

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

**2001 Edition**

**2008 Summer  
Supp.**

**West Group  
Publisher**

To enact the Revised Uniform Anatomical Gift Act to increase the availability of organs, eyes, and tissue for purposes of transplantation, therapy, research, and education by protecting a donor's decision to make an anatomical gift from interference by others after the donor's death, by facilitating anatomical gifts by expanding those who may act for donors during their lives and after their deaths, by expanding the types of documents of gift recognized, including those on donor registries, by facilitating procurement organizations' access of records of documents of gifts and essential medical records, by providing rules for use of anatomical gifts when the purposes are not stated, by recognizing anatomical gifts made under law other than this act, by re-establishing the donor registry for the District of Columbia as part of the uniform act, by requiring that the donor registry be promptly revised if a donor amends or revokes an anatomical gift, by providing for the confidentiality of personally identifiable information included in the donor registry pertaining to a donor or prospective donor, by ensuring that a donor's advance health-care directive does not frustrate the donor's decision to make an anatomical gift, and by encouraging cooperation between procurement organizations and the Office of the Chief Medical Examiner and facilitating anatomical gifts from decedents whose bodies are under the jurisdiction of that office; to amend the District of Columbia Funeral Services Regulatory Act of 1984 to make conforming amendments; to amend the Prohibition of the Buying and Selling of Human Body Parts Act of 1984 to clarify that its penalties apply to the buying and selling of body parts of a living human; to repeal the District of Columbia Anatomical Gift Act; to amend the District of Columbia Tissue Bank Act to make the defined terms conform with those of the uniform act, and to authorize an organ procurement organization to screen, test, or recover eyes or tissues on behalf of an eye bank or tissue bank; to repeal the Organ and Tissue Donor Registry Establishment Act of 2006; to amend An Act To establish a code of law for the District of Columbia to make conforming amendments; and to amend section 108 of Title 18 of the District of Columbia Municipal Regulations to require that applicants for driver's licenses, operating permits, and identification cards be provided a written explanation about the donation of anatomical gifts in the District of Columbia and to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Anatomical Gift Revision Act of 2008”.

Sec. 2. Definitions.

For the purposes of this act and, unless specifically provided otherwise, the District of Columbia Tissue Bank Act, approved September 10, 1962 (76 Stat. 534; D.C. Official Code § 7-1541.01 *et seq.*), and sections 675-676 and 683 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; D.C. Official Code §§ 43-119 and 43-125), the term:

- (1) “Adult” means an individual who is at least 18 years of age.
- (2) “Agent” means an individual:
  - (A) Authorized to make health-care decisions on the principal’s behalf by a power of attorney for health care; or
  - (B) Expressly authorized to make an anatomical gift on the principal’s behalf by any other record signed by the principal.
- (3) “Anatomical gift” means a donation of all or part of a human body to take effect after the donor’s death for the purpose of transplantation, therapy, research, or education.
- (4) “Decedent” means a deceased individual whose body or part is or may be the source of an anatomical gift. The term “decedent” includes a stillborn infant and, subject to restrictions imposed by law other than this act, a fetus.
- (5) “Disinterested witness” means a witness other than the spouse, domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term “disinterested witness” does not include a person to which an anatomical gift could pass under section 11. An individual is not disqualified from being a disinterested witness solely because the individual is employed by a transplant hospital.
- (6) “Document of gift” means a donor card or other record used to make an anatomical gift. The term “document of gift” includes a statement or symbol on a driver’s license, identification card, or donor registry.
- (7) “Domestic partner” shall have the same meaning as provided in section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)).
- (8) “Donor” means an individual whose body or part is the subject of an anatomical gift.
- (9) “Donor registry” means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts. The term “donor registry” includes the Registry.

(10) “Driver’s license” means a license or permit issued by the Department of Motor Vehicles to operate a vehicle, whether or not conditions are attached to the license or permit. The term “driver’s license” includes a learner’s permit.

(11) “Eye bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(12) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term “guardian” does not include a guardian ad litem, unless the guardian ad litem is expressly authorized by a court to consent to a donation.

(13) “Hospice” shall have the same meaning as provided in section 2(6) of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a)(6)).

(14) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(15) “Identification card” means a special identification card issued by the Department of Motor Vehicles pursuant to 18 DCMR § 112.

(16) “Know” means to have actual knowledge.

(17) “Minor” means an individual who is under 18 years of age.

(18) “Organ procurement organization” means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(19) “Parent” means a parent whose parental rights have not been terminated.

(20) “Part” means an organ, an eye, or tissue of a human being. The term “part” does not include the whole body.

(21) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(22) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.

(23) “Procurement organization” means an eye bank, organ procurement organization, or tissue bank.

(24) “Prospective donor” means an individual who is dead or whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term “prospective donor” does not include an individual who has made a refusal.

(25) “Reasonably available” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(26) “Recipient” means an individual into whose body a decedent’s part has been or is intended to be transplanted.

(27) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(28) “Refusal” means a record created under section 7 that expressly states an intent to bar other persons from making an anatomical gift of an individual’s body or part. The term “refusal” does not include a revocation.

(29) “Registry” means the organ and tissue donor registry for the District of Columbia established by section 20.

(30) “Revocation” means the cancellation of an anatomical gift that was made previously. The term “revocation” does not include a refusal.

(31) “Sign” means, with the present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

(32) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(33) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term “technician” includes an enucleator.

(34) “Tissue” means a portion of the human body other than an organ or an eye. The term “tissue” does not include blood unless the blood is donated for the purpose of research or education.

(35) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(36) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

### Sec. 3. Applicability.

This act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

### Sec. 4. Who may make anatomical gift before donor’s death.

Subject to section 8, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 5 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license because the donor is at least 16 years of age;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; or

(4) The donor's guardian.

Sec. 5. Manner of making anatomical gift before donor's death.

(a) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) In a will;

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under section 4 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(1) Be witnessed by at least 2 adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in paragraph (1) of this subsection.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 6. Amending or revoking anatomical gift before donor's death.

(a) Subject to section 8, a donor or other person authorized to make an anatomical gift under section 4 may amend or revoke an anatomical gift by:

(1) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) A later-executed document of gift, including a driver's license or

identification card, that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subsection (a)(1)(C) of this section shall:

(1) Be witnessed by at least 2 adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in paragraph (1) of this subsection.

(c) Subject to section 8, a donor or other person authorized to make an anatomical gift under section 4 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least 2 adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

Sec. 7. Refusal to make anatomical gift; effect of refusal.

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(A) The individual; or

(B) Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least 2 adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to subsection (a)(1)(B) of this section shall:

(1) Be witnessed by at least 2 adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in paragraph (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In the manner provided in subsection (a) of this section for making a refusal;

(2) By subsequently making an anatomical gift pursuant to section 5 that is inconsistent with the refusal; or

(3) By destroying or cancelling the record evidencing the refusal, or the portion

of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in section 8(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

**Sec. 8. Preclusive effect of anatomical gift, amendment, or revocation.**

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 5 or an amendment to an anatomical gift of the donor's body or part under section 6.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 6 is not a refusal and does not bar another person specified in section 4 or 9 from making an anatomical gift of the donor's body or part under section 5 or 10.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 5 or an amendment to an anatomical gift of the donor's body or part under section 6, another person may not make, amend, or revoke the gift of the donor's body or part under section 10.

(d) A revocation of an anatomical gift of a donor's body or part under section 6 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 5 or 10.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4, an anatomical gift of a part for one or more of the purposes set forth in section 4 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 5 or 10.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

**Sec. 9. Who may make anatomical gift of decedent's body or part.**

(a) Subject to subsections (b) and (c) of this section and unless barred by section 7 or 8, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is

reasonably available, in the order of priority listed:

- (1) An agent of the decedent at the time of death who could have made an anatomical gift under section 4(2) immediately before the decedent's death;
- (2) The spouse or domestic partner of the decedent;
- (3) Adult children of the decedent;
- (4)(A) Parents of the decedent; or  
(B) If, at the time of death, there was a guardian of the decedent under a guardianship order under D.C. Official Code § 16-2389, the guardian, unless the order specifies otherwise;
- (5) Adult siblings of the decedent;
- (6) Adult grandchildren of the decedent;
- (7) Grandparents of the decedent;
- (8) An adult who exhibited special care and concern for the decedent;
- (9) The persons who were acting as the guardians of the person of the decedent at the time of death; and
- (10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6), (7), or (9) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 11 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

Sec. 10. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

(a) A person authorized to make an anatomical gift under section 9 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under section 9 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 9 may be:

- (1) Amended only if a majority of the reasonably available members agree to the amending of the gift; or
- (2) Revoked only if:
  - (A) A majority of the reasonably available members agree to the revoking of the gift; or

(B) The members of the class described in section 9(a)(4) are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 11. Persons that may receive anatomical gift; purpose of anatomical gift.

(a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person authorized by the Mayor, for research or education;

(2) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) An eye bank or tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(2) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purposes of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e), and (f) of this section, the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (a)(2) of this section, passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent’s body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 5 or 10 or if the person knows that the decedent made a refusal under section 7 that was not revoked. For the purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in subsection (a)(2) of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

**Sec. 12. Search and notification.**

(a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or whose death is imminent for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

(2) If no other source of the information is immediately available, a hospital, as soon as practical after the individual’s arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a)(1) of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section, but may be subject to administrative sanctions.

Sec. 13. Delivery of document of gift not required; right to examine.

(a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 11.

Sec. 14. Rights and duties of procurement organization and others.

(a) When a hospital or hospice refers an individual who is dead or whose death is imminent to a procurement organization, the organization shall make a reasonable search of the records of the Department of Motor Vehicles and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization shall be allowed reasonable access to information in the records of the Department of Motor Vehicles to ascertain whether an individual who is dead or whose death is imminent is a donor.

(c) When a hospital or hospice refers an individual who is dead or whose death is imminent to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this act, at any time after a donor's death, the person to which a part passes under section 11 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this act, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital or hospice under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in section 9 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to sections 11(i) and 23, the rights of the person to which a part passes

under section 11 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this act, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 11, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**Sec. 15. Coordination of procurement and use.**

Each hospital in the District of Columbia shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**Sec. 16. Sale or purchase of parts prohibited.**

(a) Except as otherwise provided in subsection (b) of this section, a person that, for valuable consideration, knowingly purchases or sells a part for transplantation, therapy, research, education, or any other purpose, if removal of a part from an individual is intended to occur after the individual's death, commits a felony and upon conviction is subject to a fine not exceeding \$50,000, imprisonment not exceeding 5 years, or both.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**Sec. 17. Other prohibited acts.**

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a felony and upon conviction is subject to a fine not exceeding \$50,000, imprisonment not exceeding 5 years, or both.

**Sec. 18. Immunity.**

(a) A person that acts in accordance with this act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this act, a person may rely upon representations of an individual listed in section 9(a)(2),

(3), (4), (5), (6), (7), or (8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Sec. 19. Law governing validity; choice of law as to execution of document of gift; presumption of validity.

(a) A document of gift is valid if executed in accordance with:

- (1) This act;
- (2) The laws of the state or country where it was executed; or
- (3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of the District of Columbia governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 20. Establishment of the donor registry.

There is established a donor registry for residents of the District of Columbia, which shall be maintained by the federally designated organ procurement organization serving the District of Columbia.

Sec. 20a. Access to Registry information.

Unless otherwise authorized by District of Columbia or federal law, information in the Registry shall be accessible only to:

- (1) The organ procurement organization serving the District of Columbia; and
- (2) An agency licensed in or authorized by the laws of another state, when a District resident is a donor of an anatomical gift and is not located in the District of Columbia at the time of donor's death or immediately before the time of death.

Sec. 20b. Sources of Registry information; confidentiality.

