

HOUSE BILL No. 4029

January 8, 1997, Introduced by Reps. Martinez and Brewer and referred to the Committee on Transportation.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 10102 and 10104 (MCL 333.10102 and
333.10104).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10102. (1) An individual of sound mind and 18 years of
2 age or more may ~~give~~ MAKE A GIFT OF all or ~~any~~ A physical
3 part of ~~the individual's~~ HIS OR HER body for ~~any~~ A purpose
4 specified in section 10103, ~~the gift to take effect~~ EFFECTIVE
5 upon THAT INDIVIDUAL'S death.

6 (2) ~~Any of the following persons, in order of priority~~
7 ~~stated, when persons in prior classes are not available at the~~
8 ~~time of death, and in the absence of actual notice of contrary~~
9 ~~indications by the decedent or actual notice of opposition by a~~
10 ~~member of the same or a prior class,~~ UPON OR IMMEDIATELY BEFORE

1 THE DEATH OF AN INDIVIDUAL WHO HAS NOT MADE A GIFT OF ALL OR A
2 PHYSICAL PART OF HIS OR HER BODY UNDER THIS PART, AN INDIVIDUAL
3 HAVING THE FOLLOWING RELATIONSHIP TO THAT INDIVIDUAL may, ~~give~~
4 IN THE FOLLOWING ORDER OF PRIORITY AND SUBJECT TO SUBSECTION (3),
5 MAKE A GIFT OF all or ~~any~~ A physical part of ~~the decedent's~~
6 THE DECEDENT INDIVIDUAL'S body for ~~any~~ A purpose specified in
7 section 10103:

8 (a) The spouse.

9 (b) An adult son or daughter.

10 (c) Either parent.

11 (d) An adult brother or sister.

12 (e) A guardian of the person of the decedent at the time of
13 the death.

14 (f) ~~Any other person~~ AN INDIVIDUAL OTHER THAN AN INDIVID-
15 UAL DESCRIBED IN SUBDIVISIONS (A) TO (E) authorized or under
16 obligation to dispose of the body.

17 (3) AN INDIVIDUAL DESCRIBED IN SUBSECTION (2) MAY MAKE A
18 GIFT OF ALL OR A PHYSICAL PART OF A DECEDENT'S BODY PURSUANT TO
19 THIS PART IF EACH OF THE FOLLOWING CIRCUMSTANCES EXISTS:

20 (A) NO OTHER PERSON HAVING GREATER PRIORITY TO MAKE THE GIFT
21 IS AVAILABLE OR CAPABLE OF MAKING THE DECISION AT THE TIME OF THE
22 DECEDENT'S DEATH.

23 (B) THE PERSON MAKING THE GIFT HAS NOT RECEIVED ACTUAL
24 NOTICE THAT THE DECEDENT HAD EXPRESSED AN UNWILLINGNESS TO MAKE
25 THE GIFT.

1 (C) THE PERSON MAKING THE GIFT HAS NOT RECEIVED ACTUAL
2 NOTICE THAT AN INDIVIDUAL HAVING EQUAL OR GREATER PRIORITY UNDER
3 SUBSECTION (2) OPPOSES THE MAKING OF THE GIFT.

4 (4) ~~(3)~~ If the donee has actual notice ~~of contrary indi-~~
5 ~~cations by~~ THAT the decedent HAD EXPRESSED AN UNWILLINGNESS TO
6 MAKE THE GIFT, or that ~~a gift by a member of a class is opposed~~
7 ~~by a member of the same or a prior class, the donee~~ AN INDIVID-
8 UAL HAVING PRIORITY EQUAL TO OR GREATER THAN THAT OF THE INDIVID-
9 UAL MAKING THE GIFT UNDER SUBSECTION (2) OPPOSES THE MAKING OF
10 THE GIFT, THE DONEE shall not accept the gift. ~~The persons~~
11 ~~authorized by subsection (2) may make the gift after or immedi-~~
12 ~~ately before death.~~

13 (5) ~~(4)~~ A gift of all or a physical part of a body autho-
14 rizes any examination necessary to assure medical acceptability
15 of the gift for the purposes intended.

16 (6) ~~(5)~~ The rights of the donee created by the gift are
17 paramount to the rights of others except as provided by section
18 10108(4).

19 Sec. 10104. (1) A gift of all or a physical part of the
20 body under section 10102(1) may be made by will. The gift
21 becomes effective upon the death of the testator without waiting
22 for probate. If the will is not probated, or if it is declared
23 invalid for testamentary purposes, the gift, to the extent that
24 it has been acted upon in good faith, is nevertheless valid and
25 effective.

26 (2) A gift of all or a physical part of the body under
27 section 10102(1) may also be made by document other than a will.

1 The gift becomes effective upon the death of the donor. ~~The~~
2 SUBJECT TO SUBSECTIONS (3) AND (4), THE document ~~, which may be~~
3 a card designed to be carried on the person, shall be signed by
4 the donor in the presence of 2 witnesses who shall sign the docu-
5 ment in the donor's presence. ~~If the donor cannot sign, the docu-~~
6 ~~ment may be signed for the donor at his or her direction and in~~
7 ~~his or her presence in the presence of 2 witnesses who shall sign~~
8 ~~the document in the donor's presence. Delivery of the document~~
9 ~~of gift during the donor's lifetime is not necessary to make the~~
10 gift valid. MAY BE 1 OR MORE OF THE FOLLOWING:

11 (A) A PERSONAL IDENTIFICATION CARD ISSUED TO THE DONOR BY
12 THE SECRETARY OF STATE PURSUANT TO 1972 PA 222, MCL 28.291 TO
13 28.295, THAT BEARS ON ITS FACE EACH OF THE FOLLOWING, SUBJECT TO
14 LIMITATIONS, CONDITIONS, OR ADDITIONAL TERMS, IF ANY, SET FORTH
15 ON THE REVERSE SIDE:

16 (i) A DESIGNATION THAT THE PERSON INTENDS TO DONATE ORGANS
17 OR TISSUE IN THE EVENT OF DEATH.

