiration or cancellation of the license or identification card does not invalidate the anatomical gift.

2. After December 31, 1990, if a document of gift is attached to or imprinted on the donor's license under s. 343.175 (2) or identification card under s. 343.50 (3) issued by the department of transportation, the document of gift shall comply with par. (b) and s. 343.175 or 343.50. Revocation, suspension, expiration or cancellation of the license or identification card does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician or enucleator to carry out the appropriate procedures.

(e) An anatomical gift under the circumstances in which the document of gift is by will takes effect upon death of the testator, whether or not the will is probated. If after the death of the testator the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift or a refusal to make an anatomical gift under par. (i) by doing any of the following:

1. Signing a statement of amendment or revocation.

2. Verbally amending or revoking in the presence of 2 individuals.

3. During the donor's terminal illness or injury making, by any form of communication that is addressed to a physician, an amendment or revocation.

4. Delivering a signed statement of amendment or revocation to a specified donee to whom a document of gift had been delivered.

5. a. Before January 1, 1991, crossing out or amending the donor authorization or refusal in the space provided on the donor's license to operate a motor vehicle or identification card as prescribed in ss. 343.17 (1) (c) and 343.50 (3).

b. After December 31, 1990, crossing out or amending the donor authorization or refusal in the space provided on his or her license as prescribed in s. 343.175 (2) or identification card as prescribed in s. 343.50 (3).

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(g) In addition to the means specified in par. (f), an anatomical gift made by will may be amended or revoked in the manner provided for amendment or revocation of wills.

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part of his or her body by doing any of the following:

1. Making a writing of refusal that is signed in the same manner as is required for a document of gift.

2. a. Before January 1, 1991, attaching a statement of refusal to or imprinting a statement of refusal on a donor's license to operate a motor vehicle or identification card issued by the department of transportation.

b. After December 31, 1990, attaching a statement of refusal to or imprinting a statement of refusal on his or her license under s. 343.175 (2) or identification card under s. 343.50 (3).

3. Making any other writing that is used to identify the individual as refusing to make an anatomical gift. During the individual's terminal illness or injury, he or she may make the refusal by an oral statement or other form of communication to another.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part of a human body is neither a refusal to give other parts of the body nor a limitation on an anatomical gift under sub. (3) or on a removal or release of other parts of the body under sub. (4).

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal under par. (i).

NOTE: This SECTION revises s. 157.06, stats., relating to the uniform anatomical gift act. NOTES throughout the revision explain the changes.

Subsection (2) contains the following changes in current law:

1. Subsection (2) (a) (intro.) specifies that an individual shall be at least 18 years of age to make an anatomical gift. Current law does not specify a minimum age for making an anatomical gift. However, current law does permit a parent of an unmarried decedent under 18 years of age to revoke a gift by the decedent of his or her entire body for anatomical research, but does not authorize parental revocation of a gift of organs for transplant purposes.

2. Subsection (2) (a) 3. and (i) recognizes an individual's ability to execute a document of refusal to make an anatomical gift. This authority is not specifically recognized under current law. Current law specifies only that "contrary indications" regarding the decedent's willingness to make a gift must be respected by relatives, medical and hospital personnel. As prescribed in this bill, a document of refusal is similar in form to a document of gift.

3. Subsection (2) (b) simplifies the document of anatomical gift by requiring only the donor's signature and eliminating the current requirement of 2 witnesses when a donor signs.

4. Subsection (2) (f) specifies that the requirements for amending or revoking an anatomical gift also apply to the amendment or revocation of a *refusal* to make a gift. The requirements for amending or revoking a refusal to make a gift are not contained in the 1987 uniform act.

5. Subsection (2) (h) clarifies the ability of medical personnel to rely on the document of anatomical gift, without the necessity of obtaining the consent of the next-of-kin to the organ donation after the donor's death. Under current law, a properly executed document of anatomical gift is a valid and effective legal document. However, it is common practice for persons involved in organ procurement to obtain the consent of the next-of-kin following the donor's death, rather than relying on the legal authority of the gift document. The bill specifically states what is implicit in present law; namely, that: "[a]n anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death". As under current law, the question of when death occurs is determined pursuant to s. 146.71.

(3) MAKING, REVOKING AND OBJECTING TO ANATOMICAL GIFTS, BY PERSONS OTHER THAN THE DONOR. (a) Any member of the following classes of individuals, in the order of priority listed, may make an anatomical gift of all or a part of a decedent's body for a purpose specified in sub. (6) (a), unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

1. The spouse of the decedent.
2. An adult son or daughter of the decedent.
3. Either parent of the decedent.
4. An adult brother or sister of the decedent.
5. A grandparent of the decedent.
6. A guardian of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by an individual listed in par. (a) if any of the following applies:

1. An individual in a prior class is available at the time of death to make an anatomical gift and that individual objects to the making of an anatomical gift.
2. The individual proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent.

3. The individual proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the individual's class or a prior class.

(c) An individual authorized under par. (a) shall make an anatomical gift of all or a part of the decedent's body by doing one of the following:

1. Executing a document of gift that is signed by the individual.
2. Making a telegraphic, recorded telephonic or other recorded message, or other form of communication to another that is reduced to writing and signed by the recipient at the time it is received.

(d) Any member of the same class as or a prior class to an individual authorized under par. (a) who has made

an anatomical gift under par. (a) may revoke the gift if, before procedures have begun for the removal of a part from the body of the decedent, the member so informs the physician or enucleator who will remove the part of the revocation.

(e) A failure to make an anatomical gift under par. (a) is not an objection to the making of an anatomical gift unless the failure is accompanied by an objection to the making of an anatomical gift.

NOTE: Subsection (3) contains the following changes in current law:

1. Subsection (3) (d) clarifies that, if the individual who is to remove a body part learns of a revocation of the gift by a member of the same or prior class of relatives authorized to make a gift, he or she must respect the revocation unless the procedure to remove the body part was begun before knowledge of the revocation was received.

2. Subsection (3) (e) clarifies the effect of the failure of a decedent's relative to exercise his or her authority to make an anatomical gift. Under sub. (3) (e), a failure to make a gift is not considered to be an objection to the making of an anatomical gift, unless the failure is accompanied by an objection to the making of an anatomical gift. The objection requirement is consistent with sub. (3) (b) 1., which precludes the making of an anatomical gift by a person in a lower class of authorized donors, if a person in a prior class is available but objects to the making of a gift.

(4) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER. (a) The coroner or medical examiner may release and permit the removal of a part from, a decedent within that official's custody, for transplantation or therapy, if all of the following apply:

1. The official has received a request for the part of the body from a hospital, physician or procurement organization.

2. The official has made a reasonable effort, taking into account the useful life of the part of the body, to locate and examine the decedent's medical records and inform individuals listed in sub. (3) (a) of their option to make, or object to making, an anatomical gift.

3. The official does not know of a refusal or contrary indication by the decedent or of an objection by an individual having priority to act as listed in sub. (3) (a).

4. The removal will be by a physician, except that in the case of eyes, by a physician or by an enucleator.

5. The removal will not interfere with any autopsy or investigation.

6. The removal will be in accordance with accepted medical standards.

7. Cosmetic restoration will be done to the decedent's body, if appropriate.

(b) An official releasing, and permitting the removal of a part of, a human body shall maintain a permanent record of the name of the decedent, the name of the person making the request, the date and purpose of the request, the part of the body requested and the name of the person to whom it was released.

NOTE: Subsection (4) is a new provision that allows organ removal for transplant or therapeutic purposes by a coroner or

medical examiner under specified circumstances, without the requirement of a document of anatomical gift. Several conditions must exist for an official to exercise this authority: a) the official must make a reasonable effort to locate and examine the decedent's medical records and inform the decedent's next-of-kin regarding their options to make, or object to making, an anatomical gift; and b) the official must not know of a refusal or contrary indication by the decedent or an objection by the decedent's next-of-kin.

