



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2007 Wisconsin Act 106
[2007 Senate Bill 310]

Anatomical Gifts

Act 106 codifies in the Wisconsin statutes, with modifications, the 2006 Revised Uniform Anatomical Gift Act. The original Uniform Anatomical Gift Act was developed by the National Conference of Commissioner of Uniform State Laws (NCCUSL) in 1968 and enacted by all states. It was updated in 1987 and, according to NCCUSL, 26 states adopted that version of the act; Wisconsin was one of those states.

The 2006 Uniform Act is largely incorporated into the Wisconsin statutes through the repeal and recreation of s. 157.06, Stats., by Act 106. Act 106 contains the following major provisions:

- The Act provides that in the absence of an express, contrary indication by the donor, a person other than the donor may not make, amend, or revoke an anatomical gift of the donor's body or part if the donor has made an unrevoked anatomical gift (except as provided in the next bullet point).
- The Act permits donation by a minor who is either at least 15 1/2 years of age or is an emancipated minor. Prior law required that a donor be at least 18 years of age. However, if a donor who is an unemancipated minor dies, a parent who is reasonably available may revoke or amend such an anatomical gift. In addition, if an unemancipated minor who has made a refusal to make an anatomical gift dies, a reasonably available parent may revoke that refusal.
- The Act permits any of the following, in the order of priority listed, to make an anatomical gift for a person who is near death or who has died: (1) a health care agent under a power of attorney for health care or a person who is expressly authorized in a record that is signed by the principal to make an anatomical gift; (2) spouse; (3) adult children; (4) parents; (5) adult siblings; (6) adult grandchildren; (7) grandparents; (8) adults who exhibited special care and concern for a decedent; (9) a guardian of a person at the time of death; and (10) any other persons having authority to dispose of the decedent's body. Such a person may not make an

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

anatomical gift if a person who is a member of a class with higher priority is reasonably available.

Prior Wisconsin law had a similar priority list, but prior law listed the health care agent under a power of attorney for health care at the end of the list, and also did not include adult grandchildren, an adult who has exhibited special care and concern for the decedent, or any other person having authority to dispose of the decedent's body.

- The Act authorizes the Department of Health and Family Services (DHFS) to establish a donor registry. If DHFS does so, the Department of Transportation is required to cooperate in establishing the registry. DHFS is given authority to promulgate rules governing any donor registry that is established.
- The Act retains provisions enacted in the 2005-06 Legislative Session that relate to: (1) involvement of coroners and medical examiners in the anatomical gift process; and (2) statements that must be included in a record of gift regarding use of donated bones or tissues.
- The Act provides that an anatomical gift is valid if it is made in accordance with any of the following: (1) the laws of Wisconsin; (2) the laws of the state or country where it was made; or (3) the laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the anatomical gift was made. If the anatomical gift is valid, the laws of Wisconsin govern the interpretation of the anatomical gift.

Effective Date: April 1, 2008.

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April 7, 2008

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