



2005 SENATE BILL 73

February 22, 2005 - Introduced by Senators ROESSLER, BROWN, COWLES, OLSEN, MILLER, WIRCH, ROBSON and DARLING, cosponsored by Representatives HUNDERTMARK, STRACHOTA, BALLWEG, KRAWCZYK, KERKMAN, TOWNSEND, LEHMAN, BIES, VAN ROY, HINES, HAHN, GRONEMUS, MUSSER, STONE, VRUWINK, SEIDEL, WASSERMAN, BOYLE, BERCEAU, GIELOW, KREIBICH, VRAKAS and GUNDERSON. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT to repeal** 157.06 (2) (d); **to amend** 154.03 (2) (form), 157.06 (2) (i) (intro.),
2 157.06 (6) (b) and 157.06 (8) (b); and **to create** 154.06, 157.06 (2) (f) 7. and
3 157.06 (2) (i) 2m. of the statutes; **relating to:** creating the option to make an
4 anatomical gift as part of a living will and eliminating the designation of a
5 specific physician to perform transplantation.

Analysis by the Legislative Reference Bureau

Under current law, a person who is at least 18 years old may donate all or part of his or her body after death (make an anatomical gift) by signing a document of gift, together with two witnesses, or by signing the reverse side of a regular driver's license, a document that may be attached to a commercial driver's license, or an identification card that is issued by the Department of Transportation. In addition, a person may specify in a power of attorney for health care instrument that he or she wishes to make an anatomical gift. A person may also refuse to make an anatomical gift; limit an anatomical gift to specific purposes, including particular donees; require that a particular physician carry out the appropriate procedures; amend an anatomical gift; or revoke an anatomical gift. Lastly, a person may revoke or amend a refusal to make an anatomical gift. Any anatomical gift made by the donor that is not revoked by the donor before death is irrevocable and does not require the consent of anyone after the donor's death.

Also under current law, a person may execute a declaration to physicians (commonly known as a living will), which authorizes a physician to withhold or

SENATE BILL 73

1 1. If I have a **TERMINAL CONDITION**, as determined by 2 physicians who
2 have personally examined me, I do not want my dying to be artificially prolonged and
3 I do not want life-sustaining procedures to be used. In addition, the following are
4 my directions regarding the use of feeding tubes:

5 YES, I want feeding tubes used if I have a terminal condition.

6 NO, I do not want feeding tubes used if I have a terminal condition.

7 If you have not checked either box, feeding tubes will be used.

8 2. If I am in a **PERSISTENT VEGETATIVE STATE**, as determined by 2
9 physicians who have personally examined me, the following are my directions
10 regarding the use of life-sustaining procedures:

11 YES, I want life-sustaining procedures used if I am in a persistent
12 vegetative state.

13 NO, I do not want life-sustaining procedures used if I am in a persistent
14 vegetative state.

15 If you have not checked either box, life-sustaining procedures will be used.

16 3. If I am in a **PERSISTENT VEGETATIVE STATE**, as determined by 2
17 physicians who have personally examined me, the following are my directions
18 regarding the use of feeding tubes:

19 YES, I want feeding tubes used if I am in a persistent vegetative state.

20 NO, I do not want feeding tubes used if I am in a persistent vegetative state.

21 If you have not checked either box, feeding tubes will be used.

22 If you are interested in more information about the significant terms used in
23 this document, see section 154.01 of the Wisconsin Statutes or the information
24 accompanying this document.

SENATE BILL 73

1 If I do not check any of the lines immediately above, no presumption is created
2 about my desire to make or refuse to make an anatomical gift.

3 Signed

Date

4 **SECTION 2.** 154.06 of the statutes is created to read:

5 **154.06 Organ donation; amendment; revocation; refusal.** (1) A
6 declarant may make an anatomical gift of any or all of his or her organs, tissues, or
7 eyes by indicating his or her intent in the space provided on the declaration. A
8 declaration that so indicates the declarant's intent serves as a document of gift under
9 s. 157.06 (2) (b).

10 (2) A declarant who has made an anatomical gift as specified in sub. (1) may
11 amend his or her gift by adding to or changing the donor authorization in the space
12 provided on the declaration or by performing any of the procedures specified in s.
13 157.06 (2) (f) 1. to 4.

14 (3) A declarant who has made an anatomical gift as specified in sub. (1) may
15 revoke his or her gift by crossing out the donor authorization in the space provided
16 on the declaration or by performing any of the procedures specified in s. 157.06 (2)
17 (f) 1. to 4.

18 (4) A declarant may refuse to make an anatomical gift of any or all of his or her
19 organs, tissues, or eyes by indicating his or her intent in the space provided on the
20 declaration. A declaration that so indicates the declarant's intent serves as a
21 document of refusal to make an anatomical gift under s. 157.06 (2) (i).

22 (5) Nothing in this section requires a declarant to make, amend, or refuse to
23 make an anatomical gift by means of a declaration or otherwise limits a declarant
24 from making, amending, or refusing to make an anatomical gift under alternative
25 procedures specified in s. 157.06.

SENATE BILL 73**SECTION 3**

1 **SECTION 3.** 157.06 (2) (d) of the statutes is repealed.

2 **SECTION 4.** 157.06 (2) (f) 7. of the statutes is created to read:

3 157.06 (2) (f) 7. For a declarant who executes a living will, crossing out or
4 amending the donor authorization or refusal in the space provided on the declaration
5 as prescribed in s. 154.06 (2) and (4) or revoking the declaration as prescribed in s.
6 154.06 (3).

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

8 157.06 (2) (i) (intro.) An individual may refuse to make an anatomical gift of
9 ~~the individual's body or part of his or her body~~ any or all of his or her organs, tissues,
10 or eyes by doing any of the following:

11 **SECTION 6.** 157.06 (2) (i) 2m. of the statutes is created to read:

12 157.06 (2) (i) 2m. For a declarant who executes a living will, making a
13 statement of refusal in the space provided in the declaration as prescribed in s.
14 154.06 (4).

15 **SECTION 7.** 157.06 (6) (b) of the statutes is amended to read:

16 157.06 (6) (b) A donor may make an anatomical gift to a designated donee or
17 without designating a donee. If a donee is not designated or if the donee is not
18 available or rejects designated but the anatomical gift, any hospital is not able to be
19 accepted by the donee, anyone for whom the anatomical gift is suitable may accept
20 the anatomical gift.

21 **SECTION 8.** 157.06 (8) (b) of the statutes is amended to read:

22 157.06 (8) (b) The time of death shall be determined by a physician who attends
23 the donor at death or, if none, the physician who certifies the death. Neither the
24 physician who attends the donor at death nor the physician who determines the time
25 of death may participate in the procedures for removing or transplanting a part of

SENATE BILL 73

1 the donor's body unless the document of gift designates a particular physician under
2 sub. (2) (d).

3 (END)