(5) POLICIES; REQUIRED REQUEST; SEARCH AND NOTIFICATION. (a) Each hospital shall develop and adopt written policies for providing information to individuals on how to become part donors and shall make available to individuals informational brochures that discuss donation of parts.

(b) If at the time of death of a patient there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with an available individual, under the priority established in sub. (3) (a), the option to make or refuse to make an anatomical gift and request that the individual make an anatomical gift of all or a part of the decedent's body. The administrator or representative shall make the request with reasonable discretion and sensitivity to the circumstances of the family. A request need not be made if the gift is not suitable, based upon accepted medical standards, for a purpose specified in sub. (6) (a) or if the requester knows that the patient, or the member of the class of individuals to whom the request would be directed under sub. (3) (a), has a cultural or religious objection or any other objection to the making of an anatomical gift. An entry shall be made in the medical record of the patient, in accordance with the rules promulgated under par. (f), stating the name and affiliation of the individual making the request and the name, response and relationship to the patient of the individual to whom the request was made.

(c) All of the following persons, under the following circumstances, shall make a reasonable search for a document of gift or other information identifying the individual as a donor or as an individual who has revoked or refused to make an anatomical gift:

1. A law enforcement officer, fire fighter, emergency medical technician — advanced (paramedic), ambulance service provider or ambulance attendant who finds an individual whom the person believes is dead or near death.

2. A hospital, upon the admission of an individual who is at or near the time of death, if there is not immediately available any other source of that information.

(d) If a document of gift, revocation of a document of gift or evidence of refusal to make an anatomical gift is located by the search required by par. (c) 1. and the individual or decedent to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the

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person locating the document, revocation or other evidence shall send it to the hospital.

(e) If at or near the time of death of a patient a hospital knows that an anatomical gift of all or a part of the patient's body has been made under sub. (3) (a), that a release and removal of a part of the patient's body has been permitted under sub. (4) or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital. If a donee is neither named nor known to the hospital, the hospital shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part of the body of the patient or individual.

(f) The department of health and social services shall promulgate rules that do all of the following:

1. Set forth policies and procedures to be followed for discussing the anatomical gift donation process with members of the patient's family in situations under par. (b) in which there is or is not a document of gift.

2. Prescribe the manner in which information obtained under par. (b) regarding anatomical gift donations, objections and refusals shall be placed in the patient's medical record so that it is readily accessible to hospital and other medical personnel in the event of the death of the patient.

NOTE: Subsection (5) contains the following changes in current law:

2. Subsection (5) (b) modifies the current "required request" law. Under current law, each hospital is required to have a policy that requires the next-of-kin of a patient who is a suitable candidate for an anatomical gift to be contacted about the possibility of consenting to the gift following the death of the patient. Under the bill, this required request is mandated only if at the time of death of a patient there is no medical record that the patient has made or refused to make an anatomical gift. If the patient has made or refused to make a gift, the wishes of the patient must be respected pursuant to sub. (2) (h) and (i).

The bill further provides that the required request procedure need not be followed if: a) the patient is not a suitable candidate for an anatomical gift, based on accepted medical standards; or b) the person designated to make the request knows that the patient, or the relative of the patient to whom the request would be directed, has a cultural or religious objection or any other objection to the making of an anatomical gift.

3. Subsection (5) (c) and (d) are new provisions that specify a minimum level of duty of law enforcement officers, fire fighters, emergency medical personnel and hospitals to make a reasonable search for a document of gift or other information identifying an unconscious individual as an anatomical gift donor or as an individual who has refused to make an anatomical gift or has revoked a gift. Information obtained from a search is required to be communicated to the hospital to which the individual is taken. Persons who fail to discharge their duties under pars. (c) and (d) are granted immunity from civil or criminal liability under sub. (10) (e).

4. Subsection (5) (e) requires a hospital, at or near the time of death of a patient, to notify the donee of an anatomical gift, if a donee is named and known to the hospital, or an appropriate procurement organization, if a donee is not named

or known. A hospital is also required to cooperate in the implementation of a gift, or in the release and removal of a body part pursuant to sub. (4).

5. Subsection (5) (f) requires DHSS to promulgate rules, relating to the requirements of sub. (5) (b), which: a) set forth the policy and procedures for discussing the anatomical gift process with the patient's family; and b) prescribe the manner in which anatomical gift information collected under sub. (5) (b) shall be placed in the patient's medical record to assure accessibility.

(6) DONEES; PURPOSES OF ANATOMICAL GIFTS. (a) Any of the following persons may become donees of anatomical gifts for the purposes stated:

1. A hospital, physician or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

2. An accredited medical or dental school, college or university for education, research or advancement of medical or dental science.

3. A designated individual for transplantation or therapy needed by that individual.

(b) A donor may make an anatomical gift to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, any hospital may accept the anatomical gift.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under sub. (3) (a), the donee may not accept the anatomical gift.

NOTE: The substantive change from current law is contained in sub. (6) (b). This provision specifies that any hospital shall be considered the donee, if the donor does not specify a donee or if the specified donee is not available or rejects the anatomical gift. Current law provides that the decedent's attending physician is the donee under these circumstances.

(7) DELIVERY OF DOCUMENT OF GIFT. (a) Delivery of a document of gift during the donor's lifetime to another is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the donor's death. The document of gift, or a copy, may be deposited in any hospital, procurement organization or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

NOTE: Subsection (7) contains no substantive changes from current law.

(8) RIGHTS AND DUTIES AT DEATH. (a) Rights of a donee created by an anatomical gift are superior to rights of others except for autopsies under sub. (10) (b). A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body for a purpose

other than transplantation or therapy, the body may not be delivered to the donee or the donee's agent if the surviving spouse or other person who assumes custody of the body requests a funeral service or other last rites for the deceased. If such a request is made, the body may not be delivered until after the funeral or rites have been conducted. If the entire body is given for transplantation or therapeutic purposes or if the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part of the body, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at death or, if none, the physician who certifies the death. Neither the physician who attends the donor at death nor the physician who determines the time of death may participate in the procedures for removing or transplanting a part of the donor's body unless the document of gift designates a particular physician under sub. (2) (d).

(c) If there has been an anatomical gift, a physician may remove any donated parts of the body and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician. Any individual acting under the direction of a physician and any funeral director licensed under ch. 445 may perform the functions of an enucleator under this section if he or she has completed a course in eye enucleation and holds a valid certification of competence from a medical college approved by the medical examining board under s. 448.05 (2). A certificate of competence shall be valid for 3 years.

NOTE: Subsection (8) contains no substantive changes from current law.

(9) COORDINATION OF PROCUREMENT AND USE. Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts of human bodies.

NOTE: Subsection (9) is a new provision that requires hospitals to enter into agreements or affiliations for the coordination of procurement and use of body parts.

(10) EXAMINATION, AUTOPSY, LIABILITY. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) This section is subject to the laws of this state prescribing powers and duties of the coroner, medical examiner and other physicians licensed to perform autopsies, with respect to autopsies and the reporting of certain deaths under ch. 979.

(c) A hospital, physician, coroner, medical examiner, enucleator or other person, who acts in accordance with this section or with the applicable anatomical gift law of another state or a foreign country or attempts in good

faith to do so, is not liable for that act in a civil action or criminal proceeding.

(d) A person who makes an anatomical gift under sub. (2) or (3) and the person's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

(e) A person who fails to discharge the duties imposed by sub. (5) (c) and (d) is not liable for that act or inaction in a civil action or criminal proceeding.

NOTE: Subsection (10) contains the following changes in current law:

1. Subsection (10) (c) clarifies the civil and criminal immunity provision under current law by specifying, in place of the general reference to "person", the entities to whom the liability exception applies. Under the bill, a hospital, physician, coroner, medical examiner, eye enucleator, or other person who acts in accordance with the anatomical gift act is immune from civil or criminal liability. The bill also clarifies that an attempt in good faith to act in accordance with the act is also protected.

2. Subsection (10) (d) creates a new provision limiting the liability of a person, and the person's estate, who makes an anatomical gift in accordance with the act. Specifically, the individual and estate of the individual is not liable for any injuries or damage that may result from the making and use of an anatomical gift.

