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## BILL ANALYSIS



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House Bill 4125 (Substitute H-1 as passed by the House)  
House Bill 4126 (as passed by the House)  
Sponsor: Representative Michael C. Murphy  
House Committee: Health Policy  
Senate Committee: Health Policy

Date Completed: 6-18-03

**CONTENT**

**The bills would amend the Public Health Code and the Estates and Protected Individuals Code to authorize a patient advocate to make an anatomical gift on behalf of another individual; add State identification cards and driver's licenses to the list of acceptable documents authorizing an anatomical gift; require the signature of at least one witness on a document of gift; and provide that a gift could not be revoked by someone who had lower priority to make a gift than the person making the gift.** The bills are tie-barred to each other.

**House Bill 4125 (H-1)**

Part 101 of the Public Health Code permits an individual of sound mind who is at least 18 years old to make a gift or all of part of his or her body for research or transplantation. Also, immediately upon death and in the absence of contrary indications by the deceased, a family member, guardian, or other person may donate all or part of the deceased's body for the same purpose. The Code lists the people who may make this decision in the following order of priority: the spouse, an adult son or daughter, either parent, an adult brother or sister, a guardian, or any other person authorized or under obligation to dispose of the body. The bill would add a patient advocate designated under Section 5506 of the Estates and Protected Individuals Code as the first order of priority. (House Bill 4126 would amend Section 5506 to permit a patient advocate to donate all or part of a deceased's body, if the advocate had been authorized to do so by the deceased.)

Currently, an individual on the list may make an anatomical gift only if an individual having higher priority is not available at the time of death. The bill also would allow someone to make a gift if an individual having higher priority were not capable of making the decision at the time of the decedent's death. The bill specifies that a gift made by an individual on the list would not be revocable by an individual having a lower priority.

Under the Code, the gift of all or part of a donor's body may be made by a will and by a document other than a will, effective upon the death of the donor. The bill would refer to a "document of gift". Currently, a document may be a card signed by the donor in the presence of two witnesses. If the donor cannot sign, the document may be a card designed to be carried on the person, signed by the donor or for the donor at his or her direction, and in the presence of two witnesses. Delivery of the "document of gift" during the donor's lifetime is not necessary to make the gift valid. The bill would delete these provisions.

Under the bill, a document of gift could be a State personal identification card or a motor vehicle operator's or chauffeur's license issued to the donor by the Secretary of State. The card or license would have to contain a statement that the holder of the card or license was an organ and tissue



donor. The statement would have to be signed by the card holder and at least one witness (which is currently required under the acts that regulate personal identification cards and driver's licenses). A donor unable to sign a document of gift could direct another person to sign the document on his or her behalf if the signature of the other individual were made in the donor's presence and in the presence of at least one witness who also would have to sign the document of gift in the donor's presence.

The Code also provides for a Uniform Donor Card that may be used to make an anatomical gift. The bill would retain this document but require the signature of at least one witness. Currently, a Uniform Donor Card must be signed by two witnesses.

The bill specifies that a gift of all or part of a donor's body made by a will or by a document of gift would not be revocable after the death of the donor. The bill also provides that, if a donor did not specify a gift of his or her entire body in the statement on the card or license, an anatomical gift would be limited to physical parts of the donor's body.

### **House Bill 4126**

The Estates and Protected Individuals Code permits an individual to designate in writing a patient advocate to exercise powers concerning care, custody, and medical treatment decisions for that person. The bill would permit an individual making a patient advocate designation to include in the designation the authority for the advocate to make an anatomical gift of all or part of the individual's body in accordance with the Code and Section 10102 of the Public Health Code (which lists the people who may make an anatomical gift of a decedent's body).

Currently, a patient advocate designation must state that the advocate's authority is exercisable only when the patient is unable to participate in medical treatment decisions. The bill would add that, in the case of the authority to make an anatomical gift, the designation would have to state that the authority was exercisable only when the patient was dead or when the patient's death was, within reasonable medical judgment, imminent and inevitable.

A patient advocate designation may include a statement of the patient's desires on care, custody, and medical treatment. Under the bill, a patient advocate designation also could include a statement of the patient's desires on the making of an anatomical gift of all or part of the patient's body under Part 101 of the Public Health Code.

Currently, before a patient advocate designation is implemented, the proposed advocate must sign an acceptance of the designation. Under the bill, if the designation included the authority to make an anatomical gift, the acceptance would have to state that the authority would not be effective unless the patient were dead or the patient's death were, within reasonable medical judgment, imminent and inevitable.

Under the Code, a patient advocate designation is revoked by the patient's death. The bill specifies that the part of the designation authorizing the advocate to make an anatomical gift of all or part of the deceased patient's body would not be revoked upon the patient's death.

MCL 333.10102 & 333.10104 (H.B. 4125)  
MCL 700.1106 et al. (H.B. 4126)

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Dana Patterson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.