

## 2005 DRAFTING REQUEST

### Bill

Received: **05/02/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Alvin Ott (608) 266-5831**

By/Representing: **Erin Napralla (aide)**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact: **Dick Sweet**

Addl. Drafters:

Subject: **Health - decisionmaking**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ott@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Consent for anatomical gifts

---

### Instructions:

See Attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	dkennedy 06/08/2005	lkunkel 06/23/2005	jfrantze 06/23/2005	_____	sbasford 06/23/2005		
/2	dkennedy 06/27/2005	lkunkel 06/30/2005	rschluet 06/30/2005	_____	mbarman 06/30/2005	mbarman 08/03/2005	
/3	dkennedy 08/08/2005	lkunkel 08/08/2005	jfrantze 08/09/2005	_____	lnorthro 08/09/2005	lnorthro 08/09/2005	

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/4	dkennedy 08/09/2005	lkunkel 08/09/2005	chaugen 08/09/2005	_____	lnorthro 08/09/2005	lnorthro 08/09/2005	

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<END>

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/2	dkennedy 06/27/2005	lkunkel 06/30/2005	rschlue 06/30/2005	_____	mbarman 06/30/2005	mbarman 08/03/2005	
/3	dkennedy 08/08/2005	lkunkel 08/08/2005	jfrantze 08/09/2005	_____ <i>ch 8-a ps 8-a</i>	lnorthro 08/09/2005	lnorthro 08/09/2005	

*148/9/mk*

*ch 8-a ps 8-a*

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FE Sent For:

/3/mk 8/8

*J. Self*  
8/9  
<END>

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/1	dkennedy 06/08/2005	lkunkel 06/23/2005	jfrantze 06/23/2005		sbasford 06/23/2005		

FE Sent For:

/2 lmk 6/30

Handwritten signatures and initials are present over the Drafting History table. One signature appears to be 'lkunkel' and another 'jfrantze'. There are also initials 'pb' and the number '6305' written below the table.

<END>

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/?	dkennedy	1/mk/22	6/23	6/23			

FE Sent For:

<END>

# Bill Request Form

## Legislative Reference Bureau

100 N. Hamilton Street

Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 4/29/05

Legislator, agency, or other person requesting this draft Rep. Ott

Person submitting request (name and phone number) Eric Napralla (6-5831)

Persons to contact for questions about this draft (names and phone numbers) \_\_\_\_\_

Eric (6-5831) or Dick Sweet - WLC (6-2982)

Describe the problem, including any helpful examples. How do you want to solve the problem?

Model legislation in WI after California law relative to informed consent in tissue donation. This proposal will ensure donor families have the information they need to make decisions that best meet their wishes. Talking points enclosed.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

\* Please See WLC 0109/4 Attached

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you?  YES  NO

If yes:

Anyone who asks?

YES

NO

Any legislator?

YES

NO

Only the following persons Dick Sweet - WI Legislative Council

Do you consider this request urgent? YES  NO  If yes, please indicate why \_\_\_\_\_

Should we give this request priority over any pending request of this legislator, agency, or person?

YES  NO

**Tissue Donation Informed Consent  
Meeting to Discuss Draft**

Tuesday, December 14, 2004

10:30 a.m.

300 NE

**Points to Address**

- According to the American Association of Tissue Banks, over 1 million tissue transplants take place each year.
- When donor families agree to donate their loved ones tissues, they do so with the understanding that these gifts will be used to meet important medical needs and that tissue banks will be stewards of the donation.
- The idea of tissue banking as a “commercial” activity, with financial implications in both non-profit and for-profit settings, is obviously and understandably disconcerting to donor families.
- Therefore, it is my goal to ensure donor families are fully informed that multiple organizations, both non-profit and/or for-profit, may be involved in facilitating the donation, and what that means in order to allow families to make an informed decision.
- It is not my goal, however, to unreasonably discourage the donation of organs or tissue – the value of donation goes far beyond financial considerations. It is for this reason, that I have some concern that our current draft may not be the best tool to ensure informed consent.
- This draft prohibits tissue from going to a for-profit entity at the time of recovery, or at a subsequent stage of facilitating the donation, unless approved by the donor family.
- While the “sale” of organs and tissues is prohibited under state and federal law, recovering “reasonable” costs associated with the recovery, transport, processing, storage, etc. of tissue is not prohibited. This is true for both non-profit and for-profit tissue banks.