3. Subsection (10) (e) grants immunity to hospitals and to law enforcement officers, fire fighters and emergency medical services personnel who fail to discharge the search and communication duties specified in sub. (5) (c) and (d). See the NOTE to sub. (5) for an explanation of these duties.

(11) UNIFORMITY OF INTERPRETATION. This section shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

NOTE: Subsection (11) contains no changes from current law.

(11m) EFFECT OF PRIOR DOCUMENT OF GIFT. Notwithstanding the requirements of this section, a document of gift that was made under the requirements of s. 157.06, 1987 stats., is deemed to comply with the requirements of this section.

NOTE: Subsection (11m) states that a document of gift that was made under the requirements of s. 157.06, 1987 stats., is deemed to comply with the changed requirements of new section 157.06 under this bill.

(12) SHORT TITLE. This section may be cited as the "uniform anatomical gift act".

NOTE: Subsection (12) changes current law to refer to "section", rather than "act" and places the title of the act in quotation marks.

SECTION 4. 343.14 (2) (g) 3. of the statutes is amended to read:

343.14 (2) (g) 3. An affirmative response to the question under this paragraph does not in itself authorize an anatomical gift. To authorize an anatomical gift, an applicant may comply with s. 157.06 (4) or 343.17 (1) (b).

SECTION 4d. 343.17 (1) (b) and (c) of the statutes are amended to read:

343.17 (1) (b) A part of the license shall be printed to serve as an authorized donor's card under s. 157.06 (4)

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(2) (b) and (c). If the licensee desires to be a donor he or she may so indicate in the space provided on the license. The donor may also supply any of the following specific information in the space provided on the license including specific body parts or organs to be donated, the name of the donee, the purpose for which the gift is made and the surgeon or physician who should carry out the appropriate procedures. The space provided on the license shall be signed by the licensee ~~in the presence of 2 adult witnesses who must sign the license in the donor's presence.~~ The license may also contain printed license restrictions as required by the department.

(c) The licensee may revoke or amend his or her gift according to s. 157.06 ~~(6) (2) (f) 5.~~ Any donor under par. (b) who revokes his or her gift shall cross out the authorization on his or her license. The donor amending his or her gift shall apply for a duplicate license according to s. 343.21 (1) (f).

SECTION 4h. 343.17 (3) (b) of the statutes, as affected by 1989 Wisconsin Act (Assembly Bill 605), is amended to read:

343.17 (3) (b) The reverse side of the license shall contain an explanation of any restriction codes or endorsement abbreviations used on the front of the license, in sufficient detail to identify the nature of the restrictions or endorsements to a law enforcement officer of this state or another jurisdiction. Except for a commercial driver license or a license labeled "CDL-Occupational" as described in s. 343.03 (3) (b) and (e), a part of the reverse side of each license shall be printed to serve as ~~an authorized donor's card~~ a document of gift under s. 157.06 (2) (b) and (c) or a document of refusal to make an anatomical gift under s. 157.06 (2) (i).

SECTION 4p. 343.175 (2) (title) and (a) to (b) of the statutes, as created by 1989 Wisconsin Act (Assembly Bill 605), are amended to read:

343.175 (2) (title) DOCUMENT OF GIFT OR REFUSAL. (a) Except as provided in par. (ag), a part of the reverse side of each license shall be printed to serve as ~~an authorized donor's card~~ a document of gift under s. 157.06 (2) (b) and (c) or a document of refusal to make an anatomical gift under s. 157.06 (2) (i).

(ag) The department shall print a separate ~~donor card document~~ to be issued to all persons issued a commercial driver license or a license labeled "CDL-Occupational" as described in s. 343.03 (3) (b) and (e) and make provisions so that the ~~card~~ document may be attached to the reverse side of the license document along one edge. This ~~card~~ document shall serve as ~~an authorized donor's card~~ a document of gift under s. 157.06 (2) (b) and (c) or a document of refusal to make an anatomical gift under s. 157.06 (2) (i).

