

2005 DRAFTING REQUEST

Bill

Received: **08/16/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher (aide)**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
/?							
/P1	dkennedy 09/27/2005	csicilia 09/30/2005		_____			S&L
/1			rschlue 09/30/2005	_____	sbasford 09/30/2005		S&L
/2	dkennedy 10/04/2005	csicilia 10/04/2005	jfrantze 10/04/2005	_____	sbasford 10/04/2005		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	dkennedy 10/18/2005	csicilia 10/18/2005	jfrantze 10/18/2005	_____	lemery 10/18/2005		S&L
/4	dkennedy 10/20/2005	csicilia 10/20/2005	pgreensl 10/20/2005	_____	lnorthro 10/20/2005	lemery 10/26/2005	

FE Sent For: **10/25/2005.**

<END>

2005 DRAFTING REQUEST

Bill

Received: 08/16/2005

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

Submit via email: YES

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
/?							
/P1	dkennedy 09/27/2005	csicilia 09/30/2005		_____			S&L
/1			rschluet 09/30/2005	_____	sbasford 09/30/2005		S&L
/2	dkennedy 10/04/2005	csicilia 10/04/2005	jfrantze 10/04/2005	_____	sbasford 10/04/2005		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	dkennedy 10/18/2005	csicilia 10/18/2005	jfrantze 10/18/2005	_____	lemery 10/18/2005		S&L
/4	dkennedy 10/20/2005	csicilia 10/20/2005	pgreensl 10/20/2005	_____	lnorthro 10/20/2005		

FE Sent For:

<END>

"/4"
Rush
11/1/05
10/25/05

2005 DRAFTING REQUEST

Bill

Received: **08/16/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher (aide)**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
/?							
/P1	dkennedy 09/27/2005	csicilia 09/30/2005		_____			S&L
/1			rschluet 09/30/2005	_____	sbasford 09/30/2005		S&L
/2	dkennedy 10/04/2005	csicilia 10/04/2005	jfrantze 10/04/2005	_____	sbasford 10/04/2005		S&L

Handwritten notes: 1/4 9/5 10/20/05 [initials]

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	dkennedy 10/18/2005	csicilia 10/18/2005	jfrantze 10/18/2005	_____	lemery 10/18/2005		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/16/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher (aide)**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
/?							
/P1	dkennedy 09/27/2005	csicilia 09/30/2005		_____			S&L
/1			rschluet 09/30/2005	_____	sbasford 09/30/2005		S&L
/2	dkennedy 10/04/2005	csicilia 10/04/2005	jfrantze 10/04/2005	_____	sbasford 10/04/2005		

13 gjs 10/18/05
10/18/05
10/18/05
10/18/05

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/16/2005**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher (aide)**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
/?							
/P1	dkennedy 09/27/2005	csicilia 09/30/2005		_____			S&L
/1	dkennedy	1/2 cjs 10/4 05	rschluet 09/30/2005	_____	sbasford 09/30/2005		S&L

FE Sent For:

Handwritten signatures and dates:
9/14
10/4
10/4
<END>

2005 DRAFTING REQUEST

Bill

Received: 08/16/2005

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher (aide)

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

Submit via email: YES

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

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

Pre Topic:

No specific pre topic given

Topic:

Anatomical gifts; powers and duties of coroners and medical examiners

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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/? dkennedy

1 g/s
9/29
05

LE conu
ok 9/9

Handwritten signature and "9/30/05" date.

<END>

FE Sent For:

Kennedy, Debora

From: Becher, Scott
Sent: Tuesday, August 16, 2005 2:06 PM
To: Kennedy, Debora
Subject: FW: Electronic Copy of Memo and Draft From Dick Sweet
Attachments: 02342.pdf; 12wieckert_rns.pdf

From: Sweet, Richard
Sent: Friday, August 12, 2005 2:15 PM
To: Becher, Scott
Subject: FW: Electronic Copy of Memo and Draft From Dick Sweet

Scott,

This was sent to the Rep. Wieckert e-mail address. Just wanted to make sure you got a copy.

Dick

From: Veum, Rachel
Sent: Friday, August 12, 2005 1:59 PM
To: Rep.Wieckert
Cc: Sweet, Richard
Subject: Electronic Copy of Memo and Draft From Dick Sweet

Rachel A. Veum

Wisconsin Legislative Council Staff
One East Main Street, Suite 401
Madison, WI 53703
(608) 266-1947
rachel.veum@legis.state.wi.us



WISCONSIN LEGISLATIVE COUNCIL

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

TO: REPRESENTATIVE STEVE WIECKERT
FROM: Richard Sweet, Senior Staff Attorney
RE: WLC: 0234/2 (Anatomical Gifts – Coroners/Medical Examiners)
DATE: August 12, 2005

Attached is a draft prepared at your request – WLC: 0234/2, relating to anatomical gifts and the powers and duties of coroners and medical examiners. The first portion of the draft (s. 157.06 (4) (c), Stats.) is based on sections 52:17B-88.7 to 88.9 of the New Jersey statutes.

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

RNS:ksm:rv

Attachment

1 **AN ACT** *to create* 157.06 (4) (c) and 157.06 (4) (d) of the statutes; **relating to:**
2 anatomical gifts and the powers and duties of coroners and medical examiners.

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

3 **SECTION 1.** 157.06 (4) (c) of the statutes is created to read:

4 157.06 (4) (c) 1. If a decedent is within the custody of a coroner or medical examiner,
5 and the decedent is either a donor or an individual for whom a document of gift has been
6 executed under sub. (3), the coroner or medical examiner or the designee of the coroner or
7 medical examiner may perform an examination, autopsy, or analysis of the tissues or organs
8 only in a manner and within a time period compatible with their preservation for the purposes
9 of transplantation.

10 2. If the examination, autopsy, or analysis has not been undertaken in the manner and
11 within the time provided in subd. 1., an individual who removes a part that is an anatomical
12 gift from a decedent whose death is under investigation by a coroner or medical examiner may
13 remove the part after giving notice to the coroner or medical examiner or a designee of the
14 coroner or medical examiner. In that case, the coroner or medical examiner or a designee of
15 the coroner or medical examiner:

16 a. Shall be present during removal of the part if, in his or her, judgment the part may
17 be involved in the cause of death, and may request a biopsy of the part or deny removal.

18 b. Shall explain in writing any reasons for determining that the part may be involved
19 in the cause of death.

9/26/05

DAK questions of Scott Becker + Dr. Anthony D'Alessandro

1. RC 157.06(4)(c)2. - How can the body part be used if time period has been exceeded?

2. RC 157.06(4)(c)1. - Prohibition on coroner or med. examiner - penalty?
Next provision assumes c. or m.e. doesn't comply

From Dr. D'Alessandro:

Intent: If coroner or m.e. is denying access or won't release, OPO can do organ recovery while allowing coroner or m.e. to be physically present

Decedent = person who meets brain death def. (on ventilator) is pt. in hosp from whom life support will be w/drawn, leading to cardiac death

organ = "vascularized organ" defined under s. 157.06(1)(L)



By Monday 10/3

D-NOTE

ejs

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SA ✓
new CRs ✓

REGENERATE

1 AN ACT to create 157.06 (4) (c) and 157.06 (4) (d) of the statutes; relating to:
2 anatomical gifts and the powers and duties of coroners and medical examiners.

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 (4) (c) of the statutes is created to read:
4 157.06 (4) (c) 1. If a decedent is within the custody of a coroner or medical
5 examiner, and the decedent is either a donor or an individual for whom a document
6 of gift has been executed under sub. (3), the coroner or medical examiner or the
7 designee of the coroner or medical examiner may perform an examination, autopsy,
8 or analysis of the tissues or organs only in a manner and within a time period
9 compatible with their preservation for the purposes of transplantation.
10 2. If the examination, autopsy, or analysis has not been undertaken in the
11 manner and within the time provided in subd. 1., an individual who removes a part

1 that is an anatomical gift from a decedent whose death is under investigation by a
 2 coroner or medical examiner may remove the part after giving notice to the coroner
 3 or medical examiner or a designee of the coroner or medical examiner. In that case,
 4 the coroner or medical examiner or a designee of the coroner or medical examiner:

5 a. Shall be present during removal of the part if, in his or her, judgment the part
 6 may be involved in the cause of death, and may request a biopsy of the part or deny
 7 removal.