- Publicly traded (for-profit) companies have emerged in this industry and have raised capital to develop new technologies in processing tissue to be used for the medical benefit of others.
- Yet, because this industry is premised on donation in its truest and most generous form, it is not surprising donor families might feel misled in the whole process. If families are not made aware of the likelihood that an entity – be it non-profit or for-profit – will realize revenue from the gift, it is difficult to say their consent is actually informed.
- It is not uncommon for non-profit tissue banks to work with for-profit organizations.
- There are 4 primary steps in facilitating a tissue donation:
  1. Recovery
  2. Processing for Use
  3. Storage
  4. Distribution
- A tissue bank (again, be it non-profit or for-profit) may do one, all, or some combination of these steps based on their capability of carrying out such functions.



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE ALVIN OTT  
FROM: Richard Sweet, Senior Staff Attorney  
RE: WLC: 0109/4 (Consent for Anatomical Gifts)  
DATE: April 29, 2005

Attached is a draft prepared at your request -- WLC: 0109/4, relating to consent for anatomical gifts. The draft is based on a California law enacted in 2003 -- s. 7158.3, California Health and Safety Code.

Under the draft, a document of gift that is provided by a requester to a donor or to a person who is authorized under the statutes to make an anatomical gift on behalf of a deceased person must specifically ask that person if he or she wishes to give consent for any of the following: (1) donated skin to be used for cosmetic surgery purposes; (2) donated tissue to be used for applications outside of the United States; or (3) donated tissue to be recovered, processed, or distributed by a for-profit corporation. For purposes of this provision, the term "requester," which is based on California's definition of "donee," is defined as a hospital, organ procurement organization (OPO), tissue bank, coroner, or medical examiner. The terms "cosmetic surgery" and "tissue bank" are based, with some changes, on the California law. The provisions of the draft that relate to civil damages and unprofessional conduct are also based on the California law.

Feel free to contact me if I can be of further assistance.

RNS:ksm:jal:rv:tlu

Attachment

1 AN ACT *to create* 157.06 (10m) of the statutes; **relating to:** consent for anatomical  
2 gifts.

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

3 SECTION 1. 157.06 (10m) of the statutes is created to read:

4 157.06 (10m) (a) In this section:

5 1. "Cosmetic surgery" means surgery that is performed to alter or reshape normal  
6 structures of the body in order to improve appearance. "Cosmetic surgery" does not include  
7 reconstructive surgery that is performed to correct or repair abnormal structures of the body  
8 caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or  
9 disease to either improve function or, to the extent possible, to create a normal appearance.

10 2. "For-profit corporation" means any corporation that is not exempt from taxation  
11 under section 501 (c) (3) of the Internal Revenue Code.

12 3. "Health care provider" has the meaning given in s. 146.81 (1).

13 4. "Requester" means a hospital, organ procurement organization, tissue bank, coroner,  
14 or medical examiner.

15 5. "Tissue bank" means a corporation that recovers, processes, or distributes tissue for  
16 transplantation into humans.

17 (b) 1. A document of gift provided to a donor or to an individual under sub. (3) (a) by  
18 a requester shall specifically ask the donor or individual under sub. (3) (a) if he or she gives  
19 consent for any of the following:

20 a. Donated skin to be used for cosmetic surgery purposes.

1           b. Donated tissue to be used for applications outside of the United States.

2           c. Donated tissue to be recovered, processed, or distributed by a for-profit corporation.

3           In this subd. 1. c., "distributed" does not include final use of tissue with a patient or for  
4           research.

5           2. The document of gift under subd. 1. shall include, adjacent to each of the requests  
6           for consent under subd. 1. a., b., and c., a line or space for the donor's or individual's initials  
7           or signature. Failure of the donor or individual to initial or sign a request for consent for an  
8           activity under subd. 1. a., b., or c. constitutes a withholding of consent for that activity.

9           3. The requester under subd. 1. shall provide the donor or individual under sub. (3) (a)  
10           with a copy of the signed document of gift.