(ar) If the person desires to be an organ donor, he or she may so indicate in the space provided on the ~~donor card~~ license. The donor may supply information in the space provided on the ~~donor card~~ license, including the

specific body parts or organs to be donated, the name of the donee, the purpose for which the gift is made and the physician whom the donor wishes to carry out the appropriate procedures. The anatomical gift described on the ~~donor card~~ license shall be signed by the licensee.

(b) The licensee may revoke or amend his or her gift by crossing out the donor authorization in the space provided on the ~~donor card~~ license or as otherwise prescribed in s. 157.06. The licensee may refuse to make an anatomical gift by so indicating in the space provided on the license or as otherwise prescribed in s. 157.06.

SECTION 4t. 343.50 (3) of the statutes, as affected by 1989 Wisconsin Act (Assembly Bill 605), is amended to read:

343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as an operator's license but shall be of a design which is readily distinguishable from the design of an operator's license and bear upon it the words "IDENTIFICATION CARD ONLY". The information on the card shall be the same as specified under s. 343.17 (3). The card may serve as a document of gift under s. 157.06 (2) (b) and (c) and the holder may affix a sticker thereto as provided in s. 343.175 (3). The card may also serve as a document of refusal to make an anatomical gift under s. 157.06 (2) (i). The card shall contain the holder's photograph.

SECTION 8. 979.22 (3) (c) (intro.), 1 and 2 of the statutes are amended to read:

979.22 (3) (c) (intro.) The decedent executed an anatomical gift under s. 157.06 ~~(4) (2)~~ and one of the following subsequently occurred:

1. The decedent revoked the gift under s. 157.06 ~~(6) (2) (f) or (g).~~
2. The decedent amended the gift under s. 157.06 ~~(6) (2) (f) or (g)~~ to exclude the gifting of his or her pituitary gland.

NOTE: Section 979.22 (3) (c) (intro.), 1 and 2 makes cross-reference changes.

SECTION 9. 979.22 (3) (c) 3. of the statutes is repealed.

NOTE: This SECTION repeals s. 979.22 (3) (c) 3. in current law; this provision is unnecessary because of the cross-reference change made in s. 979.22 (3) (c) 1. by this bill.

SECTION 10. 979.22 (3) (d) and (e) of the statutes are amended to read:

979.22 (3) (d) The decedent executed an anatomical gift under s. 157.06 ~~(4) (2)~~ donating his or her body or pituitary gland to a specific donee that is not the national hormone and pituitary program.

(e) The medical examiner performing the autopsy has actual notice of contrary indications by will or other document of the decedent or actual notice that a member of a class under s. 157.06 ~~(2) (b) (3) (a)~~ is opposed to the gifting of the decedent's body by a member of the same or a like class under that paragraph.

NOTE: Section 979.22 (3) (d) and (e) makes cross-reference changes.

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SECTION 10m. 1989 Wisconsin Act (Assembly Bill 605), section 12 is repealed.

SECTION 11. Nonstatutory provisions; medical examining board. By the first day of the 6th month beginning after publication of this act, the medical examining board shall report to the standing committee with jurisdiction over health issues in each house of the legislature on methods by which physicians may be made more aware of:

- (1) The need for organ donations.
- (2) The organ donation process.
- (3) The role of physicians in discussing organ donations with patients and their families.

NOTE: SECTION 11 of the bill requires the medical examining board to report to the legislature on methods by which physicians may be made more aware of the need for organ

donations, the organ donation process and the role of physicians in discussing organ donations with patients and their families.

SECTION 11m. Nonstatutory provisions; health and social services. The repeal of 1989 Wisconsin Act (Assembly Bill 605), section 12 by this act applies notwithstanding section 990.03 (3) of the statutes.

SECTION 12. Effective dates. This act takes effect on the day after publication, except as follows:

- (1) The treatment of sections 343.17 (3) (b), 343.175 (2) (title) and (a) to (b) and 343.50 (3) of the statutes takes effect on January 1, 1991.

NOTE: See the NOTES to ss. 343.16 (1) (a) 1. and 343.50 (3) for an explanation of the delayed effective date specified for several statutes affected by the bill.
