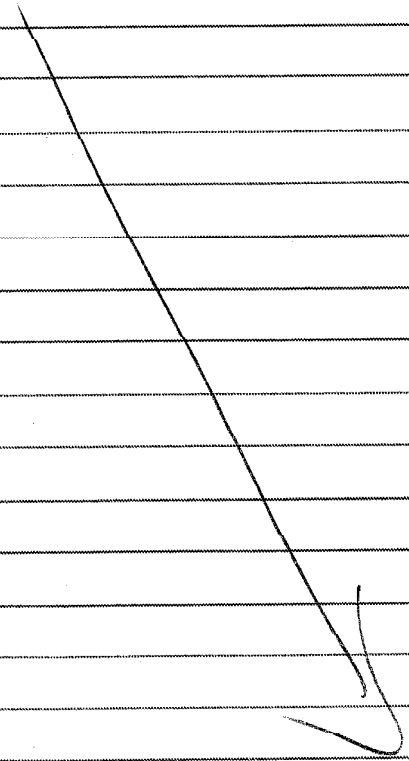


91 3. Promulgate ~~the rules and procedures for operation~~
 of the Wisconsin ~~donor registry~~, including
 rules that ensure the confidentiality of
 enrollees of the Wisconsin donor registry.

91 4. Study the effectiveness of the Wisconsin
 donor registry and, by March 1, 2003, report the
 study results to the legislature under s. 13.172(2)
 and to the governor.



check this

(b) The department of health and family
services shall provide technical support to the
down registry board.

End of INSERT
13-5

INSERT 14-4

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

(d) No organ procurement organization, tissue bank or eye bank may be required to contribute directly money or any other thing of value to provide payment for operation of the Wisconsin donor registry.

(END OF INSERT 14-4)

Insert 16-16

Section #. 343.50 (3) of the statutes 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 and, if applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; s. 13.93 (2) (c).

The portion of the card that is designated to serve as a document of gift or a document of refusal to make an anatomical gift shall be titled "ORGAN AND TISSUE DONATION STATEMENT".

Card

(END OF INSERT)

create auto-ref "a"
91 (a) The donor registry board shall submit in proposed form the rules required under section 157.06 (10m)(a)3. of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 8th month beginning after the effective date of this paragraph.

91 (b) Using the procedure under section 227.24 of the statutes, the donor registry board may promulgate rules required under section 157.06 (10m)(a)3. of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1)(c) and (2) of the statutes. Notwithstanding section 227.24 (1)(a), (2)(b) and (3) of the statutes, the board is not required to provide evidence that promulgating

a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph^{es}

End of INSERT 17-19

cs

nonstat.

9

(4) MONEYS EXCLUDED FROM BASE. Notwithstanding section 16.42 (1) (e) of the statutes, in submitting information under section 16.42 of the statutes for purposes of the 2001-03 biennial budget bill, the department of health and family services shall submit information concerning the appropriation under section 20.435 (1) (bm) of the statutes, as created by this act, as though the amounts appropriated to the department under that appropriation for fiscal year 200⁰-01 were \$300,000 less than the amounts in the schedule.

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3999/2dn
DAK&TNF:cmh:mrc

✓

To Senator Rosenzweig:

1. Please review this draft carefully, as it has been necessary to modify some of the drafting instructions of Dick Sweet's December 15, 1999, memorandum. When reviewing the draft, please note the following:

a. Number 1. of the instructions requires that the definition of "eye bank" be modified to mean "... a repository for donated tissues destined for ocular transplant surgery and research". However, s. 157.06 (1) (k), stats., defines "tissue" to include skin and cardiovascular and connective tissue, but not eyes; further, the definition of "part" in s. 157.06 (1) (g), stats., differentiates between tissue and eyes. Therefore, to avoid conflict with current law, I have retained in this draft the definition of "eye bank" that was specified in the previous draft, except that I have added "destined for ocular transplant surgery and research".

b. Number 1. of the instructions ~~also requires~~ that the definition of "tissue bank" be modified to be "... a repository for donated cardiovascular tissue, skin, bone, tendons and ligaments". However, as explained in Number 1. a. of this Drafter's Note, "tissue" is already defined under current law to include skin, cardiovascular tissue and *all* connective tissue (not just tendons and ligaments). To accommodate the instructions, I have changed the definition of tissue bank to be "... a repository for donated tissue and bone." Please note, however, that this definition is *more* restrictive than that in the previous draft, which had defined "tissue bank" to be "... a repository for donated parts other than eyes", since "part" is more broadly defined under current law than "tissue" and bone.

c. I have consolidated the appropriations, made the resulting appropriation a continuing appropriation and have, in the nonstatutory provisions, required that \$300,000 be used as the base amount for the registry for the next biennium. This procedure permits moneys that were unexpended in the appropriation in this biennium to be expended in the next biennium, regardless of the amount specified in the schedule.

d. I ascertained from Dick Sweet that Number 10. of the instructions requested a requirement that the Donor registry board promulgate rules for its own operation (and not that of the registry); I have not drafted that requirement because it appears both unnecessary and relatively unworkable; the Board would, in effect, have to meet and agree upon the rules that would regulate its meetings; the requirements under s. 15.07,

↓

Wisconsin

stats., should suffice, unless there is a particular factual circumstance that hasn't been explained.

e. Number 19. of the instruction requires that the bill specify that organ procurement organizations, tissue banks and eye banks may not be required to pay for the registry. Since the registry is funded from general purpose revenues, which are in part derived from taxes to which these entities are subject, I have instead drafted a provision that prohibits a requirement that the entities contribute money or any other thing of value *directly* to the registry.

X 2. The instructions in Dick Sweet's memorandum do not appear to address the problem that I raised in the Drafter's Note for the first draft. That problem is as follows: under current law, "document of gift" is defined to include a card, a driver's license, an identification card issued by DOT, a will or another writing (such as a power of attorney for health care). The bill amends this definition to include an enrollment form for the organ and tissue donor registry, thus adding another means by which a person might signify his or her wishes to donate. There is no statutory requirement that a document of gift be dated, although a driver's license or an identification card issued by DOT each contain a space for a date, and a will and a health care power of attorney each must be dated. All of these documents may be revoked, to indicate a person's change of mind. A revocation of a document of gift is accomplished by signing a statement of revocation; signing a new document of gift (signing a new document of gift revokes any previously signed document of gift); verbally revoking in the presence of 2 individuals; communicating with a physician while one is terminally ill or injured; delivering a signed statement of revocation to a specified donee; crossing out the gift authorization on one's driver's license or identification card; or revoking a power of attorney for health care instrument or a provision of the instrument. There is no statutory requirement that a revocation be dated. I am concerned about the situation X in which a person has enrolled in the organ and tissue donor registry, which constitutes making a document of gift, but has scratched out a donation on his or her driver's license. Unless the person has dated the scratching out, which I think unlikely, it would be impossible (without some other sort of evidence) to tell whether the revocation on the driver's license or the gift under the enrollment form is the last expression of the person's intent and, therefore, rules. Obviously, this problem already exists under current law, but I am concerned that further confusion may arise with the advent of the registry; for example, a person may want to donate but may believe, for instance, that crossing out the document of gift on the driver's license would be acceptable (and less repetitious) as long as he or she has signed a registry enrollment form. Or, a person who wants to revoke may cross out the document of gift on the driver's license but fail to revoke the registry enrollment form.

There are several ways to approach this problem, should you wish to do so: one would be to prohibit changing one's designation on a driver's license or identification card except by applying for a duplicate license; this alternative might be somewhat costly, either to the person or to DOT. A second way would be to require that revoking a document of gift on a driver's license or identification card be initialled and dated. Yet

another way would be to require that all documents of gift or refusal to make a gift and all revocations be dated.

3. Please let me know if I may assist you further with this bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

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

LRB-3999/2dn
DAK&TNF:cmh:kjf

January 13, 2000

To Senator Rosenzweig:

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a. Number 1. of the instructions requires that the definition of "eye bank" be modified to mean "... a repository for donated tissues destined for ocular transplant surgery and research". However, s. 157.06 (1) (k), stats., defines "tissue" to include skin and cardiovascular and connective tissue, but not eyes; further, the definition of "part" in s. 157.06 (1) (g), stats., differentiates between tissue and eyes. Therefore, to avoid conflict with current law, I have retained in this draft the definition of "eye bank" that was specified in the previous draft, except that I have added "destined for ocular transplant surgery and research".

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c. I have consolidated the appropriations, made the resulting appropriation a continuing appropriation and have, in the nonstatutory provisions, required that \$300,000 be used as the base amount for the registry for the next biennium. This procedure permits moneys that were unexpended in the appropriation in this biennium to be expended in the next biennium, regardless of the amount specified in the schedule.

d. I ascertained from Dick Sweet that Number 10. of the instructions requested a requirement that the Donor registry board promulgate rules for its own operation (and not that of the registry); I have not drafted that requirement because it appears both unnecessary and relatively unworkable; the Board would, in effect, have to meet and agree upon the rules that would regulate its meetings; the requirements under s. 15.07,

stats., should suffice, unless there is a particular factual circumstance that hasn't been explained.

e. Number 19. of the instruction requires that the bill specify that organ procurement organizations, tissue banks and eye banks may not be required to pay for the registry. Since the registry is funded from general purpose revenues, which are in part derived from taxes to which these entities are subject, I have instead drafted a provision that prohibits a requirement that the entities contribute money or any other thing of value *directly* to the registry.

2. The instructions in Dick Sweet's memorandum do not appear to address the problem that I raised in the Drafter's Note for the first draft. That problem is as follows: under current law, "document of gift" is defined to include a card, a driver's license, an identification card issued by DOT, a will or another writing (such as a power of attorney for health care). The bill amends this definition to include an enrollment form for the Wisconsin donor registry, thus adding another means by which a person might signify his or her wishes to donate. There is no statutory requirement that a document of gift be dated, although a driver's license or an identification card issued by DOT each contain a space for a date, and a will and a health care power of attorney each must be dated. All of these documents may be revoked, to indicate a person's change of mind. A revocation of a document of gift is accomplished by signing a statement of revocation; signing a new document of gift (signing a new document of gift revokes any previously signed document of gift); verbally revoking in the presence of 2 individuals; communicating with a physician while one is terminally ill or injured; delivering a signed statement of revocation to a specified donee; crossing out the gift authorization on one's driver's license or identification card; or revoking a power of attorney for health care instrument or a provision of the instrument. There is no statutory requirement that a revocation be dated. I am concerned about the situation in which a person has enrolled in the Wisconsin donor registry, which constitutes making a document of gift, but has scratched out a donation on his or her driver's license. Unless the person has dated the scratching out, which I think unlikely, it would be impossible (without some other sort of evidence) to tell whether the revocation on the driver's license or the gift under the enrollment form is the last expression of the person's intent and, therefore, rules. Obviously, this problem already exists under current law, but I am concerned that further confusion may arise with the advent of the registry; for example, a person may want to donate but may believe, for instance, that crossing out the document of gift on the driver's license would be acceptable (and less repetitious) as long as he or she has signed a registry enrollment form. Or, a person who wants to revoke may cross out the document of gift on the driver's license but fail to revoke the registry enrollment form.

There are several ways to approach this problem, should you wish to do so: one would be to prohibit changing one's designation on a driver's license or identification card except by applying for a duplicate license; this alternative might be somewhat costly, either to the person or to DOT. A second way would be to require that revoking a document of gift on a driver's license or identification card be initialled and dated. Yet

another way would be to require that all documents of gift or refusals to make a gift and all revocations be dated.

3. Please let me know if I may assist you further with this bill.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137

Fast, Timothy

From: Sweet, Richard
Sent: Wednesday, February 02, 2000 5:16 PM
To: Kennedy, Debora; Fast, Timothy
Cc: Osterberg, Sarah; Schaeffer, Gene

Debora and Tim,

Sarah (Rep. Wasserman's office) and Gene (Sen. Rosenzweig's office) asked me to request the following changes to LRB-3999/2, the organ donor registry draft:

- ✓1. Section 157.06 (10)(c) would be amended to specify that physicians who determine death under s. 146.71 would be immune from liability. — D.N. amended 146.71 instead.
- ✓2. The Legislative Audit Bureau would be requested to conduct a performance audit of the registry 2 years after the contract for the registry has been awarded.
- ✓3. The statutes that allow persons to opt out of having their personal information released by DOT in batches of 10 or more would be amended to allow this information to be released to the entity operating the registry. It seems that one way of doing this would be to put on the registry enrollment form a notice that the person gives permission for the information to be released to the entity and permission for that entity to release it to organ procurement organizations, eye banks, tissue banks, the donor registry board and its staff and any successor contractor. (See p. 14, lines 3 to 5 of the draft.) If the person gives permission, this might eliminate any problem with the Driver's Privacy Protection Act. Any thoughts on this, Tim?

Thanks for your help. Give me a call with any questions.

Dick Sweet

Richard Sweet, Senior Staff Attorney
Wisconsin Legislative Council Staff
P.O. Box 2536
(1 East Main Street, Room 401)
Madison, WI 53701-2536
Phone (608)266-2982
Fax (608)266-3830
E-mail richard.sweet@legis.state.wi.us

DAK - I think pp. 17 and 20
changes address #3 in an appropriate
way.

TNF

PEN: Do you think works or should I
go through permission avenue Mr. Sweet
suggests supra?

Your treatment is good. Under DPPA, 18 USC 2721 (b)(1)(i), the prohibition does not apply to "any other use specifically authorized under the law of the state... if such use is related to the operation of a motor vehicle or public safety." Also, HR 2084 sec. 350 (b) specifically acknowledges "organ donation information on individuals D.C." as exception to prohibitions against state disclosure. Your treatment is great. -PEN

WEDNESDAY

1999 - 2000 LEGISLATURE

D-NOTE

3 (Redraft
LRB-3999/2 makes has
DAK&TNF:cmh:kjf been run)

1999 BILL

Regen

1 AN ACT *to renumber* 157.06 (2) (f) 5. b. and 343.14 (6); *to renumber and amend*
2 157.06 (1) (c) 2.; *to amend* 20.435 (1) (bm), 155.30 (3), 157.06 (10m) (a) 1.,
3 157.06 (10r) (a), 343.17 (3) (b), 343.175 (1), 343.175 (2) (a), 343.175 (2) (ag),
4 343.20 (2m), 343.50 (3) and 343.50 (4m) (a); and *to create* 15.195 (2), 20.435 (1)
5 (bm), 155.30 (3m), 157.06 (1) (em), 157.06 (1) (km), 157.06 (10m), 157.06 (10r),
6 343.14 (6) (b) and 343.50 (4m) (c) of the statutes; **relating to:** creating a donor
7 registry board, creating a Wisconsin donor registry, the definition of "document
8 of gift", modifying the form for the power of attorney for health care, requiring
9 a study, providing an exemption from emergency rule procedures, granting
10 rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person who is 18 or older may make a donation of all or a part of his or her body to a hospital, physician or an organ procurement organization; to an accredited medical or dental school, college or university; or to a designated individual. This anatomical gift may be made only if the donor signs a document of gift, which may be a card, a statement attached to or imprinted on a

BILL

driver's license or identification card issued by the department of transportation (DOT), a will or another writing, such as a power of attorney for health care, that is used to make such a gift. The department of health and family services (DHFS) is required to prepare and provide copies of a power of attorney for health care instrument for distribution to the public; the form for the power of attorney for health care instrument that DHFS must prepare is specified in the statutes.

This bill creates a donor registry board that is attached to DHFS, composed of 11 voting and two nonvoting members. The donor registry board must review requests for proposals and award one or more contracts from general purpose revenues, as appropriated under the bill, to establish, operate and maintain a Wisconsin donor registry. The Wisconsin donor registry shall include names of and pertinent information about persons who have signed enrollment forms indicating their desires to make anatomical gifts. The bill authorizes the signing of an enrollment form to be an additional means of making a document of gift. This information is not subject to open records requirements and may be released by the registry only to organ procurement organizations, eye banks, tissue banks, the donor registry board and any successor contractors. Before the Wisconsin donor registry is implemented, the donor registry board must promulgate rules that ensure the confidentiality of registry enrollees and may promulgate the rules as emergency rules without making a finding of emergency. The entity that operates the registry must operate also a toll-free telephone number and may maintain an Internet Web site to provide information about making an anatomical gift and about enrollment in and disenrollment from the registry. The donor registry board must study the effectiveness of the registry and, by March 1, 2003, report the study results to the governor and the legislature.

The bill also modifies the power of attorney for health care form, to indicate that, since many institutions have certain conditions that must be met before receiving a donated body, if the principal intends to donate his or her whole body to an institution, the principal will attempt to contact the institution to which the donation is intended to be made. In addition, the bill authorizes DHFS to modify the form with respect to making an anatomical gift, to include the toll-free telephone number to obtain information on the Wisconsin donor registry.

Under current law, DOT is required to inquire whether an applicant for a driver's license or identification card (ID card) desires to be an organ donor. DOT must record the applicant's response in its file on the person. The bill requires DOT to forward to the Wisconsin donor registry, at least quarterly, a list of the names and addresses of those applicants whose response to this inquiry was affirmative. The bill also requires DOT to print the toll-free telephone number to obtain information on the Wisconsin donor registry on the reverse side of every driver's license and ID card. Finally, DOT must disseminate the enrollment form to all applicants for a driver's license or ID card.

Lastly, the bill requests that the entity that operates and maintains the Wisconsin donor registry study and, by January 1, 2002, report to the donor registry board on the means by which names and information may be purged from the registry after a period of time.

BILL

For further information see the *state* 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.** 15.195 (2) of the statutes is created to read:

2 15.195 (2) **DONOR REGISTRY BOARD.** There is created a donor registry board,
3 attached to the department of health and family services under s. 15.03. The donor
4 registry board shall consist of the secretary of health and family services and the
5 secretary of transportation, or their designees, as nonvoting members, and shall
6 consist of the following voting members appointed for 3-year terms:

7 (a) One representative of each of 2 organ procurement organizations.

8 (b) Two representatives of repositories for donated human tissue and bone.

9 (c) One representative of a repository for donated human eyes or portions of
10 eyes.

11 (d) One recipient of organ or tissue donation or his or her family member.

12 (e) One organ or tissue donor or his or her family member.

13 (f) One member nominated by the Wisconsin Health and Hospital Association,
14 Inc.

15 (g) One member nominated by the Wisconsin Nurses Association, Inc.

16 (h) One member nominated by the State Medical Society of Wisconsin.

17 (i) One member nominated by the State Bar of Wisconsin.

18 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
19 the following amounts for the purposes indicated:

BILL

SECTION 2

1 1999-00 2000-01

2 **20.435 Health and family services, department**

3 **of**

4 (1) PUBLIC HEALTH SERVICES PLANNING REGULATION

5 AND DELIVERY STATE OPERATIONS

6 (bm) Wisconsin donor registry GPR C -0- 600,000

7 **SECTION 3.** 20.435 (1) (bm) of the statutes is created to read:

8 20.435 (1) (bm) *Wisconsin donor registry*. As a continuing appropriation, the
9 amounts in the schedule for permanent property, supplies, services and staff support
10 for the establishment, operation, maintenance and monitoring of the Wisconsin
11 donor registry.

12 **SECTION 4.** 20.435 (1) (bm) of the statutes, as created by 1999 Wisconsin Act
13 (this act), is amended to read:

14 20.435 (1) (bm) *Wisconsin donor registry*. As a continuing appropriation, the
15 amounts in the schedule for permanent property, supplies, services and staff support
16 for the establishment, operation, maintenance and monitoring of the Wisconsin
17 donor registry.

↓
INSERT 4-17 →

18 **SECTION 5.** 155.30 (3) of the statutes is amended to read:

19 155.30 (3) The department shall prepare and provide copies of a power of
20 attorney for health care instrument and accompanying information for distribution
21 in quantities to health care professionals, hospitals, nursing homes, multipurpose
22 senior centers, county clerks and local bar associations and individually to private
23 persons. The department shall include, in information accompanying the copy of the
24 instrument, at least the statutory definitions of terms used in the instrument,

BILL

1 statutory restrictions on who may be witnesses to a valid instrument, a statement
2 explaining that valid witnesses acting in good faith are statutorily immune from civil
3 or criminal liability and a statement explaining that an instrument may, but need
4 not, be filed with the register in probate of the principal's county of residence. The
5 department may charge a reasonable fee for the cost of preparation and distribution.
6 The power of attorney for health care instrument distributed by the department
7 shall include the notice specified in sub. (1) and shall, except as provided in sub. (3m),
8 be in the following form:

POWER OF ATTORNEY**FOR HEALTH CARE**

9
10
11 Document made this.... day of.... (month),.... (year).

CREATION OF POWER OF**ATTORNEY FOR HEALTH CARE**

12
13
14 I,.... (print name, address and date of birth), being of sound mind, intend by this
15 document to create a power of attorney for health care. My executing this power of
16 attorney for health care is voluntary. Despite the creation of this power of attorney
17 for health care, I expect to be fully informed about and allowed to participate in any
18 health care decision for me, to the extent that I am able. For the purposes of this
19 document, "health care decision" means an informed decision to accept, maintain,
20 discontinue or refuse any care, treatment, service or procedure to maintain, diagnose
21 or treat my physical or mental condition.

22 In addition, I may, by this document, specify my wishes with respect to making
23 an anatomical gift upon my death.

DESIGNATION OF HEALTH CARE AGENT

BILL

SECTION 5

1 If I am no longer able to make health care decisions for myself, due to my
2 incapacity, I hereby designate.... (print name, address and telephone number) to be
3 my health care agent for the purpose of making health care decisions on my behalf.
4 If he or she is ever unable or unwilling to do so, I hereby designate.... (print name,
5 address and telephone number) to be my alternate health care agent for the purpose
6 of making health care decisions on my behalf. Neither my health care agent nor my
7 alternate health care agent whom I have designated is my health care provider, an
8 employe of my health care provider, an employe of a health care facility in which I
9 am a patient or a spouse of any of those persons, unless he or she is also my relative.
10 For purposes of this document, “incapacity” exists if 2 physicians or a physician and
11 a psychologist who have personally examined me sign a statement that specifically
12 expresses their opinion that I have a condition that means that I am unable to receive
13 and evaluate information effectively or to communicate decisions to such an extent
14 that I lack the capacity to manage my health care decisions. A copy of that statement
15 must be attached to this document.

16 GENERAL STATEMENT OF
17 AUTHORITY GRANTED

18 Unless I have specified otherwise in this document, if I ever have incapacity I
19 instruct my health care provider to obtain the health care decision of my health care
20 agent, if I need treatment, for all of my health care and treatment. I have discussed
21 my desires thoroughly with my health care agent and believe that he or she
22 understands my philosophy regarding the health care decisions I would make if I
23 were able. I desire that my wishes be carried out through the authority given to my
24 health care agent under this document.

BILL

1 If I am unable, due to my incapacity, to make a health care decision, my health
2 care agent is instructed to make the health care decision for me, but my health care
3 agent should try to discuss with me any specific proposed health care if I am able to
4 communicate in any manner, including by blinking my eyes. If this communication
5 cannot be made, my health care agent shall base his or her decision on any health
6 care choices that I have expressed prior to the time of the decision. If I have not
7 expressed a health care choice about the health care in question and communication
8 cannot be made, my health care agent shall base his or her health care decision on
9 what he or she believes to be in my best interest.

LIMITATIONS ON**MENTAL HEALTH TREATMENT**

12 My health care agent may not admit or commit me on an inpatient basis to an
13 institution for mental diseases, an intermediate care facility for the mentally
14 retarded, a state treatment facility or a treatment facility. My health care agent may
15 not consent to experimental mental health research or psychosurgery,
16 electroconvulsive treatment or drastic mental health treatment procedures for me.

ADMISSION TO NURSING HOMES**OR COMMUNITY-BASED RESIDENTIAL FACILITIES**

19 My health care agent may admit me to a nursing home or community-based
20 residential facility for short-term stays for recuperative care or respite care.

21 If I have checked “Yes” to the following, my health care agent may admit me for
22 a purpose other than recuperative care or respite care, but if I have checked “No” to
23 the following, my health care agent may not so admit me:

- 24 1. A nursing home — Yes.... No....
- 25 2. A community-based residential facility — Yes.... No....

BILL

1 If I have not checked either “Yes” or “No” immediately above, my health care
2 agent may admit me only for short-term stays for recuperative care or respite care.

PROVISION OF A FEEDING TUBE

4 If I have checked “Yes” to the following, my health care agent may have a
5 feeding tube withheld or withdrawn from me, unless my physician has advised that,
6 in his or her professional judgment, this will cause me pain or will reduce my comfort.

7 If I have checked “No” to the following, my health care agent may not have a feeding
8 tube withheld or withdrawn from me.

9 My health care agent may not have orally ingested nutrition or hydration
10 withheld or withdrawn from me unless provision of the nutrition or hydration is
11 medically contraindicated.

12 Withhold or withdraw a feeding tube — Yes.... No....

13 If I have not checked either “Yes” or “No” immediately above, my health care
14 agent may not have a feeding tube withdrawn from me.

HEALTH CARE DECISIONS**FOR PREGNANT WOMEN**

17 If I have checked “Yes” to the following, my health care agent may make health
18 care decisions for me even if my agent knows I am pregnant. If I have checked “No”
19 to the following, my health care agent may not make health care decisions for me if
20 my health care agent knows I am pregnant.

21 Health care decision if I am pregnant — Yes.... No....

22 If I have not checked either “Yes” or “No” immediately above, my health care
23 agent may not make health care decisions for me if my health care agent knows I am
24 pregnant.

STATEMENT OF DESIRES, SPECIAL

BILL

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PROVISIONS OR LIMITATIONS

In exercising authority under this document, my health care agent shall act consistently with my following stated desires, if any, and is subject to any special provisions or limitations that I specify. The following are specific desires, provisions or limitations that I wish to state (add more items if needed):

- 1) –
- 2) –
- 3) –

**INSPECTION AND DISCLOSURE OF INFORMATION
RELATING TO MY PHYSICAL OR MENTAL HEALTH**

Subject to any limitations in this document, my health care agent has the authority to do all of the following:

- (a) Request, review and receive any information, oral or written, regarding my physical or mental health, including medical and hospital records.
- (b) Execute on my behalf any documents that may be required in order to obtain this information.
- (c) Consent to the disclosure of this information.

(The principal and the witnesses all must sign the document at the same time.)

SIGNATURE OF PRINCIPAL

(person creating the power
of attorney for health care)

Signature.... Date....

(The signing of this document by the principal revokes all previous powers of attorney for health care documents.)

STATEMENT OF WITNESSES

BILL

SECTION 5

1 I know the principal personally and I believe him or her to be of sound mind and
 2 at least 18 years of age. I believe that his or her execution of this power of attorney
 3 for health care is voluntary. I am at least 18 years of age, am not related to the
 4 principal by blood, marriage or adoption and am not directly financially responsible
 5 for the principal's health care. I am not a health care provider who is serving the
 6 principal at this time, an employe of the health care provider, other than a chaplain
 7 or a social worker, or an employe, other than a chaplain or a social worker, of an
 8 inpatient health care facility in which the declarant is a patient. I am not the
 9 principal's health care agent. To the best of my knowledge, I am not entitled to and
 10 do not have a claim on the principal's estate.

11 Witness No. 1:
 12 (print) Name.... Date....
 13 Address....
 14 Signature....
 15 Witness No. 2:
 16 (print) Name.... Date....
 17 Address....
 18 Signature....

19 **STATEMENT OF HEALTH CARE AGENT**
 20 **AND ALTERNATE HEALTH CARE AGENT**

21 I understand that.... (name of principal) has designated me to be his or her
 22 health care agent or alternate health care agent if he or she is ever found to have
 23 incapacity and unable to make health care decisions himself or herself. (name of
 24 principal) has discussed his or her desires regarding health care decisions with me.

25 Agent's signature....

BILL

1 Address....

2 Alternate's signature....

3 Address....

4 Failure to execute a power of attorney for health care document under chapter
5 155 of the Wisconsin Statutes creates no presumption about the intent of any
6 individual with regard to his or her health care decisions.

7 This power of attorney for health care is executed as provided in chapter 155
8 of the Wisconsin Statutes.

9 ANATOMICAL GIFTS (optional)

10 Upon my death:

11 I wish to donate only the following organs or parts: (specify the organs or
12 parts).

13 I wish to donate any needed organ or part.

14 I wish to donate my body for anatomical study if needed. (Since many
15 institutions have certain conditions that must be met before receiving donation of a
16 body, I will attempt to contact the institution to which the donation is intended to be
17 made.)

18 I refuse to make an anatomical gift. (If this revokes a prior commitment that
19 I have made to make an anatomical gift to a designated donee, I will attempt to notify
20 the donee to which or to whom I agreed to donate.)

21 Failing to check any of the lines immediately above creates no presumption
22 about my desire to make or refuse to make an anatomical gift.

23 Signature....

Date....

24 **SECTION 6.** 155.30 (3m) of the statutes is created to read:

BILL

1 155.30 (3m) The department may modify the form specified in sub. (3) to
2 include, for the purposes of making an anatomical gift, the toll-free telephone
3 number of the Wisconsin donor registry under s. 157.06 (10r).

4 **SECTION 7.** 157.06 (1) (c) 2. of the statutes is renumbered 157.06 (1) (c) and
5 amended to read:

6 157.06 (1) (c) “Document of gift” means a card, a statement attached to or
7 imprinted on a license under s. 343.175 (2) or on an identification card under s.
8 343.50 (3), a will, an enrollment form signed as specified in sub. (10r) (b) or another
9 writing used to make an anatomical gift.

10 **SECTION 8.** 157.06 (1) (em) of the statutes is created to read:

11 157.06 (1) (em) “Eye bank” means a repository for donated human eyes or
12 portions of eyes destined for ocular transplant surgery and research.

13 **SECTION 9.** 157.06 (1) (km) of the statutes is created to read:

14 157.06 (1) (km) “Tissue bank” means a repository for donated tissue and bone.

15 **SECTION 10.** 157.06 (2) (f) 5. b. of the statutes is renumbered 157.06 (2) (f) 5.

16 **SECTION 11.** 157.06 (10m) of the statutes is created to read:

17 157.06 (10m) DONOR REGISTRY BOARD. (a) The donor registry board shall do all
18 of the following:

19 1. Review requests for proposals and, from the appropriation under s. 20.435
20 (1) (bm), award one or more contracts to establish, operate and maintain the
21 Wisconsin donor registry. The board shall consult with the department in preparing
22 requests for proposals under this subdivision. A contract under this subdivision
23 shall specify that the awardee shall, at the end of the contract term or if the contract
24 is otherwise terminated, relinquish to the board the names of enrollees and other

BILL

1 information in the registry and any rights to a toll-free telephone number for the
2 registry.

3 2. Direct and monitor or, from the appropriation under s. 20.435 (1) (bm), award
4 a contract for the monitoring of the operation of and services provided by the
5 Wisconsin donor registry.

6 3. Promulgate rules that ensure the confidentiality of enrollees of the
7 Wisconsin donor registry.

8 4. Study the effectiveness of the Wisconsin donor registry and, by March 1,
9 2003, report the study results to the legislature under s. 13.172 (2) and to the
10 governor.

11 (b) The department of health and family services shall provide technical
12 support to the donor registry board.

13 **SECTION 12.** 157.06 (10m) (a) 1. of the statutes, as created by 1999 Wisconsin
14 Act (this act), is amended to read:

15 157.06 (10m) (a) 1. Review requests for proposals and, from the appropriation
16 under s. 20.435 (1) (bm), award one or more contracts to ~~establish~~, operate and
17 maintain the Wisconsin donor registry. The board shall consult with the department
18 in preparing requests for proposals under this subdivision. A contract under this
19 subdivision shall specify that the awardee shall, at the end of the contract term or
20 if the contract is otherwise terminated, relinquish to the board the names of enrollees
21 and other information in the registry and any rights to a toll-free telephone number
22 for the registry.

23 **SECTION 13.** 157.06 (10r) of the statutes is created to read:

24 157.06 (10r) WISCONSIN DONOR REGISTRY. (a) Under a contract that is awarded
25 under sub. (10m) (a) 1., an entity shall establish, operate and maintain an organ and

BILL

1 tissue donor registry, to be known as the “Wisconsin donor registry”, that includes
2 the names of and pertinent information concerning persons who are enrolled to
3 provide anatomical gifts. The entity may release information from the registry only
4 to organ procurement organizations, eye banks, tissue banks, the donor registry
5 board and its staff and any successor contractor. Information in the registry is not
6 available for inspection or copying under s. 19.35 (1).

7 (b) An individual who desires to make an anatomical gift and to be enrolled in
8 the Wisconsin donor registry shall sign an enrollment form and return the form to
9 the registry or to the department of transportation under s. 343.14 (6) (b) or 343.50
10 (4m) (c). The enrollment form may be designed by the entity that operates and
11 maintains the registry, but no form may conflict with the requirements of this
12 section.

13 (c) The entity that operates and maintains the Wisconsin donor registry shall
14 operate a toll-free telephone number and may maintain an Internet Web site, to
15 provide information about making an anatomical gift and about enrollment in and
16 disenrollment from the registry. Any computer technology developed by the entity
17 under this paragraph is the property of the donor registry board.

18 (d) No organ procurement organization, tissue bank or eye bank may be
19 required to contribute directly money or any other thing of value to provide payment
20 for operation of the Wisconsin donor registry.

21 **SECTION 14.** 157.06 (10r) (a) of the statutes, as created by 1999 Wisconsin Act
22 (this act), is amended to read:

23 157.06 (10r) (a) Under a contract that is awarded under sub. (10m) (a) 1., an
24 entity shall ~~establish~~, operate and maintain an organ and tissue donor registry, to
25 be known as the “Wisconsin donor registry”, that includes the names of and pertinent

BILL

1 information concerning persons who are enrolled to provide anatomical gifts. The
2 entity may release information from the registry only to organ procurement
3 organizations, eye banks, tissue banks, the donor registry board and its staff and any
4 successor contractor. Information in the registry is not available for inspection or
5 copying under s. 19.35 (1).

6 **SECTION 15.** 343.14 (6) of the statutes is renumbered 343.14 (6) (a).

7 **SECTION 16.** 343.14 (6) (b) of the statutes is created to read:

8 343.14 (6) (b) Notwithstanding par. (a), the department shall disseminate to
9 applicants the enrollment form specified under s. 157.06 (10r) (b). An applicant may
10 make an anatomical gift and be enrolled in the Wisconsin donor registry under s.
11 157.06 (10r) (a) by signing the enrollment form and returning it to the registry. The
12 department shall inform applicants that enrollment in the Wisconsin donor registry
13 is not required to make an anatomical gift.

14 **SECTION 17.** 343.17 (3) (b) of the statutes is amended to read:

15 343.17 (3) (b) The reverse side of the license shall contain an explanation of any
16 restriction codes or endorsement abbreviations used on the front of the license, in
17 sufficient detail to identify the nature of the restrictions or endorsements to a law
18 enforcement officer of this state or another jurisdiction. Except for a commercial
19 driver license or a license labeled "CDL–Occupational" as described in s. 343.03 (3)
20 (b) and (e), a part of the reverse side of each license shall be printed to serve as a
21 document of gift under s. 157.06 (2) (b) and (c) or a document of refusal to make an
22 anatomical gift under s. 157.06 (2) (i), shall include the words "Wisconsin donor
23 registry" and the toll-free telephone number that can be used by persons desiring to
24 obtain the information specified under s. 157.06 (10r) (c), and shall be titled "ORGAN
25 AND TISSUE DONATION STATEMENT".

BILL

1 **SECTION 18.** 343.175 (1) of the statutes is amended to read:

2 343.175 (1) DEPARTMENT TO SOLICIT AND RECORD INFORMATION. As part of every
3 application for an original, duplicate, reinstated, reissued or renewal license or
4 endorsement, the department shall inquire whether the applicant desires to be an
5 organ donor. The department shall record the organ donor response in its file of the
6 person. At not less than 3-month intervals, the department shall compile a list of
7 the names and addresses of persons whose response to the inquiry under this
8 subsection is affirmative and forward it to the Wisconsin donor registry under s.
9 157.06 (10r) (a).

10 **SECTION 19.** 343.175 (2) (a) of the statutes is amended to read:

11 343.175 (2) (a) Except as provided in par. (ag), a part of the reverse side of each
12 license shall be printed to serve as a document of gift under s. 157.06 (2) (b) and (c)
13 or a document of refusal to make an anatomical gift under s. 157.06 (2) (i), shall
14 include the words “Wisconsin donor registry” and the toll-free telephone number
15 that can be used by persons desiring to obtain the information specified under s.
16 157.06 (10r) (c), and shall be titled “ORGAN AND TISSUE DONATION
17 STATEMENT”.

18 **SECTION 20.** 343.175 (2) (ag) of the statutes is amended to read:

19 343.175 (2) (ag) The department shall print a separate document to be issued
20 to all persons issued a commercial driver license or a license labeled
21 “CDL-Occupational” as described in s. 343.03 (3) (b) and (e) and make provisions so
22 that the document may be attached to the reverse side of the license document along
23 one edge. This document shall serve as a document of gift under s. 157.06 (2) (b) and
24 (c) or a document of refusal to make an anatomical gift under s. 157.06 (2) (i), shall
25 include the words “Wisconsin donor registry” and the toll-free telephone number

BILL

Insert 17-12

- 17 -

1 that can be used by persons desiring to obtain the information specified under s.
2 157.06 (10r) (c), and shall be titled "ORGAN AND TISSUE DONATION
3 STATEMENT".

4 **SECTION 21.** 343.20 (2m) of the statutes is amended to read:

5 343.20 (2m) The department shall include with the notice that it mails under
6 sub. (2) information regarding the requirements of s. 347.48 (4); information, as
7 developed by all organ procurement organizations in cooperation with the
8 department, that promotes anatomical donations and which relates to the
9 anatomical donation opportunity available under s. 343.175; the Wisconsin donor
10 registry enrollment form specified under s. 157.06 (10r) (b); and, for licensees aged
11 65 years or older, material, as provided by the department, explaining the voluntary
12 program that is specified in s. 71.55 (10) (b).

13 **SECTION 22.** 343.50 (3) of the statutes is amended to read:

14 343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as
15 an operator's license but shall be of a design which is readily distinguishable from
16 the design of an operator's license and bear upon it the words "IDENTIFICATION
17 CARD ONLY". The information on the card shall be the same as specified under s.
18 343.17 (3). The card may serve as a document of gift under s. 157.06 (2) (b) and (c)
19 and the holder may affix a sticker thereto as provided in s. 343.175 (3). The card may
20 also serve as a document of refusal to make an anatomical gift under s. 157.06 (2) (i).
21 The portion of the card that is designated to serve as a document of gift or a document
22 of refusal to make an anatomical gift shall be titled "ORGAN AND TISSUE
23 DONATION STATEMENT". The card shall contain the holder's photograph and, if
24 applicable, shall be of the design specified under s. 343.17 (3) (a) 12.

25 **SECTION 23.** 343.50 (4m) (a) of the statutes is amended to read:

BILL

1 343.50 (4m) (a) As part of every application for an identification card, the
2 department shall inquire whether the applicant desires to be an organ donor. The
3 department shall record the organ donor response in its file of the person. At not less
4 than 3-month intervals, the department shall compile a list of the names and
5 addresses of persons whose response to the inquiry under this subsection is
6 affirmative and forward it to the Wisconsin donor registry under s. 157.06 (10r) (a).

7 **SECTION 24.** 343.50 (4m) (c) of the statutes is created to read:

8 343.50 (4m) (c) Notwithstanding pars. (a) and (b), the department shall
9 disseminate to applicants the enrollment form specified under s. 157.06 (10r) (c). An
10 applicant may make an anatomical gift and be enrolled in the Wisconsin donor
11 registry under s. 157.06 (10r) (a) by signing the enrollment form and returning it to
12 the registry. The department shall inform applicants that enrollment in the
13 Wisconsin donor registry is not required to make an anatomical gift.

14 **SECTION 25. Nonstatutory provisions.**

15 (1) DONOR REGISTRY BOARD; INITIAL APPOINTMENTS. Notwithstanding section
16 15.07 (1) (c) of the statutes and notwithstanding the length of terms specified for the
17 members of the donor registry board appointed under section 15.195 (2) (intro.) of the
18 statutes, as created by this act, 3 initial voting members appointed under that
19 subsection shall be appointed for terms expiring on May 1, 2002, 3 initial voting
20 members appointed under that subsection shall be appointed for terms expiring on
21 May 1, 2003, and 5 initial voting members appointed under that subsection shall be
22 appointed for terms expiring on May 1, 2004.

23 (2) CONFIDENTIALITY OF REGISTRY ENROLLEES; RULES.

24 (a) The donor registry board shall submit in proposed form the rules required
25 under section 157.06 (10m) (a) 3. of the statutes, as created by this act, to the

BILL

1 legislative council staff under section 227.15 (1) of the statutes no later than the first
2 day of the 8th month beginning after the effective date of this paragraph.

3 (b) Using the procedure under section 227.24 of the statutes, the donor registry
4 board may promulgate rules required under section 157.06 (10m) (a) 3. of the
5 statutes, as created by this act, for the period before the effective date of the rules
6 submitted under paragraph (a), but not to exceed the period authorized under section
7 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b)
8 and (3) of the statutes, the board is not required to provide evidence that
9 promulgating a rule under this paragraph as an emergency rule is necessary for the
10 preservation of the public peace, health, safety or welfare and is not required to
11 provide a finding of emergency for a rule promulgated under this paragraph.

12 (3) STUDY OF PURGING NAMES AND INFORMATION FROM REGISTRY. The entity that
13 operates and maintains the Wisconsin donor registry under section 157.06 (10r) of
14 the statutes, as created by this act, shall study the means by which names and
15 information may be purged from the registry after a period of time. By January 1,
16 2002, the entity shall report its findings to the donor registry board.

17 (4) MONEYS EXCLUDED FROM BASE. Notwithstanding section 16.42 (1) (e) of the
18 statutes, in submitting information under section 16.42 of the statutes for purposes
19 of the 2001–03 biennial budget bill, the department of health and family services
20 shall submit information concerning the appropriation under section 20.435 (1) (bm)
21 of the statutes, as created by this act, as though the amounts appropriated to the
22 department under that appropriation for fiscal year 2000–01 were \$300,000 less
23 than the amounts in the schedule.

24 **SECTION 26. Effective dates.** This act takes effect on the day after publication,

25 except as follows:

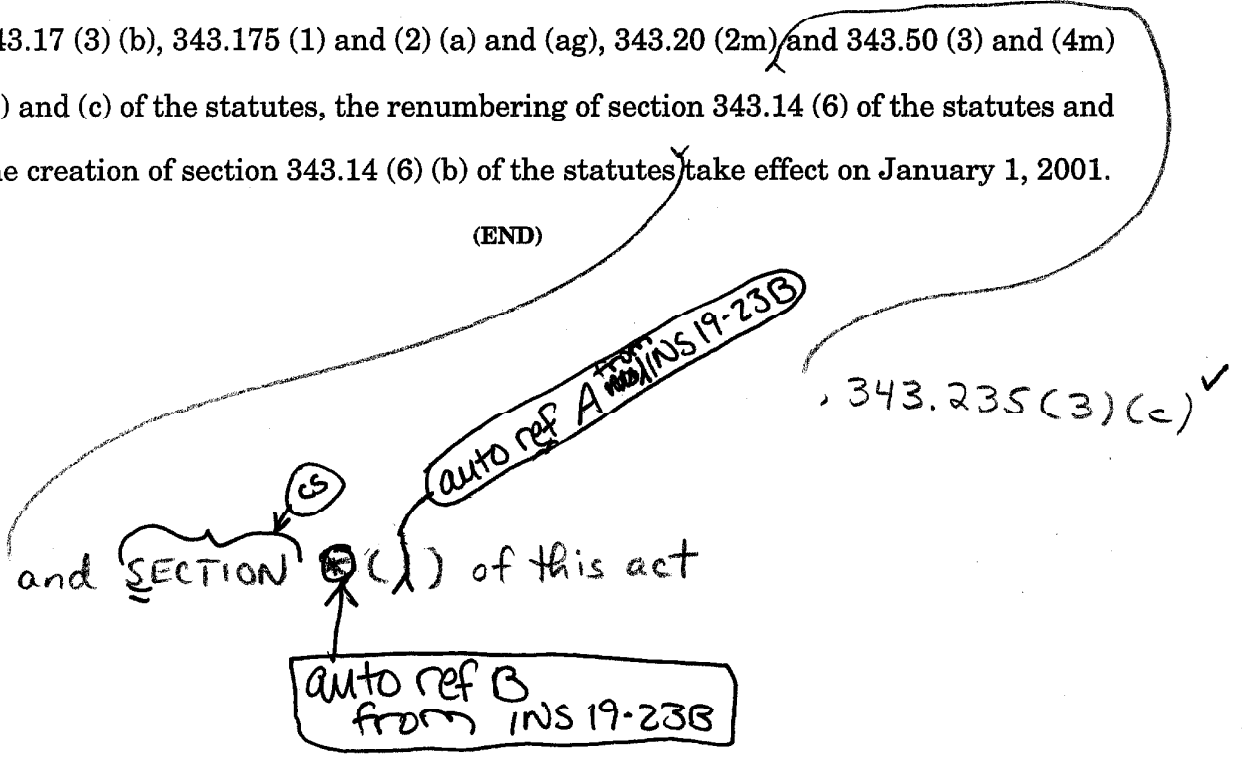
INSERT 19-23A ✓
Insert 19-23B ✓

BILL

1 (1) WISCONSIN DONOR REGISTRY. The amendment of sections 20.435 (1) (bm) and
2 157.06 (10m) (a) 1. and (10r) (a) of the statutes takes effect on July 1, 2001.

3 (2) DRIVERS' LICENSES AND IDENTIFICATION CARDS. The treatment of sections
4 343.17 (3) (b), 343.175 (1) and (2) (a) and (ag), 343.20 (2m) and 343.50 (3) and (4m)
5 (a) and (c) of the statutes, the renumbering of section 343.14 (6) of the statutes and
6 the creation of section 343.14 (6) (b) of the statutes take effect on January 1, 2001.

7 (END)



Insert 17-12

SECTION #. CR; 343.235 (3)(c)✓

343.235 (3)(c) The organ and tissue donor
registry under s. 157.06 (10r)(a)✓ for purposes ~~of~~
~~enrollment in~~ the organ and tissue donor registry.✓
related to

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3999/3ins
DAK&TNF:cmh:kjf

X INSERT 4-17

1 SECTION 1. 146.71 of the statutes is amended to read:

2 146.71 **Determination of death.** An individual who has sustained either
3 irreversible cessation of circulatory and respiratory functions or irreversible
4 cessation of all functions of the entire brain, including the brain stem, is dead. A
5 determination of death shall be made in accordance with accepted medical
6 standards. A physician who acts in accordance with this section in making a
7 determination of death or attempts in good faith to do so is not liable for that act in
8 a civil action or criminal proceeding.

History: 1981 c. 134.

INSERT 19-23A

9 (5) AUDIT OF THE WISCONSIN DONOR REGISTRY. The joint legislative audit
10 committee is requested to, and may, direct the legislative audit bureau to perform a
11 performance evaluation audit of the Wisconsin donor registry, beginning 24 months
12 after the initial award of one or more contracts under section 157.06 (10m) (a) 1. of
13 the statutes, as created by this act. If the committee directs the legislative audit
14 bureau to perform an audit, the bureau shall file its report as described in section
15 13.94 (1) (b) of the statutes.

Nonstat File Sequence: **EEE**

LRB 3999 1 3

DAK+TNF: _____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # 193 ^{auto ref 3 to eff date} Initial applicability;

auto
REPA

(#1) ~~KNM~~ DRIVERS' LICENSES AND IDENTIFICATION CARDS. ^(CS)

The treatment of sections ..
 343.17(3)(b), 343.175(1) and (2)(a) and (ag), 343.20(2m),
 343.235(3)(c) and 343.50(3) and (4m)(a) and (c)
 of the statutes
 first applies to drivers' licenses and identification cards issued
 on the effective date of this subsection.

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ Initial applicability;

(#1) () This act first applies to

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

LRB-3999/3dn
DAK&TNF:wpk:kjf

↑
jk

To Senator Rosenzweig:

1. Please note that, instead of amending s. 157.06 (10) (c), stats., to provide immunity from liability for physicians who determine death under s. 146.71, stats., I amended s. 146.71, stats., itself; the placement appears to be somewhat less confusing than proposed.

2. Please see my Drafter's Note No. 2 for the previous version of this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

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

LRB-3999/3dn
DAK;jlg:km

February 9, 2000

To Senator Rosenzweig:

1. Please note that, instead of amending s. 157.06 (10) (c), stats., to provide immunity from liability for physicians who determine death under s. 146.71, stats., I amended s. 146.71, stats., itself; the placement appears to be somewhat less confusing than proposed.

2. Please see my Drafter's Note No. 2 for the previous version of this draft.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

stats., should suffice, unless there is a particular factual circumstance that hasn't been explained.

e. Number 19. of the instruction requires that the bill specify that organ procurement organizations, tissue banks and eye banks may not be required to pay for the registry. Since the registry is funded from general purpose revenues, which are in part derived from taxes to which these entities are subject, I have instead drafted a provision that prohibits a requirement that the entities contribute money or any other thing of value *directly* to the registry.

2. The instructions in Dick Sweet's memorandum do not appear to address the problem that I raised in the Drafter's Note for the first draft. That problem is as follows: under current law, "document of gift" is defined to include a card, a driver's license, an identification card issued by DOT, a will or another writing (such as a power of attorney for health care). The bill amends this definition to include an enrollment form for the Wisconsin donor registry, thus adding another means by which a person might signify his or her wishes to donate. There is no statutory requirement that a document of gift be dated, although a driver's license or an identification card issued by DOT each contain a space for a date, and a will and a health care power of attorney each must be dated. All of these documents may be revoked, to indicate a person's change of mind. A revocation of a document of gift is accomplished by signing a statement of revocation; signing a new document of gift (signing a new document of gift revokes any previously signed document of gift); verbally revoking in the presence of 2 individuals; communicating with a physician while one is terminally ill or injured; delivering a signed statement of revocation to a specified donee; crossing out the gift authorization on one's driver's license or identification card; or revoking a power of attorney for health care instrument or a provision of the instrument. There is no statutory requirement that a revocation be dated. I am concerned about the situation in which a person has enrolled in the Wisconsin donor registry, which constitutes making a document of gift, but has scratched out a donation on his or her driver's license. Unless the person has dated the scratching out, which I think unlikely, it would be impossible (without some other sort of evidence) to tell whether the revocation on the driver's license or the gift under the enrollment form is the last expression of the person's intent and, therefore, rules. Obviously, this problem already exists under current law, but I am concerned that further confusion may arise with the advent of the registry; for example, a person may want to donate but may believe, for instance, that crossing out the document of gift on the driver's license would be acceptable (and less repetitious) as long as he or she has signed a registry enrollment form. Or, a person who wants to revoke may cross out the document of gift on the driver's license but fail to revoke the registry enrollment form.

There are several ways to approach this problem, should you wish to do so: one would be to prohibit changing one's designation on a driver's license or identification card except by applying for a duplicate license; this alternative might be somewhat costly, either to the person or to DOT. A second way would be to require that revoking a document of gift on a driver's license or identification card be initialled and dated. Yet

another way would be to require that all documents of gift or refusals to make a gift and all revocations be dated.

3. Please let me know if I may assist you further with this bill.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137

Kennedy, Debora

From: Sweet, Richard
Sent: Wednesday, February 09, 2000 1:42 PM
To: Kennedy, Debora
Subject: Resgistry

Debora,

I ran past Rep. Wasserman's office and Sen. Rosenzweig's office the issue we had discussed. They want to go with dating documents of gift, refusals and written revocations. You may also want to specify that failure to date the document, refusal or written revocation doesn't invalidate the action.

Thanks for your help.

Dick Sweet

Richard Sweet, Senior Staff Attorney
Wisconsin Legislative Council Staff
P.O. Box 2536
(1 East Main Street, Room 401)
Madison, WI 53701-2536
Phone (608)266-2982
Fax (608)266-3830
E-mail richard.sweet@legis.state.wi.us