11           (c) 1. In obtaining an anatomical gift under sub. (3) (c) 2. by an individual under sub.  
12           (3) (a), a requester shall specifically ask the individual if he or she gives consent for any of  
13           the activities under par. (b) 1. a., b., or c.

14           2. The requester under subd. 1. shall provide the individual under sub. (3) (a) with a copy  
15           of the written document under sub. (3) (c) 2.

16           (d) 1. A donor or his or her estate or an individual under sub. (3) (a) may recover civil  
17           damages of not less than \$1,000 nor more than \$10,000, plus court costs, from a person who  
18           does not comply with the donor's or individual's withholding of consent under par. (b) or (c).

19           2. An intentional action by an individual who is a health care provider that is contrary  
20           to a donor's or an individual's withholding of consent under par. (b) or (c) constitutes  
21           unprofessional conduct.

22           3. For purposes of subds. 1. and 2., a donee shall be deemed to have complied with a  
23           donor's or an individual's withholding of consent under par. (b) or (c) if the donee states or  
24           records any withholding of consent on a label for the donated skin or tissue or in documents



## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE ALVIN OTT  
FROM: Richard Sweet, Senior Staff Attorney  
RE: WLC: 0109/5 (Consent for Anatomical Gifts)  
DATE: May 27, 2005

Attached is a draft prepared at your request -- WLC: 0109/5, relating to consent for anatomical gifts. The draft is based on a California law enacted in 2003 -- s. 7158.3, California Health and Safety Code.

Under the draft, a document of gift that is provided by a requester to a donor or to a person who is authorized under the statutes to make an anatomical gift on behalf of a deceased person must specifically ask that person if he or she wishes to give consent for any of the following: (1) donated skin to be recovered, processed, or distributed for cosmetic surgery purposes; (2) donated tissue to be recovered, processed, or distributed for applications outside of the United States; or (3) donated tissue to be recovered, processed, or distributed by a for-profit corporation. For purposes of this provision, the term "requester," which is based on California's definition of "donee," is defined as a hospital, organ procurement organization (OPO), tissue bank, coroner, or medical examiner. The terms "cosmetic surgery" and "tissue bank" are based, with some changes, on the California law. The provisions of the draft that relate to civil damages and unprofessional conduct are also based on the California law.

Feel free to contact me if I can be of further assistance.

RNS:ksm:jal:tlu:rv

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3            **SECTION 1.** 157.06 (10m) of the statutes is created to read:

4            157.06 (10m) (a) In this section:

5            1. “Cosmetic surgery” means surgery that is performed to alter or reshape normal  
6            structures of the body in order to improve appearance. “Cosmetic surgery” does not include  
7            reconstructive surgery that is performed to correct or repair abnormal structures of the body  
8            caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or  
9            disease to either improve function or, to the extent possible, to create a normal appearance.

10           2. “For-profit corporation” means any corporation that is not exempt from taxation  
11           under section 501 (c) (3) of the Internal Revenue Code.

12           3. “Health care provider” has the meaning given in s. 146.81 (1).

13           4. “Requester” means a hospital, organ procurement organization, tissue bank, coroner,  
14           or medical examiner.

15           5. “Tissue bank” means a corporation that recovers, processes, or distributes tissue for  
16           transplantation into humans.

17           (b) 1. A document of gift provided to a donor or to an individual under sub. (3) (a) by  
18           a requester shall specifically ask the donor or individual under sub. (3) (a) if he or she gives  
19           consent for any of the following:

1           a. Donated skin to be recovered, processed, or distributed for cosmetic surgery  
2 purposes.

3           b. Donated tissue to be recovered, processed, or distributed for applications outside of  
4 the United States.

5           c. Donated tissue to be recovered, processed, or distributed by a for-profit corporation.  
6 In this subd. 1. c., "distributed" does not include final use of tissue with a patient or for  
7 research.

8           2. The document of gift under subd. 1. shall include, adjacent to each of the requests  
9 for consent under subd. 1. a., b., and c., a line or space for the donor's or individual's initials  
10 or signature. Failure of the donor or individual to initial or sign a request for consent for an  
11 activity under subd. 1. a., b., or c. constitutes a withholding of consent for that activity.