(a) The organ procurement organization:

- (1) May acquire and use donor information from all available sources; and
- (2) Shall acquire and use donor information from the Department of Motor Vehicles submitted in accordance with section 20c and with any regulations promulgated pursuant to section 20f.

(b) Personally identifiable information on the Registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

Sec. 20c. Department of Motor Vehicles transfer of Registry information requirements.

(a) The Department of Motor Vehicles shall transfer to the designated organ procurement organization the name, gender, date of birth, and most recent address of any person who obtains a driver's license or identification card and who has made or revoked an anatomical gift.

(b)(1) The initial transfer of donor information shall be transferred to the organ procurement organization by the Department of Motor Vehicles within 30 days of receipt of a written request from the organ procurement organization.

(2) All subsequent transfers of donor information, new and revisions to previously submitted information, shall be submitted monthly, or as otherwise determined by the Mayor, at no charge to the organ procurement organization.

Sec. 20d. Effect of amendment or revocation of anatomical gift upon Registry.

(a) If a donor amends an anatomical gift, or revokes one or more, but not all, anatomical gifts, the Registry shall be promptly revised to reflect the gift or gifts as amended.

(b) If a donor revokes all anatomical gifts, the name of the former donor shall be promptly removed from the Registry.

Sec. 20e. Donor status not dependent on being listed in Registry.

A person shall not be required to be listed in the Registry to be a donor.

Sec. 20f. Rulemaking for Registry.

The Mayor may issue rules necessary to implement the provisions of sections 20 through 20e.

Sec. 21. Effect of anatomical gift on advance health-care directive.

(a) For the purposes of this section, the term:

(1) "Advance health-care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life-support system may be withheld or withdrawn from the prospective donor.

(3) "Health-care decision" means any decision regarding the health care of the prospective donor.

(b)(1) If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict.

(2) If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this act to make health-care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict.

(3) The conflict shall be resolved as expeditiously as possible.

(4) Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 9.

(5) Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

Sec. 22. Cooperation between the Chief Medical Examiner and procurement organizations.

(a) The Chief Medical Examiner and Office of the Chief Medical Examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education. The Office of the Chief Medical Examiner and procurement organizations shall in good faith develop and agree upon protocols in a memorandum of understanding to achieve this objective and shall evaluate the effectiveness of the memorandum of understanding at regular intervals, but no less frequently than every 2 years.

(b) If the Chief Medical Examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the Chief Medical Examiner and a post-mortem examination is going to be performed, unless the Chief Medical Examiner denies recovery of a specific part or parts in accordance with section 23, the Chief Medical Examiner, or designee, shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(c)(1) A part may not be removed from the body of a decedent under the jurisdiction of the Chief Medical Examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift and the Chief Medical Examiner has been notified before the part is removed from the decedent and has approved the removal.

(2) Except as provided in subsection (d) of this section, the body of a decedent under the jurisdiction of the Chief Medical Examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift.

(3) Nothing in this subsection shall be construed as precluding the Chief Medical Examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the Chief Medical Examiner.

(d) The body of a decedent under the jurisdiction of the Chief Medical Examiner may be delivered for use in an exhibition in connection with a governmental museum or institution

of learning permanently located in the District of Columbia in accordance with section 677 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1297; D.C. Official Code § 43-120); provided, that the Chief Medical Examiner must be notified before the body is delivered for such purposes.

Sec. 23. Facilitation of anatomical gift from decedent whose body is under jurisdiction of Chief Medical Examiner.

(a)(1) The relationship between the Office of the Chief Medical Examiner and a procurement organization shall be governed by a memorandum of understanding between the Chief Medical Examiner and the procurement organization, which shall contain protocols to resolve any conflicts between the Chief Medical Examiner and the procurement organization.

(2) The time period within which a recovery must be performed to be compatible with the preservation of the part or parts for the purpose of transplantation, therapy, research, or education shall be medically determined, based on the best practices for the recovery of parts, pursuant to the pertinent protocols in the memorandum of understanding.

(b)(1) Upon request of a procurement organization pursuant to an anatomical gift, the Chief Medical Examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the Chief Medical Examiner.