8 b. Shall explain in writing any reasons for determining that the part may be
 9 involved in the cause of death.

INSERT 2-9

or technician who removes

under this subsection

10 ^(d) 2. A physician performing a transplant of a part from a decedent whose death
 11 is under investigation by a coroner or medical examiner shall file with the coroner
 12 or medical examiner a report detailing the condition of the part and its relationship
 13 to the cause of death. The report may include a biopsy or medically approved sample
 14 from the part.

INSERT 2-14

(4r)

15 SECTION 2. 157.06 ~~(4)~~ ^(d) of the statutes is created to read:

16 157.06 ~~(4)~~ ^(d) 1. If a decedent is within the custody of a coroner or medical
 17 examiner, and the death occurred in a hospital, any donation of tissues shall be to
 18 the tissue bank with which the hospital has an agreement under 42 CFR 482.45 (a)

19 (2). ^(b) ^(4r) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER;
 (DONEE.)

20 2. If a decedent is within the custody of a coroner or medical examiner, and the
 21 death occurred outside a hospital, and if the coroner or medical examiner is releasing
 22 a tissue to a tissue bank, the release shall be made as follows:

23 1. If the county board has entered into an agreement with one or more tissue
 24 banks following a request-for-proposals process that considers a tissue bank's
 25 history, services, and tissue distribution record, the coroner or medical examiner

subdivision ✓

1 shall release tissues in accordance with the agreement. Tissue banks under this

2 ~~subd 2. a.~~ shall be accredited by the American Association of Tissue Banks and
3 registered with the federal Food and Drug Administration.

4 ~~b.~~ ^{2.} If the county board has not entered into an agreement under subd. ~~2. a.~~ ¹, the
5 coroner or medical examiner shall release tissues on an equal rotating basis to any
6 tissue bank that is accredited by the American Association of Tissue Banks and
7 registered with the federal Food and Drug Administration and that proposes to
8 provide removal services in the county, subject to approval by the county board.

9

(END)

INSERT 3-8 A

INSERT 3-8 B

D-NOTE

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3498/Plins
DAK....:ch

INSERT ANAL

Currently, an individual who is at least 18 years of age may make an anatomical gift (donation of all or part of his or her body to take effect upon or after he or she irreversibly ceases circulatory and respiratory functions or all functions of the brain). Also, certain members of a decedent's family or his or her health care agent under a power of attorney for health care may make an anatomical gift of all or a part of the decedent's body. If a decedent is within the custody of a coroner or medical examiner and there is no evidence that the decedent made or refused to make an anatomical gift, under certain circumstances the coroner or medical examiner may release and permit the removal of a part from the decedent's body for use in transplantation or therapy. ✓

This bill creates requirements related to removal of a body part from a decedent who is within the jurisdiction of a coroner or medical examiner and who has made an anatomical gift or whose family or health care agent has made an anatomical gift of all or part of the decedent's body. For such a person, a physician may remove a vascularized organ (a heart, lung, liver, pancreas, kidney, intestine, or other organ that requires the continuous circulation of blood to remain useful for purposes of transplantation) within a time period in which the organ may be preserved for purposes of transplantation if (1) the coroner or medical examiner or his or her designee is first provided notice and an immediate opportunity to perform an examination, autopsy, or analysis of the vascularized organ intended for removal; and (2) the coroner or medical examiner or his or her designee is present during the vascularized organ's removal if in his or her judgment the organ may be necessary in determining the cause of death. However, the coroner or medical examiner or designee may request a biopsy of the vascularized organ or deny removal after specifying any reason in writing. Parts or all of the decedent's body that are anatomical gifts, other than vascularized organs, may be removed by a physician or technician as authorized by the coroner, medical examiner, or designee with jurisdiction over the decedent. A physician or technician who removes a part from a decedent must file a report with the coroner or medical examiner, and a coroner or medical examiner or designee who releases and permits removal of a part must maintain a permanent record of the name of the decedent, the name of any person who made an anatomical gift on behalf of the decedent, the date and purpose of the document of gift, the part removed, and the name of the person to whom the part was released. ✓

The bill also requires, for a decedent who is within the custody of a coroner or medical examiner and whose death occurred in a hospital, that any donation of tissue be to the tissue bank with which the hospital has an agreement, as required under federal law. For a decedent whose death occurred outside a hospital and who is within the custody of a coroner or medical examiner, tissue may be released to a tissue bank with which the county board has an agreement or, if no agreement exists, on an equal rotating basis to any registered and accredited tissue bank that proposes to offer removal services, subject to county board approval. ✓

RC
SECTION - AM; 157.06 (title)

157.06 (title) ~~Uniform anatomical gift act~~ Anatomical gifts.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

B no scoring

INSERT 2-9

SECTION 1. 157.06 (2) (j) of the statutes is amended to read:

157.06 (2) (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) or (4m).

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 2. 157.06 (5) (bm) of the statutes is amended to read:

157.06 (5) (bm) 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 (4m) 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.

This is INSERT 3-8 A

Insert 2-9 continued

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 3. 157.06 (4) (title) of the statutes is amended to read:

157.06 (4) (title) ~~NOTIFICATION AND AUTHORIZATION~~ AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; ~~DECEDENT NOT A DONOR.~~

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 4. 157.06 (4) (am) (intro.) of the statutes is amended to read:



1 157.06 (4) (am) (intro.) The coroner or medical examiner may release and
2 permit the removal of a part from, a decedent specified in par. (ag) within that
3 official's custody, for transplantation or therapy, if all of the following apply:

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 5.** 157.06 (4) (b) of the statutes is amended to read:

5 157.06 (4) (b) ~~An official releasing, and permitting~~ A coroner or medical
6 examiner who releases and permits the removal of a part of, a human body under this
7 subsection shall maintain a permanent record of the name of the decedent, the name
8 of the person making the request, the date and purpose of the request, the part of the
9 body requested, and the name of the person to whom it was released.

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.

10 **SECTION 6.** 157.06 (4m) of the statutes is created to read:

11 157.06 (4m) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; DECEDENT A
12 DONOR. (a) Subject to par. (b), for a decedent who meets the criteria for a
13 determination of death under s. 146.71, who is a donor or ~~for~~ ^{cf} whom a document of
14 an anatomical gift has been made under sub. (3), and who is within the jurisdiction of a coroner or
15 medical examiner under ch. 979, any vascularized organ that is an anatomical gift
16 may be removed by a physician, within a time period compatible with preservation
17 of the organ for purposes of transplantation, if all of the following take place:

- 18 1. ^{The} A coroner or medical examiner or his or her designee is first provided notice
19 and an immediate opportunity to perform an examination, autopsy, or analysis of the
20 decedent's vascularized organs for which removal is intended as an anatomical gift.
21 2. The coroner or medical examiner or his or her designee is present during the
22 physician's removal of the vascularized organ if, in the judgment of the coroner,



1 medical examiner, or designee, the organ may be necessary in determining the cause
2 of death.

3 (b) The coroner or medical examiner or his or her designee specified in par. (a)
4 (intro.) may request a biopsy of the vascularized organ or deny removal after
5 specifying, in writing as part of any death report required under ch. 979, any reasons
6 for determining that the organ may be involved in the cause of death.

7 (c) For a decedent specified under par. (a), any part other than a vascularized
8 organ that is an anatomical gift may be removed by a physician or technician, within
9 a time period compatible with preservation of the part for purposes of
10 transplantation, as authorized by the coroner, medical examiner, or designee with
11 jurisdiction over the decedent.

INSERT 2-14

12 (e) A coroner or medical examiner or his or her designee who releases and
13 permits the removal of a part under this subsection shall maintain a permanent
14 record of the name of the decedent, the name of the person, if any, who made a
15 document of gift ^{an anatomical} under sub. (3), the date and purpose of the document of gift, the part
16 of the body removed, and the name of the person to whom the part was released.

INSERT 3-8 B

17 **SECTION 7.** 979.01 (3) of the statutes is amended to read:

18 979.01 (3) ~~In Subject to s. 157.06 (4) and (4m), in all cases of death reportable~~
19 ~~under sub. (1) where an autopsy is not performed, the coroner or medical examiner~~
20 ~~may take for analysis any and all specimens, body fluids and any other material~~
21 ~~which will assist him or her in determining the cause of death. The specimens, body~~
22 ~~fluids and other material taken under this subsection shall not be admissible in~~

1 evidence in any civil action against the deceased or the deceased's estate, as the
2 result of any act of the deceased.

3 **History:** 1973 c. 272; 1975 c. 294, 421; 1979 c. 221; 1983 a. 279 ss. 8, 22; Stats. 1983 s. 979.01; 1985 a. 315, 316; 1989 a. 121; 1993 a. 486; 1999 a. 85; 2001 a. 38.

3 **SECTION 8. 979.01 (3m) of the statutes is amended to read:**

4 **979.01 (3m)** ~~In~~ Subject to s. 157.06 (4) and (4m), in all cases of death reportable
5 under sub. (1) where an autopsy is not performed, the coroner or medical examiner
6 shall take for analysis any and all specimens, body fluids and any other material that
7 will assist him or her in determining the cause of death if requested to do so by a
8 spouse, parent, child or sibling of the deceased person and not objected to by any of
9 those family members. The specimens, body fluids and other material taken under
10 this subsection shall not be admissible in evidence in any civil action against the
11 deceased or his or her estate, as the result of any act of the deceased.

12 **History:** 1973 c. 272; 1975 c. 294, 421; 1979 c. 221; 1983 a. 279 ss. 8, 22; Stats. 1983 s. 979.01; 1985 a. 315, 316; 1989 a. 121; 1993 a. 486; 1999 a. 85; 2001 a. 38.

12 **SECTION 9. 979.02 of the statutes is amended to read:**

13 **979.02 Autopsies.** ~~The~~ Subject to s. 157.06 (4) and (4m), the coroner, medical
14 examiner or district attorney may order the conducting of an autopsy upon the body
15 of a dead person any place within the state in cases where an inquest might be had
16 as provided in s. 979.04 notwithstanding the fact that no such inquest is ordered or
17 conducted. The autopsy shall be conducted by a licensed physician who has
18 specialized training in pathology. The district attorney may move the circuit court
19 for the county in which the body is buried for an order disinterring the body for
20 purposes of autopsy. The order shall be granted by the circuit court upon a
21 reasonable showing that any of the criteria specified in s. 979.04 exists. This section
22 does not prevent additional autopsies or examinations of the body if there are
23 unanswered pathological questions concerning the death and the causes of death.

History: 1983 a. 279 s. 12; Stats. 1983 s. 979.02.

SECTION . RP; 157.06(12)

(end INSERT
3-8B)

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

LRB-3498/P1dn
DAK./:ch

gjs

To Representative Wieckert:

Please review this bill very carefully; I have substantially changed it from the material proposed, in light of my conversation with Scott Becher and Dr. Anthony D'Alessandro on September 26, 2005.

Please let me know if you have questions about or need further assistance with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

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

LRB-3498/ldn
DAK:cjs:rs

September 30, 2005

To Representative Wieckert:

Please review this bill very carefully; I have substantially changed it from the material proposed, in light of my conversation with Scott Becher and Dr. Anthony D'Alessandro on September 26, 2005.

Please let me know if you have questions about or need further assistance with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

10/3/05 Conversation w/ Dr. D'Alessandro
157.06 (Am) (a) 1. + 2.:

He says that there is not enough time to provide the cor or me w/ opportunity to perform exam, etc. - Should, instead, provide notice + allow c or me to be present

157.06 (Am) (b): Need not write reasons before denying removal or requesting biopsy



T
stays

2005 BILL

Regen cat.

1 AN ACT *to repeal* 157.06 (12); *to amend* 157.06 (2) (j), 157.06 (4) (title), 157.06
2 (4) (am) (intro.), 157.06 (4) (b) and 157.06 (5) (bm); *to repeal and recreate*
3 157.06 (title); and *to create* 157.06 (4m) and 157.06 (4r) of the statutes;
4 **relating to:** anatomical gifts and the powers and duties of coroners and
5 medical examiners.