12           3. The requester under subd. 1. shall provide the donor or individual under sub. (3) (a)  
13 with a copy of the signed document of gift.

14           (c) 1. In obtaining an anatomical gift under sub. (3) (c) 2. by an individual under sub.  
15 (3) (a), a requester shall specifically ask the individual if he or she gives consent for any of  
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17           2. The requester under subd. 1. shall provide the individual under sub. (3) (a) with a copy  
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19           (d) 1. A donor or his or her estate or an individual under sub. (3) (a) may recover civil  
20 damages of not less than \$1,000 nor more than \$10,000, plus court costs, from a person who  
21 does not comply with the donor's or individual's withholding of consent under par. (b) or (c).

22           2. An intentional action by an individual who is a health care provider that is contrary  
23 to a donor's or an individual's withholding of consent under par. (b) or (c) constitutes  
24 unprofessional conduct.



## Kennedy, Debora

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**From:** on behalf of Debora Kennedy  
**To:** Napralla, Erin  
**Subject:** RE: WLC: 0109/5, Consent for Anatomical Gifts

Thank you, Erin. I learned several days ago from Dick Sweet, whom I had asked a question about the draft, that he had done a later version and obtained it from him. I have been working on your bill this week and hope to have it off my desk today.

-----Original Message-----

**From:** Napralla, Erin  
**Sent:** Wednesday, June 08, 2005 8:34 AM  
**To:** Kennedy, Debora  
**Subject:** FW: WLC: 0109/5, Consent for Anatomical Gifts

Debora,

Please find attached an update to the Consent for Anatomical Gifts drafting request I had initially sent over at the beginning of May. We had some stakeholders raise some concerns and offer some suggested changes. Dick Sweet incorporated these changes in to his WLC draft. Please also make these changes to LRB 2935/P1.

Feel free to let me know if you have any questions.

Thank you!

Erin

*Erin Napralla*  
*Research Assistant*  
*Clerk, Assembly Committee on Agriculture*  
*Office of State Representative Al Ott*  
*608.266.5831*  
*erin.napralla@legis.state.wi.us*

---

**From:** Ulrich, Wendy  
**Sent:** Friday, May 27, 2005 1:56 PM  
**To:** Napralla, Erin  
**Subject:** WLC: 0109/5, Consent for Anatomical Gifts

<< File: 27ott\_rns >> << File: 0109/5 >>

Wendy Ulrich  
Support Staff Supervisor  
Legislative Council Staff  
(608) 266-2981  
wendy.ulrich@legis.state.wi.us