(2) If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, as determined by the appropriate procurement organization, the Chief Medical Examiner shall release post-mortem examination results to the procurement organization.

(3) The procurement organization and any other recipient may make a subsequent disclosure of the post-mortem examination results or other information received from the Chief Medical Examiner only if relevant to transplantation, therapy, research, or education.

(c) The Chief Medical Examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the Chief Medical Examiner which the Chief Medical Examiner determines may be relevant to the investigation.

(d) A person that has any information requested by the Chief Medical Examiner pursuant to subsection (c) of this section shall provide that information as expeditiously as possible to allow the Chief Medical Examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the Chief Medical Examiner and the Chief Medical Examiner determines that a post-mortem examination is not required, or the Chief Medical Examiner

determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the Chief Medical Examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(f)(1) If an anatomical gift of a part from the decedent under the jurisdiction of the Chief Medical Examiner has been or might be made, but the Chief Medical Examiner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the Chief Medical Examiner shall consult with the procurement organization, or a physician or technician designated by the procurement organization, and, at the discretion of the Chief Medical Examiner, with an attending physician, about the proposed recovery within a period compatible with the preservation of the part for the appropriate purpose.

(2) After consultation, the Chief Medical Examiner may allow or deny the recovery of the part.

(3) The Chief Medical Examiner shall allow recovery of a part if the Chief Medical Examiner determines that recovery would not interfere with the post-mortem investigation into the decedent's cause or manner of death.

(g)(1) Following the consultation required under subsection (f) of this section, if the Chief Medical Examiner has not been able to expeditiously determine whether to allow recovery of the part, the Chief Medical Examiner, or designee, at the request of the procurement organization, may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part.

(2) During the removal procedure, the Chief Medical Examiner, or designee, may allow recovery of the part by the procurement organization to proceed, or, if the Chief Medical Examiner, or designee, reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(3) If, during the removal procedure, the physician engaged by the procurement organization to recover the part discovers evidence that indicates that the cause of death may be suspicious, the physician shall immediately inform the Chief Medical Examiner of this information and shall not continue or undertake any procedures that would compromise this evidence without the approval of the Chief Medical Examiner.

(h) Except as otherwise provided in the memorandum of understanding described in subsection (a) of this section or a protocol pursuant thereto, if the Chief Medical Examiner, or designee, denies recovery under subsection (g) of this section, the Chief Medical Examiner, or designee, shall:

- (1) Explain in a record the specific reasons for not allowing recovery of the part;
- (2) Include the specific reasons in the records of the Chief Medical Examiner;

and

- (3) Provide a record with the specific reasons to the procurement organization.

(i) If the Chief Medical Examiner, or designee, allows recovery of a part, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the Chief Medical Examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the post-mortem examination.

**Sec. 24. Uniformity of application and construction.**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 25. Duties of hospitals and hospices.**

(a) Whenever a patient of a hospital or hospice dies, is determined to be a suitable candidate for organ or tissue donation, and has not made an anatomical gift by will or document of gift, a representative of the hospital or hospice shall, in accordance with section 9, request a person authorized by that section to consent to an anatomical gift of all or part of the decedent's body.

(b) The request required by subsection (a) of this section shall be made only if a procurement organization has notified the hospital or hospice that a donation can be properly obtained and used in a manner consistent with accepted medical standards.

(c) Upon the discovery of a properly executed document of gift or the receipt of a consent under subsection (a) of this section, a hospital or hospice shall immediately notify a procurement organization and shall cooperate in procuring the anatomical gift.

**Sec. 26. Organ preservation**

(a) If a person authorized by section 9 to consent to an anatomical gift of all or part of the decedent's body is not reasonably available for a representative of a hospital to make the request required by section 25, the hospital may use organ preservation equipment and techniques, including ventilators and in situ flushing and cooling equipment, to maintain the viability of the decedent's organs in order to preserve the option of family members and other authorized persons to consider donation.

(b) If a hospital initiates the preservation of a decedent's organs pursuant to subsection (a) of this section, the hospital shall use all available means to locate a person authorized by section 9 to consent to an anatomical gift. If a person authorized by section 9 to consent to an anatomical gift cannot be located within a time period deemed reasonable by a designated medical professional, or declines to consent to an anatomical gift, the organ preservation procedure shall be discontinued.

(c) A person authorized by section 9 to donate all or any part of a decedent's body shall be given full disclosure of preservation techniques or preservation equipment used, if any.

(d) In the absence of gross negligence or willful misconduct, any person employed or authorized by a hospital to utilize organ preservation techniques pursuant to subsection (a) of

this section shall be immune from any civil or criminal liability in connection with taking the medically necessary steps to preserve a decedent's organs during the search for, or consultation with, a person authorized by section 9 to consent to an anatomical gift.

(e) Neither a decedent nor relative or guardian of a decedent shall pay any costs associated with organ preservation.

(f) A hospital that initiates organ preservation pursuant to subsection (a) of this section shall bear all costs associated with the organ preservation upon the happening of any of the following:

- (1) The recipient of the preserved organ is indigent;
- (2) A person authorized by section 9 to consent to an anatomical gift cannot be located within a time period deemed reasonable by a designated medical professional; or
- (3) A person authorized by section 9 to consent to an anatomical gift does not consent to an anatomical gift of all or part of a decedent's body.

Sec. 27. Certificate requirement.

(a) Whenever a request for consent is made pursuant to section 25, the hospital or hospice representative making the request shall complete a certificate of request for an anatomical gift on a form to be supplied by the Mayor. The certificate shall include the following:

- (1) A statement indicating that a request for an anatomical gift was made;
- (2) The name and affiliation of the person making the request;
- (3) An indication of whether consent was granted and, if so, what organs and tissues were donated; and
- (4) The name of the person granting or refusing the request, and his or her relationship to the decedent.

(b) A copy of the certificate described in subsection (a) of this section shall be included in the decedent's medical record.

Sec. 28. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue all rules necessary to carry out the purposes of sections 25 and 27. These rules shall include, at a minimum:

- (1) Standards for the training and qualification of those hospital and hospice representatives who have been designated to make consent requests pursuant to section 25;
- (2) Procedures to be used when making consent requests under section 25; and
- (3) Procedures to facilitate effective coordination among hospitals, hospices, other health-care facilities and agencies, organ and tissue banks, and procurement organizations.

Sec. 29. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 467; 15 U.S.C. § 7001 *et seq.*), but does not modify, limit, or supersede section 101(a) of that act (15 U.S.C. § 7001), or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. § 7003(b)).

Sec. 30. Conforming amendments.

(a) Section 14(e) of the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; D.C. Official Code § 3-413(e)), is amended by striking the phrase “the District of Columbia Anatomical Gift Act, approved May 26, 1970 (84 Stat. 266; D.C. Code § 2-1501 *et seq.*)” and inserting the phrase “the Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

Amend  
§ 3-413

(b) Section 2916 of the Establishment of the Office of the Chief Medical Examiner Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 5-1415), is repealed.

Repeal  
§ 5-1415

(c) Section 2(a) of the Prohibition of the Buying and Selling of Human Body Parts Act of 1984, effective March 16, 1985 (D.C. Law 5-189; D.C. Official Code § 7-1501.01(a)), is amended by striking the phrase “a human body” and inserting the phrase “a living human body” in its place.

Amend  
§ 7-1501.01

(d) The District of Columbia Anatomical Gift Act, approved May 26, 1970 (84 Stat. 266; D.C. Official Code § 7-1521.01 *et seq.*), is repealed.

Repeal  
§§ 7-1521.01 -  
7-1521.11

(e) The District of Columbia Tissue Bank Act, approved September 10, 1962 (76 Stat. 534; D.C. Official Code § 7-1541.01 *et seq.*), is amended as follows:

(1) Section 3 (D.C. Official Code § 7-1541.02), is amended as follows:

Amend  
§ 7-1541.02

(A) The definitions of the terms “Commissioners,” “Donor,” and “Tissue” are repealed.

(B) The definition of the term “Tissue bank” is amended to read as follows:

““Tissue bank” means a facility for the recovery, screening, testing, processing, storage, or distribution of tissue for the purposes set forth in the Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58), and for the purposes of reconstructive medicine and surgery, and research and teaching in reconstructive medicine and surgery; provided, that the facility is accredited by the American Association of Tissue Banks.”.

(2) Section 4(b) (D.C. Official Code § 7-1541.03(b)) is amended as follows:

Amend  
§ 7-1541.03

(A) The lead-in text is amended by striking the phrase “the District of Columbia Anatomical Gift Act” and inserting the phrase “the Uniform Anatomical Gift

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Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

(B) Paragraph (6) is amended by striking the phrase “processed, preserved, stored, and transported” and inserting the phrase “recovered, screened, tested, processed, stored, distributed, and transported” in its place.

(C) Paragraph (7) is amended by striking the phrase “processing, preserving, storing, or transporting” and inserting the phrase “recovering, screening, testing, processing, storing, distributing, or transporting” in its place.

(3) Section 9 (D.C. Official Code § 7-1541.05) is repealed.

**Repeal**  
**§ 7-1541.05**

(4) A new section 9a is added to read as follows:

“Sec. 9a. Authority of organ procurement organization acting on behalf of eye bank or tissue bank.

“An organ procurement organization may screen, test, or recover eyes or tissues on behalf of an eye bank or tissue bank.”.

(f) The Organ and Tissue Donor Registry Establishment Act of 2006, effective July 25, 2006 (D.C. Law 16-146; D.C. Official Code § 7-1561.01 *et seq.*), is repealed.

**Repeal**  
**§§ 7-1561.01 -**  
**7-1561.07**

(g) An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; D.C. Official Code § 45-401 *passim*), is amended as follows:

(1) Sections 675 and 676 (D.C. Official Code § 43-119) is amended by striking the phrase “the District of Columbia Anatomical Gift Act, approved May 26, 1970 (84 Stat. 266; D.C. Code sec. 2-271 *et seq.*)” and inserting the phrase “the Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

**Amend**  
**§ 43-119**

(2) Section 683 (D.C. Official Code § 43-125) is amended by striking the phrase “the District of Columbia Anatomical Gift Act” both times it appears and inserting the phrase “the Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

**Amend**  
**§ 43-125**

(h) Section 108 of Title 18 of the District of Columbia Municipal Regulations is amended as follows:

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(1) The section heading is amended to read as follows: “INDICATIONS OF ANATOMICAL GIFTS ON LICENSES AND SPECIAL IDENTIFICATION CARDS.”.

(2) Subsection 108.1 is amended to read as follows:

“108.1. Each operator’s license or special identification card issued on or after the effective date of the Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58), shall contain, as part of the license or card, a statement or symbol indicating whether or not the holder of the license or card has made an anatomical gift.”.

(3) Subsection 108.2 is amended by striking the phrase “District of Columbia Anatomical Gift Act, approved May 26, 1970 (84 Stat. 267; D.C. Code § 1504(b))” and inserting the phrase “Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on

February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

(4) Subsection 108.4 is amended by striking the phrase “District of Columbia Anatomical Gift Act, approved May 26, 1970 (84 Stat. 267; D.C. Code § 1504(b))” and inserting the phrase “Uniform Anatomical Gift Revision Act of 2008, passed on 2<sup>nd</sup> reading on February 5, 2008 (Enrolled version of Bill 17-58)” in its place.

(5) Subsection 108.6 is repealed.

(6) Subsection 108.7 is amended by striking the phrase “, eighteen (18) years of age and older,”.

(7) Subsection 108.8 is repealed.

(8) A new subsection 108.9 is added to read as follows:

“108.9. Each individual who applies for a learner’s permit, temporary motor vehicle operator’s permit, operator’s license, or identification card shall be provided a written explanation about the donation of anatomical gifts in the District of Columbia, including the right to amend, revoke, or refuse to make an anatomical gift.”.

**Sec. 31. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 32. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia