

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.

1 **AN ACT** *to amend* 154.03 (2) (form); and *to create* 154.06, 157.06 (2) (f) 7. and
2 157.06 (2) (i) 2m. of the statutes; **relating to:** creating the option to make an
3 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

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The person making this living will may use the following space to record the names of those individuals and health care providers to whom he or she has given copies of this document:

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.....

* * * * *

ANATOMICAL GIFTS (optional)

At my death, the following are my directions regarding donation of my organs:

.... YES, I want to donate all of my body as an anatomical gift.

OR

.... YES, I want to donate the following specific parts or organs of my body as an anatomical gift:

If I have signified "YES" to either of the options above, in addition, I may, but do not have to, indicate any or all of the following:

- a. I want to donate all or part of my body to: (name of the donee)
- b. I want to donate all or part of my body for this purpose:
- c. I want Dr. (name of physician) to carry out the appropriate procedures.

OR

.... NO, I do not want to donate all or any part of my body as an anatomical gift. (If this revokes a prior commitment that I have made to make an anatomical gift to a designated donee, I will attempt to notify the donee to which or to whom I agreed to donate.)

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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:

