

2005 ASSEMBLY BILL 830

November 14, 2005 – Introduced by Representatives WIECKERT, VRUWINK, MUSSER, GRONEMUS, BIES, SCHNEIDER, HAHN, JESKEWITZ, VOS, TOWNSEND, McCORMICK, SHILLING, ALBERS, LEHMAN, GUNDERSON, KREIBICH, GIELOW, WASSERMAN, UNDERHEIM, KRAWCZYK, OWENS, ZEPNICK, BOYLE, KESTELL, VAN ROY, AINSWORTH, NELSON, STRACHOTA, OTT, NASS and BALLWEG, cosponsored by Senators A. LASEE, BRESKE, OLSEN, RISSER, LEIBHAM, HANSEN, DARLING, ERPENBACH, LASSA, COWLES and KEDZIE. Referred to Committee on Health.

1 **AN ACT** *to repeal* 157.06 (11) and 157.06 (12); *to amend* 157.06 (2) (j), 157.06 (4)
2 (title), 157.06 (4) (am) (intro.), 157.06 (4) (b) and 157.06 (5) (bm); *to repeal and*
3 *recreate* 157.06 (title); and *to create* 157.06 (4m) and 157.06 (4r) of the
4 statutes; **relating to:** anatomical gifts and the powers and duties of coroners
5 and 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

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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 of the intended removal; and (2) the coroner or medical examiner or his or her designee has the opportunity to be 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, if, in the judgment of the coroner, medical examiner, or designee, the organ may be necessary in determining the cause of death, the coroner, medical examiner, or designee may order a biopsy of the vascularized organ or, if he or she is present during the physician's scheduled removal, may deny removal. If a biopsy is ordered or removal is denied, the coroner, medical examiner, or designee must specify 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 cardiovascular tissue from a decedent must, upon request by a coroner or medical examiner, file a report with the coroner or medical examiner. The agency recovering the 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 agency must, upon request, make this record available to the coroner or medical examiner.

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 release of the decedent as a potential tissue donor be to the tissue bank with which the hospital has an agreement, as required under federal law. A decedent whose death occurred outside a hospital and who is within the custody of a coroner or medical examiner may be referred as a potential tissue donor to a single tissue bank if the county board has an agreement with only that tissue bank or on an equal rotating basis to those tissue banks with which the county board has agreements. The tissue bank or tissue banks must be selected by the county board under a request-for-proposals process and must be registered and accredited.

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:

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1 157.06 (2) (j) In the absence of contrary indications by the donor, an anatomical
2 gift of a part of a human body is neither a refusal to give other parts of the body nor
3 a limitation on an anatomical gift under sub. (3) or on a removal or release of other
4 parts of the body under sub. (4) or (4m).

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

6 157.06 (4) (title) ~~NOTIFICATION AND AUTHORIZATION~~ AUTHORIZATION BY CORONER
7 OR MEDICAL EXAMINER; DECEDENT NOT A DONOR.

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

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

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

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

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

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

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1 1. The coroner or medical examiner or his or her designee is first provided notice
2 of the intended removal.

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

7 (b) If, in the judgment of the coroner, medical examiner, or designee specified
8 in par. (a) the vascularized organ may be necessary in determining the cause of
9 death, he or she may order a biopsy of the vascularized organ or, if he or she is present
10 during the physician's scheduled removal, may deny removal. If the biopsy is
11 ordered or the removal is denied, the coroner, medical examiner, or designee shall
12 specify, in writing as part of any death report required under ch. 979, any reasons
13 for determining that the organ may be involved in the cause of death.

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

19 (d) A physician or technician who removes cardiovascular tissue from a
20 decedent under this subsection shall, upon request of the coroner or medical
21 examiner, file with the coroner or medical examiner a report detailing the condition
22 of the cardiovascular tissue and its relationship to the cause of death. The report may
23 include a biopsy or medically approved sample, if available, from the part.

24 (e) If a coroner or medical examiner or his or her designee releases and permits
25 the removal of a part under this subsection, the recovering agency shall maintain a

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1 permanent record of the name of the decedent, the name of the person, if any, who
2 made an anatomical gift under sub. (3), the date and purpose of the document of gift,
3 the part of the body removed, and the name of the person to whom the part was
4 released. The recovering agency shall make the record under this paragraph
5 available, upon request, to the coroner or medical examiner.

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

7 157.06 (4r) AUTHORIZATION BY CORONER OR MEDICAL EXAMINER; DONEE. (a) If a
8 decedent is within the custody of a coroner or medical examiner, and the death
9 occurred in a hospital, any release of the decedent as a potential tissue donor shall
10 be to the tissue bank with which the hospital has an agreement under 42 CFR 482.45
11 (a) (2).

12 (b) If a decedent is within the custody of a coroner or medical examiner, and the
13 death occurred outside a hospital, any referral of the decedent as a potential tissue
14 donor by the coroner or medical examiner shall be made under the following
15 conditions:

16 1. The applicable county board shall have used a request-for-proposals process
17 that considers a tissue bank's history, services, and tissue distribution record in
18 selecting the tissue bank or tissue banks to which the coroner or medical examiner
19 shall refer the decedent as a potential tissue donor.

20 2. a. If the applicable county board has entered into an agreement with only
21 one tissue bank following the request-for-proposals process, the coroner or medical
22 examiner shall refer the decedent as a potential tissue donor in accordance with the
23 agreement.

24 b. If the applicable county board has entered into agreements with more than
25 one tissue bank following the request-for-proposals process, the coroner or medical

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1 examiner shall refer decedents as potential tissue donors on an equal rotating basis
2 to the tissue banks.

3 3. Tissue banks under this paragraph shall be accredited by the American
4 Association of Tissue Banks and registered with the federal Food and Drug
5 Administration.

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

7 157.06 (5) (bm) If at or near the time of death of a patient a hospital knows that
8 an anatomical gift of all or a part of the patient's body has been made under sub. (3)
9 (a), that a release and removal of a part of the patient's body has been permitted
10 under sub. (4) or (4m) or that a patient or an individual identified as in transit to the
11 hospital is a donor, the hospital shall notify the donee if one is named and known to
12 the hospital. If a donee is neither named nor known to the hospital, the hospital shall
13 notify an appropriate procurement organization. The hospital shall cooperate in the
14 implementation of the anatomical gift or release and removal of a part of the body
15 of the patient or individual.

16 **SECTION 9.** 157.06 (11) of the statutes is repealed.

17 **SECTION 10.** 157.06 (12) of the statutes is repealed.

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(END)