Analysis by the Legislative Reference Bureau

Currently, an individual who is at least 18 years of age may make an anatomical gift (donation of all or part of his or her body to take effect upon or after he or she irreversibly ceases circulatory and respiratory functions or all functions of the brain). Also, certain members of a decedent's family or his or her health care agent under a power of attorney for health care may make an anatomical gift of all or a part of the decedent's body. If a decedent is within the custody of a coroner or medical examiner and there is no evidence that the decedent made or refused to make an anatomical gift, under certain circumstances the coroner or medical examiner may release and permit the removal of a part from the decedent's body for use in transplantation or therapy.

This bill creates requirements related to removal of a body part from a decedent who is within the jurisdiction of a coroner or medical examiner and who has made an anatomical gift or whose family or health care agent has made an anatomical gift of all or part of the decedent's body. For such a person, a physician may remove a vascularized organ (a heart, lung, liver, pancreas, kidney, intestine, or other organ

BILL

has the opportunity to be

and, if doing so, must

that requires the continuous circulation of blood to remain useful for purposes of transplantation) within a time period in which the organ may be preserved for purposes of transplantation if (1) the coroner or medical examiner or his or her designee is first provided notice ~~and an immediate opportunity to perform an examination, autopsy, or analysis~~ of the ~~vascularized organ~~ intended ~~for~~ removal; and (2) the coroner or medical examiner or his or her designee ~~is~~ present during the vascularized organ's removal if in his or her judgment the organ may be necessary in determining the cause of death. However, the coroner or medical examiner or designee may ~~request~~ a biopsy of the vascularized organ or deny removal ~~after~~ specifying any reason in writing. Parts or all of the decedent's body that are anatomical gifts, other than vascularized organs, may be removed by a physician or technician as authorized by the coroner, medical examiner, or designee with jurisdiction over the decedent. A physician or technician who removes a part from a decedent must file a report with the coroner or medical examiner, and a coroner or medical examiner or designee who releases and permits removal of a part must maintain a permanent record of the name of the decedent, the name of any person who made an anatomical gift on behalf of the decedent, the date and purpose of the document of gift, the part removed, and the name of the person to whom the part was released.

order

The bill also requires, for a decedent who is within the custody of a coroner or medical examiner and whose death occurred in a hospital, that any donation of tissue be to the tissue bank with which the hospital has an agreement, as required under federal law. For a decedent whose death occurred outside a hospital and who is within the custody of a coroner or medical examiner, tissue may be released to a tissue bank with which the county board has an agreement or, if no agreement exists, on an equal rotating basis to any registered and accredited tissue bank that proposes to offer removal services, subject to county board approval.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 157.06 (title) of the statutes is repealed and recreated to read:
- 2 **157.06** (title) **Anatomical gifts.**
- 3 **SECTION 2.** 157.06 (2) (j) of the statutes is amended to read:
- 4 157.06 (2) (j) In the absence of contrary indications by the donor, an anatomical
- 5 gift of a part of a human body is neither a refusal to give other parts of the body nor

BILL

1 a limitation on an anatomical gift under sub. (3) or on a removal or release of other
2 parts of the body under sub. (4) or (4m).

3 **SECTION 3.** 157.06 (4) (title) of the statutes is amended to read:

4 157.06 (4) (title) ~~NOTIFICATION AND AUTHORIZATION~~ AUTHORIZATION BY CORONER
5 OR MEDICAL EXAMINER; DECEDENT NOT A DONOR.

6 **SECTION 4.** 157.06 (4) (am) (intro.) of the statutes is amended to read:

7 157.06 (4) (am) (intro.) The coroner or medical examiner may release and
8 permit the removal of a part from, a decedent specified in par. (ag) within that
9 official's custody, for transplantation or therapy, if all of the following apply:

10 **SECTION 5.** 157.06 (4) (b) of the statutes is amended to read:

11 157.06 (4) (b) ~~An official releasing, and permitting~~ A coroner or medical
12 examiner who releases, and permits the removal of a part of, a human body under
13 this subsection shall maintain a permanent record of the name of the decedent, the
14 name of the person making the request, the date and purpose of the request, the part
15 of the body requested, and the name of the person to whom it was released.

16 **SECTION 6.** 157.06 (4m) of the statutes is created to read:

17 157.06 (4m) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; DECEDENT A
18 DONOR. (a) Subject to par. (b), for a decedent who meets the criteria for a
19 determination of death under s. 146.71, who is a donor or of whom an anatomical gift
20 has been made under sub. (3), and who is within the jurisdiction of a coroner or
21 medical examiner under ch. 979, any vascularized organ that is an anatomical gift
22 may be removed by a physician, within a time period compatible with preservation
23 of the organ for purposes of transplantation, if all of the following take place:

BILL

of the intended removal

1 1. The coroner or medical examiner or his or her designee is first provided notice
2 and an immediate opportunity to perform an examination, autopsy, or analysis of the
3 decedent's vascularized organs for which removal is intended as an anatomical gift.

4 2. The coroner or medical examiner or his or her designee ~~is~~ present during the
5 physician's removal of the vascularized organ if, in the judgment of the coroner,
6 medical examiner, or designee, the organ may be necessary in determining the cause
7 of death.

has the opportunity to be

o If the biopsy is ordered, or the removal is denied, the coroner, medical examiner, or designee

8 (b) The coroner or medical examiner or his or her designee specified in par. (a)
9 may ~~request~~ ^{order} a biopsy of the vascularized organ or deny removal ~~after specifying~~, in
10 writing as part of any death report required under ch. 979, any reasons for
11 determining that the organ may be involved in the cause of death.

shall specify

12 (c) For a decedent specified under par. (a), any part other than a vascularized
13 organ that is an anatomical gift may be removed by a physician or technician, within
14 a time period compatible with preservation of the part for purposes of
15 transplantation, as authorized by the coroner, medical examiner, or designee with
16 jurisdiction over the decedent.

17 (d) A physician or technician who removes a part from a decedent under this
18 subsection shall file with the coroner or medical examiner a report detailing the
19 condition of the part and its relationship to the cause of death. The report may
20 include a biopsy or medically approved sample from the part.

21 (e) A coroner or medical examiner or his or her designee who releases and
22 permits the removal of a part under this subsection shall maintain a permanent
23 record of the name of the decedent, the name of the person, if any, who made an
24 anatomical gift under sub. (3), the date and purpose of the document of gift, the part
25 of the body removed, and the name of the person to whom the part was released.

BILL

1 **SECTION 7.** 157.06 (4r) of the statutes is created to read:

2 157.06 (4r) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; DONEE. (a) If a
3 decedent is within the custody of a coroner or medical examiner, and the death
4 occurred in a hospital, any donation of tissues shall be to the tissue bank with which
5 the hospital has an agreement under 42 CFR 482.45 (a) (2).

6 (b) If a decedent is within the custody of a coroner or medical examiner, and the
7 death occurred outside a hospital, and if the coroner or medical examiner is releasing
8 a tissue to a tissue bank, the release shall be made as follows:

9 1. If the county board has entered into an agreement with one or more tissue
10 banks following a request-for-proposals process that considers a tissue bank's
11 history, services, and tissue distribution record, the coroner or medical examiner
12 shall release tissues in accordance with the agreement. Tissue banks under this
13 subdivision shall be accredited by the American Association of Tissue Banks and
14 registered with the federal Food and Drug Administration.

15 2. If the county board has not entered into an agreement under subd. 1., the
16 coroner or medical examiner shall release tissues on an equal rotating basis to any
17 tissue bank that is accredited by the American Association of Tissue Banks and
18 registered with the federal Food and Drug Administration and that proposes to
19 provide removal services in the county, subject to approval by the county board.

20 **SECTION 8.** 157.06 (5) (bm) of the statutes is amended to read:

21 157.06 (5) (bm) If at or near the time of death of a patient a hospital knows that
22 an anatomical gift of all or a part of the patient's body has been made under sub. (3)
23 (a), that a release and removal of a part of the patient's body has been permitted
24 under sub. (4) or (4m) or that a patient or an individual identified as in transit to the
25 hospital is a donor, the hospital shall notify the donee if one is named and known to

BILL

1 the hospital. If a donee is neither named nor known to the hospital, the hospital shall
2 notify an appropriate procurement organization. The hospital shall cooperate in the
3 implementation of the anatomical gift or release and removal of a part of the body
4 of the patient or individual.

5 **SECTION 9.** 157.06 (12) of the statutes is repealed.

6 (END)