

Act No. 62
Public Acts of 2003
Approved by the Governor
July 21, 2003
Filed with the Secretary of State
July 22, 2003
EFFECTIVE DATE: July 22, 2003

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Reps. Murphy, Condino, McConico, Paletko, Dennis, Kolb, Williams, Plakas, Minore, Clack, Jamnick and Hunter

ENROLLED HOUSE BILL No. 4125

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 10102 and 10104 (MCL 333.10102 and 333.10104).

The People of the State of Michigan enact:

Sec. 10102. (1) An individual of sound mind and 18 years of age or more may make a gift of all or a physical part of his or her body for a purpose specified in section 10103, effective upon that individual's death.

(2) Upon or immediately before the death of an individual who has not made a gift of all or a physical part of his or her body under this part, an individual having the following relationship to that individual may, in the following order of priority and subject to subsection (3), make a gift of all or a physical part of the deceased individual's body for a purpose specified in section 10103:

(a) A patient advocate designated under section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, who is authorized to make such a gift.

(b) The spouse.

(c) An adult son or daughter.

(d) Either parent.

(e) An adult brother or sister.

(f) A guardian of the person of the decedent at the time of the death.

(g) An individual other than an individual described in subdivisions (a) to (f), who is authorized or under obligation to dispose of the body.

(3) An individual described in subsection (2) may make a gift of all or a physical part of a decedent's body in accordance with this part if each of the following circumstances exists:

(a) An individual having a higher priority under subsection (2) to make the gift is not available or is not capable of making the decision at the time of the decedent's death.

(b) The individual making the gift has not received actual notice that the decedent had expressed an unwillingness to make the gift.

(c) The individual making the gift has not received actual notice that an individual having equal or greater priority under subsection (2) opposes the making of the gift.

(4) A gift made by an individual described in subsection (2) is not revocable by an individual having a lower priority under subsection (2).

(5) If the donee has actual notice that the decedent had expressed an unwillingness to make the gift, or actual notice that an individual having a higher priority under subsection (2) than that of the individual making the gift under subsection (2) opposes the making of the gift, the donee shall not accept the gift.

(6) A gift of all or a physical part of a body under this section authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(7) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 10108(4).

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

(2) A gift of all or a physical part of the donor's body under section 10102(1) may also be made by document of gift other than a will. A gift made by a document of gift described in this subsection becomes effective upon the death of the donor. Subject to subsections (3) and (4), a document of gift other than a will may be 1 or more of the following:

(a) A personal identification card issued to the donor by the secretary of state under 1972 PA 222, MCL 28.291 to 28.300, that contains a statement that the holder of the personal identification card is an organ and tissue donor under this part, along with the signature of the holder and the signature of at least 1 witness to the holder's signature, as described in section 2 of 1972 PA 222, MCL 28.292.

(b) A motor vehicle operator's or chauffeur's license issued to the donor by the secretary of state under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, that contains a statement that the licensee is an organ and tissue donor under this part, along with the signature of the licensee and the signature of at least 1 witness to the licensee's signature, as described in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310.

(c) A document of gift that conforms substantially to the following form:

Uniform Donor Card

of
Print or type name of donor

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

I give: (a) any needed organs or physical parts
(b) only the following organs or physical parts

Specify the organ(s) or physical part(s)

For the purposes of transplantation, therapy, medical research or education;
(c) my body for anatomical study if needed.

Limitations or special wishes, if any: _____

Signed by the donor and at least 1 witness, in the presence of each other:

Signature of donor

Date of birth of donor

Date signed

City and state

Witness

Witness

(3) If a donor does not specify a gift of his or her entire body in the statement described in subsection (2)(a) or (b) on the individual's personal identification card or motor vehicle operator's or chauffeur's license, the gift is limited to physical parts of the donor's body and does not include the donor's entire body.

(4) A gift under section 10102 may be made to a specified or unspecified donee. If the donee is not specified, the attending physician may accept the gift as donee upon or following the donor's death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician may, upon or following the donor's death, and in the absence of any expressed indication that the donor desired otherwise, accept the gift as donee. An attending physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a physical part.

(5) Notwithstanding section 10108(4), the donor may designate in his or her will or other document of gift described in subsection (2) the physician who is to carry out the procedures necessary to effectuate the gift. In the absence of a designation under this subsection or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize another physician for the purpose of effectuating the gift.

(6) A donor who is unable to sign a document of gift may direct another individual to sign the document of gift on his or her behalf if the signature of the other individual is made in the donor's presence and in the presence of at least 1 witness. The witness shall also sign the document of gift in the donor's presence.

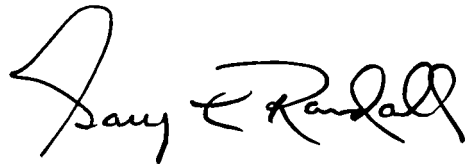
(7) A gift of all or a physical part of a donor's body made by will as authorized by subsection (1) or by a document of gift other than a will as authorized by subsection (2) is not revocable after the death of the donor.

(8) A gift by an individual designated in section 10102(2) shall be made by a document signed by the individual or made by the individual's telegraphic, electronic, recorded telephonic, or other recorded message.

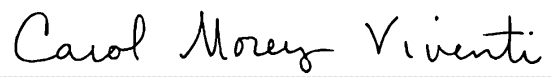
(9) A document of gift executed in another state or foreign country and in accord with the laws of that state or country is valid as a document of gift in this state, even if the document does not conform substantially to the form set forth in subsection (2)(c).

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4126 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor