2003 SENATE BILL 336

December 3, 2003 – Introduced by Senators ROESSLER, DARLING, LAZICH, A. LASEE, LASSA and RISSER, cosponsored by Representatives HUNDERTMARK, GIELOW, BERCEAU, KRAWCZYK, HINES, J. LEHMAN, MILLER, OTT, TOWNSEND, VAN ROY, WASSERMAN, WEBER and TAYLOR. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

AN ACT *to amend* 154.03 (2) (form); and *to create* 154.06, 157.06 (2) (f) 7. and 157.06 (2) (i) 2m. of the statutes; **relating to:** creating the option to make an anatomical gift as part of a living will.

Analysis by the Legislative Reference Bureau

Under current law, a person who is aged at least 18 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.

This bill authorizes a person who executes a declaration to physicians (a living will) to make an anatomical gift, amend such a gift, revoke an anatomical gift, or refuse to make an anatomical gift, as part of the living will. The bill permits the declarant of the living will to donate all or a part of his or her body to a specific donee or for a specific purpose and to specify a physician to carry out the appropriate

SENATE BILL 336

procedures. The bill specifies that failure to make an indication of desire or refusal to make an anatomical gift does not create a presumption about the declarant's intent with regard to the matter.

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. 154.03 (2) (form) of the statutes is amended to read:
2	154.03 (2) (form)
3	DECLARATION TO PHYSICIANS
4	(WISCONSIN LIVING WILL)
5	I,, being of sound mind, voluntarily state my desire that my dying not be
6	prolonged under the circumstances specified in this document. Under those
7	circumstances, I direct that I be permitted to die naturally. If I am unable to give
8	directions regarding the use of life-sustaining procedures or feeding tubes, I intend
9	that my family and physician honor this document as the final expression of my legal
10	right to refuse medical or surgical treatment.
11	1. If I have a TERMINAL CONDITION, as determined by 2 physicians who
12	have personally examined me, I do not want my dying to be artificially prolonged and
13	I do not want life–sustaining procedures to be used. In addition, the following are
14	my directions regarding the use of feeding tubes:
15	YES, I want feeding tubes used if I have a terminal condition.
16	NO, I do not want feeding tubes used if I have a terminal condition.
17	If you have not checked either box, feeding tubes will be used.

SENATE BILL 336

1	2. If I am in a PERSISTENT VEGETATIVE STATE, as determined by 2
2	physicians who have personally examined me, the following are my directions
3	regarding the use of life-sustaining procedures:
4	YES, I want life-sustaining procedures used if I am in a persistent
5	vegetative state.
6	NO, I do not want life–sustaining procedures used if I am in a persistent
7	vegetative state.
8	If you have not checked either box, life-sustaining procedures will be used.
9	3. If I am in a PERSISTENT VEGETATIVE STATE, as determined by 2
10	physicians who have personally examined me, the following are my directions
11	regarding the use of feeding tubes:
12	YES, I want feeding tubes used if I am in a persistent vegetative state.
13	NO, I do not want feeding tubes used if I am in a persistent vegetative state.
14	If you have not checked either box, feeding tubes will be used.
15	If you are interested in more information about the significant terms used in
16	this document, see section 154.01 of the Wisconsin Statutes or the information
17	accompanying this document.
18	ATTENTION: You and the 2 witnesses must sign the document at the same
19	time.
20	Signed Date
21	Address Date of birth
22	I believe that the person signing this document is of sound mind. I am an adult
23	and am not related to the person signing this document by blood, marriage or
24	adoption. I am not entitled to and do not have a claim on any portion of the person's
25	estate and am not otherwise restricted by law from being a witness.

- 3 -

SENATE BILL 336

LRB–3376/1 DAK:kmg:rs **SECTION 1**

1	Witness signature Date signed
2	Print name
3	Witness signature Date signed
4	Print name
5	DIRECTIVES TO ATTENDING PHYSICIAN
6	1. This document authorizes the withholding or withdrawal of life–sustaining
7	procedures or of feeding tubes when 2 physicians, one of whom is the attending
8	physician, have personally examined and certified in writing that the patient has a
9	terminal condition or is in a persistent vegetative state.
10	2. The choices in this document were made by a competent adult. Under the
11	law, the patient's stated desires must be followed unless you believe that withholding
12	or withdrawing life–sustaining procedures or feeding tubes would cause the patient
13	pain or reduced comfort and that the pain or discomfort cannot be alleviated through
14	pain relief measures. If the patient's stated desires are that life-sustaining
15	procedures or feeding tubes be used, this directive must be followed.
16	3. If you feel that you cannot comply with this document, you must make a good
17	faith attempt to transfer the patient to another physician who will comply. Refusal
18	or failure to make a good faith attempt to do so constitutes unprofessional conduct.
19	4. If you know that the patient is pregnant, this document has no effect during
20	her pregnancy.

– 4 –

SENATE BILL 336

LRB-3376/1 DAK:kmg:rs **SECTION 1**

1	* * * *
2	The person making this living will may use the following space to record the
3	names of those individuals and health care providers to whom he or she has given
4	copies of this document:
5	
6	
7	
8	* * * * *
9	ANATOMICAL GIFTS (optional)
10	At my death, the following are my directions regarding donation of my organs:
11	YES, I want to donate all of my body as an anatomical gift.
12	<u>OR</u>
13	YES, I want to donate the following specific parts or organs of my body as
14	an anatomical gift:
15	If I have signified "YES" to either of the options above, in addition, I may, but
16	do not have to, indicate any or all of the following:
17	a. I want to donate all or part of my body to: (name of the donee)
18	b. I want to donate all or part of my body for this purpose:
19	c. I want Dr (name of physician) to carry out the appropriate procedures.
20	<u>OR</u>
21	NO, I do not want to donate all or any part of my body as an anatomical gift.
22	(If this revokes a prior commitment that I have made to make an anatomical gift to
23	<u>a designated donee. I will attempt to notify the donee to which or to whom I agreed</u>
24	to donate.)

– 5 –

SENATE BILL 336

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 all or part of his or her body by indicating
7	his or her intent in the space provided on the declaration. A declaration that so
8	indicates the declarant's intent serves as a document of gift under s. 157.06 (2) (b).
9	(2) A declarant who has made an anatomical gift as specified in sub. (1) may
10	amend his or her gift by adding to or changing the donor authorization in the space
11	provided on the declaration or by performing any of the procedures specified in s.
12	157.06 (2) (f) 1. to 4.
13	(3) A declarant who has made an anatomical gift as specified in sub. (1) may
14	revoke his or her gift by crossing out the donor authorization in the space provided
15	on the declaration or by performing any of the procedures specified in s. 157.06 (2)
16	(f) 1. to 4.
17	(4) A declarant may refuse to make an anatomical gift of all or part of his or
18	her body by indicating his or her intent in the space provided on the declaration. A
19	declaration that so indicates the declarant's intent serves as a document of refusal
20	to make an anatomical gift under s. 157.06 (2) (i).
21	(5) Nothing in this section requires a declarant to make, amend, or refuse to
22	make an anatomical gift by means of a declaration or otherwise limits a declarant
23	from making, amending, or refusing to make an anatomical gift under alternative
24	procedures specified in s. 157.06.
25	SECTION 3. 157.06 (2) (f) 7. of the statutes is created to read:

- 6 -

SENATE BILL 336

1	157.06 (2) (f) 7. For a declarant who executes a living will, crossing out or
2	amending the donor authorization or refusal in the space provided on the declaration
3	as prescribed in s. 154.06 (2) and (4) or revoking the declaration as prescribed in
4	s.154.06 (3).
5	SECTION 4. 157.06 (2) (i) 2m. of the statutes is created to read:

- 7 -

SECTION 4. 157.06 (2) (i) 2m. of the statutes is created to read:

6 157.06 (2) (i) 2m. For a declarant who executes a living will, making a statement of refusal in the space provided in the declaration as prescribed in s. 7 8 154.06 (4).

9

(END)