State of Wisconsin  
2005 - 2006 LEGISLATURE

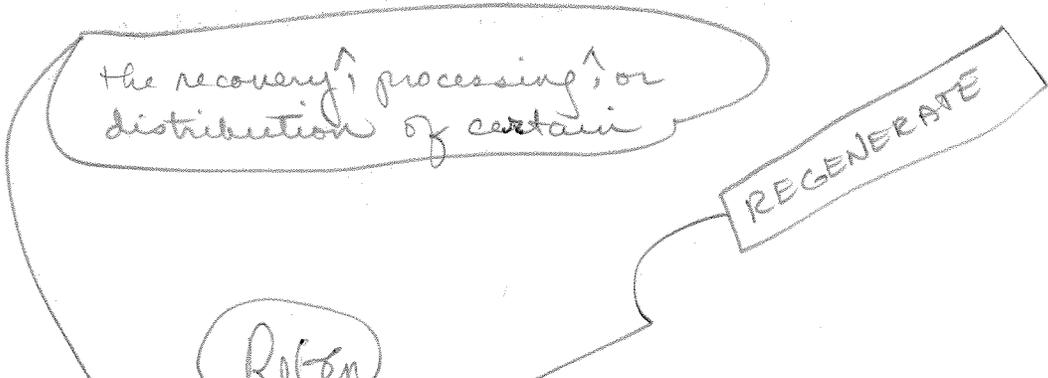
LRB-2935/P1 /

DAK:...ch  
mk

D-NOTE

SOON - Inedit 6/8

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



1 AN ACT <sup>ReGen</sup> to create 157.06 (10m) of the statutes; relating to: consent for  
2 anatomical gifts.

INSERT  
ANAL

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 157.06 <sup>(1) (am)</sup> ~~(10m)~~ of the statutes is created to read:  
4 157.06 <sup>(am)</sup> ~~(10m)~~ (a) In this section,  
5 <sup>no #</sup> "Cosmetic surgery" means surgery that is performed to alter or reshape <sup>a</sup>  
6 normal structures of the body in order to improve appearance. "Cosmetic surgery"  
7 does not include reconstructive surgery that is performed to correct or repair <sup>an</sup>  
8 abnormal structures of the body <sup>that is</sup> caused by congenital defects, developmental  
9 abnormalities, <sup>abnormality</sup> trauma, infection, tumors, or disease to either improve function or, to  
10 the extent possible, <sup>creating</sup> to create a normal appearance.

for the purpose of improving.

157.06 (i) (eg)

SECTION # . CR; 157.06 (i) (eg)

1 "For-profit corporation" means any corporation that is not exempt from  
2 taxation under section 501 (c) (3) of the Internal Revenue Code. ✓

3 157.06 (i) (er) SECTION # . CR; 157.06 (i) (er)  
3 "Health care provider" has the meaning given in s. 146.81 (1). ✓

4 4. "Requester" means a hospital, organ procurement organization, tissue bank,  
5 coroner, or medical examiner.

6 157.06 (i) (km) SECTION # . CR; 157.06 (i) (km)  
5 "Tissue bank" means a corporation that recovers, processes, or distributes  
7 tissue for transplantation into humans. ✓

INSERT  
27

8 (b) 1. A document of gift provided to a donor or to an individual under sub. (3)  
9 (a) by a requester shall specifically ask the donor or individual under sub. (3) (a) if  
10 he or she gives consent for any of the following:

- 11 a. Donated skin to be recovered, processed, or distributed for cosmetic surgery
- 12 purposes.
- 13 b. Donated tissue to be recovered, processed, or distributed for applications
- 14 outside of the United States.
- 15 c. Donated tissue to be recovered, processed, or distributed by a for-profit
- 16 corporation. In this subd. 1. c., "distributed" does not include final use of tissue with
- 17 a patient or for research.

18 (b) 2. The document of gift under subd. 1. shall include, adjacent to each of the  
19 requests for consent under subd. 1. a., b., and c., a line or space for the donor's or  
20 individual's initials or signature. Failure of the donor or individual to initial or sign  
21 a request for consent for an activity under subd. 1. a., b., or c. constitutes a  
22 withholding of consent for that activity.

23 3. The requester under subd. 1. shall provide the donor or individual under sub.  
24 (3) (a) with a copy of the signed document of gift.

par. (a)

para (a) 105  
205 and  
300

is

refusal to make  
an anatomical gift

par. (a) 105  
205 or 300

of the potential donor or individual under  
subd (3) (a) and a space for the donor's or individual's refusal

SECTION 1

*makes an anatomical gift under sub. (3) (c) 2. at the request of a hospital, organ procurement organization, tissue bank, coroner, or medical examiner*

1 (c) ~~1~~ In obtaining an anatomical gift under sub. (3) (c) 2. by an individual under  
2 sub. (3) (a), <sup>the</sup> a requester shall specifically ask the individual if he or she gives consent  
3 for <sup>each</sup> any of the activities under par. (b) 1. a, b, or c. <sup>request consent from</sup>

4 (d) <sup>2</sup> The requester under <sup>subd. 1</sup> shall provide the individual under sub. (3) (a)  
5 with a copy of the written document under <sup>any</sup> sub. (3) (c) <sup>par. (a) or (c)</sup>  
6 <sup>as applicable</sup> (d) 1. A donor or his or her estate or an individual under sub. (3) (a) may recover

7 civil damages of not less than \$1,000 nor more than \$10,000, plus court costs, from  
8 a person who does not comply with the donor's or individual's <sup>withholding</sup> of consent  
9 under par. (b) or (c). <sup>by the health care provider</sup>

10 2. An intentional action by an individual who is a health care provider that is  
11 contrary to a donor's or an individual's <sup>withholding</sup> of consent under par. (b) or (c)  
12 constitutes unprofessional conduct. <sup>refusal</sup>

13 3. For purposes of subds. 1. and 2., an individual or entity receiving donated  
14 skin or tissue <sup>is considered</sup> shall be deemed to have complied with a donor's or an individual's  
15 <sup>refusal</sup> withholding of consent under par. (b) or (c) if the individual or entity designates skin  
16 or <sup>other</sup> tissue that has been donated with restrictions under par. (b) or (c) or states or  
17 records any <sup>refusal</sup> withholding of consent in documents that may be maintained with  
18 regard to the donated skin or <sup>other</sup> tissue. After the individual or entity transfers the  
19 donated skin or tissue to another entity, along with the designation or  
20 documentation, the transferor's responsibility for compliance with the <sup>withholding</sup>  
21 of consent ceases. <sup>refusal</sup>

LPS:  
text: NS: inappl A  
23

22 SECTION 2. Initial applicability. <sup>9 (1)</sup> This act first applies to requests for  
23 anatomical gifts that are made on the effective date of this <sup>subsection</sup> SECTION.

*note on the document received*

*that receives*

A  
(1)

1  
LPS: text: \*NS: effdateA

**SECTION 3. Effective date.**

This act takes effect on this first day of the 7th

2 month beginning after publication.

3 (END)

D-NOTE

recovering, processing, or distributing

### INSERT ANAL

Under current law, a donation may be made of all or part of a human's body (an anatomical gift), to take effect at death. The following persons may make an anatomical gift:

1. The donor, by executing a document of gift that is signed by the donor or by another individual and two witnesses in the presence of the donor, that is specified on a driver's license or identification card that is issued by the Department of Transportation, or that is specified under a will. ✓

2. The spouse, close relative, guardian, or health care agent of the donor after the donor's death (unless the decedent has made an unrevoked refusal to consent to making an anatomical gift), by executing a signed document of gift or by 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 when received.

3. A coroner or medical examiner, upon request from a hospital, physician, or organ procurement organization, under limited circumstances. ✓

This bill requires that a hospital, organ procurement organization, tissue bank (as defined in the bill), coroner, or medical examiner that requests an anatomical gift from a potential donor or a spouse, close relative, guardian, or health care agent of a deceased potential donor provide in the document of gift (or, if the document of gift is transmitted electronically, specifically ask about) certain requests for activities that must be consented to or refused. The activities have to do with recovering, processing, or distributing donated skin for purposes of cosmetic surgery, and donated tissue (including skin) for applications outside the United States, or by a for-profit corporation before final use is made of the tissue for a patient or for purposes of research. ✓ If the donor or the spouse, close relative, guardian, or health care agent fails, in the document of gift, to initial or sign a requested activity, consent for that activity is refused. ✓ The hospital, organ procurement organization, tissue bank, coroner, or medical examiner who obtains an executed document of gift must provide a copy of the document to the donor or other person who executed it. ✓

The bill permits an anatomical gift donor or his or her estate to recover civil damages of not less than \$1,000 nor more than \$10,000, plus court costs, from a person who fails to comply with the donor's refusal of consent for any of the activities. ✓ Further, the bill provides that an intentional action by a health care provider that is contrary to the donor's refusal of consent for the activities is unprofessional conduct. ✓ Lastly, the bill establishes a standard, for an individual or entity that receives donated tissue, for compliance with the donor's consent to or refusal for any of the activities and specifies a limit on responsibility for that individual or entity.

### INSERT 2-7

1

SECTION 157.06 (3) (c) 1. of the statutes is amended to read:

; and recovering, processing, or distributing donated tissue

1 157.06 (3) (c) 1. ~~Executing~~ Subject to sub. (6m), if applicable, executing a  
2 document of gift that is signed by the individual. ✓

3 History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

4 ~~SECTION 2.~~ 157.06 (3) (c) 2. of the statutes is amended to read:

5 157.06 (3) (c) 2. ~~Making~~ Subject to sub. (6m), if applicable, making a  
6 telegraphic, recorded telephonic or other recorded message, or other form of  
7 communication to another that is reduced to writing and signed by the recipient at  
8 the time it is received.

9 History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

9 ~~SECTION 3.~~ 157.06 (4) (am) 2. of the statutes is amended to read:

10 157.06 (4) (am) 2. The official has made a reasonable effort, taking into account  
11 the useful life of the part of the body, to locate and examine the decedent's medical  
12 records and, subject to sub. (6m), inform individuals listed in sub. (3) (a) of their  
13 option to make, or object to making, an anatomical gift.

14 History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

14 ~~SECTION 4.~~ 157.06 (5) (b) 1. of the statutes is amended to read:

15 157.06 (5) (b) 1. If at or near the time of death of a patient there is no medical  
16 record or evidence obtained under par. (c) that the patient has made, revoked or  
17 refused to make an anatomical gift, the hospital administrator or a representative  
18 designated by the administrator shall discuss with an available individual, under  
19 the priority established in sub. (3) (a), the option to make or refuse to make an  
20 anatomical gift and request, subject to sub. (6m), that the individual make an  
21 anatomical gift of all or a part of the decedent's body. Alternatively, the administrator  
22 shall contact by telephone the organ procurement organization designated for the  
23 region of which the hospital is a part. If the administrator or representative contacts

1 the organ procurement organization, he or she shall provide the organ procurement  
2 organization with the identifier number of the patient, the patient's age, the actual  
3 or potential cause of the patient's death and, if available, the patient's medical  
4 history.

**History:** 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

**SECTION 5.** 157.06 (5) (b) 2. of the statutes is amended to read:

6 157.06 (5) (b) 2. If the organ procurement organization is contacted under subd.  
7 1., the organ procurement organization shall, in consultation with the attending  
8 physician of the patient under subd. 1., determine if an anatomical gift is suitable,  
9 based upon accepted medical standards, for a purpose specified in sub. (6) (a). If the  
10 organ procurement organization and the patient's attending physician determine  
11 that an anatomical gift is not so suitable, hospital personnel shall make a notation  
12 to this effect in the patient's medical record. If the organ procurement organization  
13 and the patient's attending physician determine that an anatomical gift is so  
14 suitable, an organ procurement organization representative or a requester  
15 designated by the organ procurement organization shall discuss with an available  
16 individual, under the priority established in sub. (3) (a), the option to make or refuse  
17 to make an anatomical gift and request, subject to sub. (6m), that the individual  
18 make an anatomical gift of all or a part of the decedent's body.

**History:** 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103.

**SECTION 6.** 157.06 (6m) of the statutes is created to read:

20 157.06 (6m) CONSENT FOR CERTAIN USES OF TISSUE; REQUIREMENTS. (a) A hospital,  
21 organ procurement organization, tissue bank, coroner, or medical examiner that  
22 provides a document of gift to a potential donor or to an individual under sub. (3) (a)

and opportunities  
for refusal

and opportunity  
for refusal

(1) shall include in the document of gift specific requests for consent by the donor or  
2 individual for all of the following:

3 1. The recovery, processing, or distribution of donated skin, for purposes of  
4 cosmetic surgery.

5 2. The recovery, processing, or distribution of donated tissue, for applications  
6 outside the United States.

7 3. The recovery, processing, or distribution of donated tissue by a for-profit  
8 corporation before final use is made of the tissue for a patient or for purposes of  
9 research.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2935/1dn

DAK....:ch

lmk

(date)

✓  
To Representative Ott:

Note that I added to s. 157.06 (6m) (c) a requirement that the requester note the response to questions about the use of donated skin or tissue, on the document of gift that the requester receives by FAX <sup>✓</sup> or telephone, or e-mail from the spouse, close relative, guardian, or health care agent of a decedent donor. Please review. <sup>A</sup>

Debora A. Kennedy  
Managing Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2935/1dn  
DAK:lmk:jf

June 23, 2005

To Representative Ott:

Note that I added to s. 157.06 (6m) (c) a requirement that the requester note the response to questions about the use of donated skin or tissue, on the document of gift that the requester receives by FAX, telephone, or e-mail from the spouse, close relative, guardian, or health care agent of a decedent donor. Please review.

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