18 (ii) THE DONOR'S SIGNATURE.

19 (B) A MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED
20 TO THE DONOR BY THE SECRETARY OF STATE PURSUANT TO THE MICHIGAN
21 VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923, THAT BEARS ON
22 ITS FACE EACH OF THE FOLLOWING, SUBJECT TO LIMITATIONS, CONDI-
23 TIONS, OR ADDITIONAL TERMS, IF ANY, SET FORTH ON THE REVERSE
24 SIDE:

25 (i) A DESIGNATION THAT THE LICENSEE INTENDS TO DONATE ORGANS
26 OR TISSUE IN THE EVENT OF DEATH.

1 (ii) THE DONOR'S SIGNATURE.

2 (C) A document ~~which~~ THAT conforms substantially TO
3 SUBDIVISION (A) OR (B) OR to the following form: ~~is sufficient~~
4 ~~for the purposes of this subsection:~~

5 Uniform Donor Card

6 of.....

7 Print or type name of donor

8 In the hope that I may help others, I hereby make this anatomical
9 gift if medically acceptable, to take effect upon my death. The
10 words and marks below indicate my desires.

11 I give: (a) any needed organs or physical parts

12 (b) only the following organs or physical parts

13
14 Specify the organ(s) or physical part(s)
15 For the purposes of transplantation, therapy, medical research or
16 education;

17 (c) my body for anatomical study if needed.

18 Limitations or special wishes, if any: _____

19 Signed by the donor and the following 2 witnesses in the presence
20 of each other:

21 _____
22 Signature of donor Date of birth of donor

23 _____
24 Date signed City and state

25 _____
26 Witness Witness

27 (3) A TERM OR STATEMENT SIGNED BY A PERSON AND ATTACHED TO
28 THE REVERSE SIDE OF A PERSONAL IDENTIFICATION CARD OR MOTOR VEHI-
29 CLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED TO THAT PERSON AS
30 DESCRIBED IN SUBSECTION (2)(A) OR (B) SUPERSEDES AN INCONSISTENT
31 TERM OR STATEMENT APPEARING ON THE FACE OF THE PERSONAL IDENTIFI-
32 CATION CARD OR MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S LICENSE.

33 (4) IF A PERSON DOES NOT SPECIFY A GIFT OF HIS OR HER ENTIRE
34 BODY ON THE REVERSE SIDE OF A PERSONAL IDENTIFICATION CARD OR
35 MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED TO THAT
36 PERSON AS DESCRIBED IN SUBSECTION (2)(A) OR (B), THE GIFT IS

1 LIMITED TO PHYSICAL PARTS OF THE BODY, AND DOES NOT INCLUDE THAT
2 PERSON'S ENTIRE BODY.

3 (5) ~~(3)~~ The gift may be made to a specified OR UNSPECIFIED
4 donee. ~~or without specifying a donee.~~ If the ~~latter~~ DONEE IS
5 NOT SPECIFIED, ~~the gift may be accepted by~~ the attending physi-
6 cian MAY ACCEPT THE GIFT as donee upon or following death. If
7 the gift is made to a specified donee who is not available at the
8 time and place of death, the attending physician MAY, upon or
9 following death, AND in the absence of any expressed indication
10 that the donor desired otherwise, ~~may~~ accept the gift as
11 donee. ~~The~~ AN ATTENDING physician who becomes a donee under
12 this subsection shall not participate in the procedures for
13 removing or transplanting a physical part.

14 (6) ~~(4)~~ Notwithstanding section 10108(4), the donor may
15 designate in his or her will, card, or other document of gift the
16 surgeon or physician to carry out ~~the appropriate~~ procedures
17 NECESSARY TO EFFECTUATE THE GIFT. In the absence of a designa-
18 tion or if the designee is not available, the donee or other
19 person authorized to accept the gift may employ or authorize any
20 surgeon or physician for the purpose OF EFFECTUATING THE GIFT.

21 (7) A DONOR WHO IS UNABLE TO SIGN A GIFT DOCUMENT MAY DIRECT
22 ANOTHER PERSON TO SIGN THAT DOCUMENT ON HIS OR HER BEHALF, IN HIS
23 OR HER PRESENCE, AND IN THE PRESENCE OF 2 WITNESSES. THE 2 WIT-
24 NESSES SHALL ALSO SIGN THE DOCUMENT IN THE DONOR'S PRESENCE.

25 (8) ~~(5) Any~~ A gift by a person designated in section
26 10102(2) shall be made by a document signed by the person or made

1 by the person's telegraphic, recorded telephonic, or other
2 recorded message.

3 (9) ~~(6)~~ A document of gift executed in another state or
4 foreign country and in accord with the laws of that state or
5 country is valid as a document of gift in this state, ~~although~~
6 EVEN IF the document does not conform substantially to the form
7 set forth in subsection ~~(2)~~ (2)(C).

8 Enacting section 1. This amendatory act does not take
9 effect unless all of the following bills of the 89th Legislature
10 are enacted into law:

11 (a) Senate Bill No. _____ or House Bill No. _____ (request
12 no. 00739'97 a).

13 (b) Senate Bill No. _____ or House Bill No. _____ (request
14 no. 00739'97 b).