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LAW

P.L. 2008, CHAPTER 50, *approved July 22, 2008*
Senate, No. 754 (*First Reprint*)

1 **AN ACT** concerning anatomical gifts, revising parts of the statutory
2 law and supplementing Title 26 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) a. This act shall be known and may be cited
8 as the “Revised Uniform Anatomical Gift Act.”

9 b. Whenever the term "Uniform Anatomical Gift Act" occurs or
10 any reference is made thereto in any law, contract or document, the
11 same shall be deemed to mean or refer to the "Revised Uniform
12 Anatomical Gift Act."

13
14 2. (New section) As used in this act:

15 “Adult” means a person who is at least 18 years of age.

16 “Advance directive for health care” means an advance directive
17 for health care that is executed pursuant to P.L.1991, c.201
18 (C.26:2H-53 et seq.).

19 “Agent” means a person who is authorized to act as a health care
20 representative by an advance directive for health care or is
21 expressly authorized to make an anatomical gift on a donor’s behalf
22 by any other record signed by the donor.

23 “Anatomical gift” means a donation of all or part of a human
24 body to take effect after the donor’s death for the purpose of
25 transplantation, therapy, research, or education.

26 “Civil union partner” means one partner in a civil union couple
27 as defined in section 2 of P.L.2006, c.103 (C.37:1-29 ¹[et al.]¹).

28 “Decedent” means a deceased person whose body or part is or
29 may be the source of an anatomical gift, and includes a stillborn
30 infant or fetus.

31 “Designated requester” means a hospital employee who has
32 completed a course offered or approved by an organ procurement
33 organization.

34 “Disinterested witness” means a witness other than: the spouse,
35 civil union partner, domestic partner, child, parent, sibling,
36 grandchild, grandparent, or guardian of the person who makes,
37 amends, revokes, or refuses to make an anatomical gift; another

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 16, 2008.

1 adult who exhibited special care and concern for the decedent; or a
2 person to whom an anatomical gift may pass pursuant to section 10
3 of this act.

4 “Document of gift” means a donor card or other record used to
5 make an anatomical gift, and includes a statement or symbol on a
6 driver’s license, identification card, or donor registry.

7 “Domestic partner” means a domestic partner as defined in
8 section 3 of P.L.2003, c.246 (C.26:8A-3).

9 “Donor” means a person whose body or part is the subject of an
10 anatomical gift.

11 “Donor registry” means a database that contains records of
12 anatomical gifts.

13 “Driver’s license” means a license or permit issued by the New
14 Jersey Motor Vehicle Commission to operate a vehicle, whether or
15 not conditions are attached to the license or permit.

16 “Eye bank” means an entity that is licensed, accredited, or
17 regulated under federal or State law to engage in the recovery,
18 screening, testing, processing, storage, or distribution of human
19 eyes or portions of human eyes.

20 “Guardian” means a person appointed by a court to make
21 decisions regarding the support, care, education, health, or welfare
22 of another individual, but does not include a guardian ad litem.

23 “Hospital” means an institution, whether operated for profit or
24 not, whether maintained, supervised or controlled by an agency of
25 State government or a county or municipality or not, which
26 maintains and operates facilities for the diagnosis, treatment, or care
27 of two or more non-related individuals suffering from illness,
28 injury, or deformity, and where emergency, outpatient, surgical,
29 obstetrical, convalescent, or other medical and nursing care is
30 rendered for periods exceeding 24 hours.

31 “Identification card” means an identification card issued by the
32 New Jersey Motor Vehicle Commission.

33 “Medical examiner” means the State Medical Examiner, a county
34 medical examiner, or another person performing the duties of a
35 medical examiner pursuant to P.L.1967, c.234 (C.52:17B-78 et
36 seq.).

37 “Minor” means a person who is under 18 years of age.

38 “Organ procurement organization” means an entity designated by
39 the United States Secretary of Health and Human Services as an
40 organ procurement organization.

41 “Parent” means a parent whose parental rights have not been
42 terminated.

43 “Part” means an organ, eye, or tissue of a human being, but does
44 not include the whole body.

45 “Physician” means a person authorized to practice medicine or
46 osteopathy under the laws of any state.

47 “Procurement organization” means an eye bank, organ
48 procurement organization, or tissue bank.

1 “Prospective donor” means a person who is dead or ¹[near]
2 whose¹ death is imminent¹ and has been determined by a
3 procurement organization to have a part that could be medically
4 suitable for transplantation, therapy, research, or education, but
5 does not include an individual who has made a refusal.

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

10 “Recipient” means a person into whose body a decedent’s part
11 has been or is intended to be transplanted.

12 “Record” means information that is inscribed on a tangible
13 medium or stored in an electronic or other medium and is
14 retrievable in perceivable form.

15 “Refusal” means a record created pursuant to this act that
16 expressly states an intent to bar other persons from making an
17 anatomical gift of a person’s body or part.

18 “Sign” means, with the present intent to authenticate or adopt a
19 record, to execute or adopt a tangible symbol, or to attach to or
20 logically associate with the record an electronic symbol, sound, or
21 process.

22 “State” means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any
24 territory or insular possession subject to the jurisdiction of the
25 United States.

26 “Technician” means a person who is determined to be qualified
27 to remove or process parts by an appropriate organization that is
28 licensed, accredited, or regulated under federal or State law, and
29 includes an enucleator.

30 “Tissue” means a portion of the human body other than an organ
31 or an eye, but does not include blood unless it is needed to facilitate
32 the use of other parts or is donated for the purpose of research or
33 education.

34 “Tissue bank” means an entity that is licensed, accredited, or
35 regulated under federal or State law to engage in the recovery,
36 screening, testing, processing, storage, or distribution of tissue.

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

40

41 3. (New section) The provisions of this act shall apply to an
42 anatomical gift, or an amendment to, revocation of, or refusal to
43 make an anatomical gift, whenever made.

44

45 4. (New section) Subject to the provisions of section 8 of this
46 act, an anatomical gift of a donor’s body or part may be made
47 during the life of the donor for the purpose of transplantation,

1 therapy, research, or education in the manner provided in section 5
2 of this act by:

3 a. the donor, if the donor is an adult, or if the donor is a minor
4 and is emancipated or is authorized under the laws of this State to
5 apply for a driver's license;

6 b. an agent of the donor, unless the advance directive for health
7 care or other record prohibits the agent from making an anatomical
8 gift;

9 c. a parent of the donor, if the donor is an unemancipated minor;
10 or

11 d. the donor's guardian.

12

13 5. (New section) a. A person may make an anatomical gift and
14 thereby become a donor:

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

18 (2) in a will;

19 (3) during a terminal illness or injury of the donor, by any form
20 of communication addressed to at least two adults, at least one of
21 whom shall be a disinterested witness; or

22 (4) as provided in subsection b. of this section.

23 b. A donor or other person authorized to make an anatomical
24 gift pursuant to section 4 of this act may make a gift by a donor
25 card or other record signed by the donor or other person making the
26 gift or by authorizing that a statement or symbol indicating that the
27 donor has made an anatomical gift be included on a donor registry.

28 If the donor or other person is physically unable to sign a record,
29 the record may be signed by another individual at the direction of
30 the donor or other person and shall:

31 (1) be witnessed by at least two adults, at least one of whom
32 shall be a disinterested witness, who have signed at the request of
33 the donor or other person; and

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

36 c. The revocation, suspension, expiration, or cancellation of a
37 driver's license or identification card upon which an anatomical gift
38 is indicated shall not invalidate the gift.

39 d. An anatomical gift made by will shall take effect upon the
40 donor's death, whether or not the will is probated. Invalidation of
41 the will after the donor's death shall not invalidate the gift.

42

43 6. (New section) a. Subject to the provisions of section 8 of
44 this act, a donor or other person authorized to make an anatomical
45 gift pursuant to section 4 of this act may amend or revoke an
46 anatomical gift by:

47 (1) a record signed by:

48 (a) the donor or other person; or

1 (b) subject to the provisions of subsection b. of this section,
2 another individual acting at the direction of the donor or the other
3 person if the donor or other person is physically unable to sign; or

4 (2) a later-executed document of gift that amends or revokes a
5 previous anatomical gift or portion of an anatomical gift, either
6 expressly or by inconsistency.

7 b. A record signed pursuant to subparagraph (b) of paragraph (1)
8 of subsection a. of this section shall:

9 (1) be witnessed by at least two adults, at least one of whom
10 shall be a disinterested witness, who have signed at the request of
11 the donor or other person; and

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

14 c. Subject to the provisions of section 8 of this act, a donor or
15 other person authorized to make an anatomical gift pursuant to
16 section 4 of this act may revoke an anatomical gift by the
17 destruction or cancellation of the document of gift, or the portion of
18 the document of gift used to make the gift, with the intent to revoke
19 the gift.

20 d. A donor may amend or revoke an anatomical gift that was not
21 made in a will by any form of communication during a terminal
22 illness or injury addressed to at least two adults, at least one of
23 whom shall be a disinterested witness.

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

27

28 7. (New section) a. A person may refuse to make an anatomical
29 gift of the person's body or part by:

30 (1) a record signed by:

31 (a) the person; or

32 (b) subject to subsection b. of this section, another individual
33 acting at the person's direction if the person is physically unable to
34 sign;

35 (2) the person's will, whether or not the will is admitted to
36 probate or invalidated after the person's death; or

37 (3) any form of communication made by the person during the
38 person's terminal illness or injury addressed to at least two adults,
39 at least one of whom shall be a disinterested witness.

40 b. A record signed pursuant to subparagraph (b) of paragraph (1)
41 of subsection a. of this section shall:

42 (1) be witnessed by at least two adults, at least one of whom
43 shall be a disinterested witness, who have signed at the request of
44 the person who is making a refusal; and

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

47 c. A person who has made a refusal may amend or revoke the
48 refusal:

- 1 (1) in the manner provided in subsection a. of this section for
2 making a refusal;
- 3 (2) by subsequently making an anatomical gift that is
4 inconsistent with the refusal; or
- 5 (3) by destroying or canceling the record evidencing the refusal,
6 or the portion of the record used to make the refusal, with the intent
7 to revoke the refusal.
- 8 d. Except as otherwise provided in subsection h. of section 8 of
9 this act, in the absence of an express, contrary indication by the
10 person set forth in the refusal, a person's unrevoked refusal to make
11 an anatomical gift of the person's body or part shall preclude
12 another individual from making an anatomical gift of the person's
13 body or part.
- 14
- 15 8. (New section) a. In the absence of an express, contrary
16 indication by the donor, a person other than the donor shall be
17 prohibited from making, amending, or revoking an anatomical gift
18 of a donor's body or part if the donor made an anatomical gift of the
19 donor's body or part or an amendment to an anatomical gift of the
20 donor's body or part.
- 21 b. A donor's revocation of an anatomical gift pursuant to section
22 6 of this act shall not be deemed to be a refusal and shall not
23 preclude another person as specified in section 4 or section 9 of this
24 act from making an anatomical gift of the donor's body or part.
- 25 c. If a person other than the donor makes an unrevoked
26 anatomical gift of the donor's body or part pursuant to section 5 of
27 this act or an amendment to an anatomical gift of the donor's body
28 or part pursuant to section 6 of this act, another person shall not
29 make, amend, or revoke the gift of the donor's body or part.
- 30 d. A revocation of an anatomical gift by a person other than the
31 donor pursuant to section 6 of this act shall not preclude another
32 person from making an anatomical gift of the body or part.
- 33 e. In the absence of an express, contrary indication by a donor or
34 other person authorized to make an anatomical gift under this act,
35 an anatomical gift of a part shall not be deemed to be a refusal to
36 give another part nor a limitation on the making of an anatomical
37 gift of another part at a later time by the donor or other person.
- 38 f. In the absence of an express, contrary indication by the donor
39 or other person authorized to make an anatomical gift under this act,
40 an anatomical gift of a part for any of the purposes set forth in
41 section 4 of this act shall not be deemed to limit the making of an
42 anatomical gift of the part for any of those other purposes by the
43 donor or other person.
- 44 g. Notwithstanding the provisions of this section to the contrary,
45 in the event of the death of a donor who is an unemancipated minor,
46 a parent of the donor who is reasonably available may revoke or
47 amend an anatomical gift of the donor's body or part.

1 h. In the event of the death of an unemancipated minor who has
2 signed a refusal, a parent of the minor who is reasonably available
3 may revoke the minor's refusal.

4
5 9. (New section) a. (1) Subject to the provisions of this act, an
6 anatomical gift of a decedent's body or part may be made by any
7 member of the following classes of persons who is reasonably
8 available, in the order of priority listed:

9 (a) an agent of the decedent at the time of the decedent's death
10 who could have made an anatomical gift immediately before the
11 decedent's death pursuant to section 4 of this act;

12 (b) the spouse, civil union partner, or domestic partner of the
13 decedent;

14 (c) an adult child of the decedent;

15 (d) either parent of the decedent;

16 (e) an adult sibling of the decedent;

17 (f) another adult who is related to the decedent by blood,
18 marriage, or adoption, or exhibited special care and concern for the
19 decedent;

20 (g) a person who was acting as the guardian of the person of the
21 decedent at the time of the decedent's death; and

22 (h) any other person having the authority to dispose of the
23 decedent's body, including the administrator of a hospital in which
24 the decedent was a patient or resident immediately preceding death.
25 In the absence of actual notice of contrary indication by the
26 decedent, the administrator shall make an anatomical gift of a
27 decedent's body or part.

28 (2) If there is more than one member of a class as specified in
29 subparagraphs (a) through (g) of paragraph (1) of this subsection
30 who is entitled to make an anatomical gift, a member of the class
31 may make an anatomical gift unless that member or a person to
32 whom the gift may pass pursuant to section 10 of this act knows of
33 an objection by another member of the class. If an objection is
34 known, the gift shall be made only by a majority of the members of
35 the class who are reasonably available. Nothing in this subsection
36 shall be construed to require that all members of the class authorize
37 the making of the gift or participate in the decision to make the gift.

38 (3) A person may not make an anatomical gift if, at the time of
39 the decedent's death, a person in a prior class as specified in
40 paragraph (1) of this subsection is reasonably available to make or
41 object to the making of an anatomical gift.

42 b. (1) A person authorized to make an anatomical gift pursuant
43 to subsection a. of this section may make an anatomical gift by a
44 document of gift signed by the person making the gift or by that
45 person's oral communication that is electronically recorded or is
46 contemporaneously reduced to a record and signed by the individual
47 receiving the oral communication.

1 (2) Subject to the provisions of paragraph (3) of this subsection,
2 an anatomical gift by a person authorized to make the gift pursuant
3 to subsection a. of this section may be amended or revoked orally or
4 in a record by any member of a prior class who is reasonably
5 available. If more than one member of the prior class is reasonably
6 available, the gift made by the authorized person may be:

7 (a) amended only if a majority of the reasonably available
8 members agree to amending the gift; or

9 (b) revoked only if a majority of the reasonably available
10 members agree to revoking the gift or if they are equally divided as
11 to whether to revoke the gift.

12 (3) A revocation made pursuant to paragraph (2) of this
13 subsection shall be effective only if, before an incision has been
14 made to remove a part from the donor's body or before invasive
15 procedures have begun to prepare the recipient, the procurement
16 organization, transplant hospital, or physician or technician knows
17 of the revocation. A procurement organization, transplant hospital,
18 or physician or technician with knowledge of a revocation shall
19 make a best effort to communicate that information to the other
20 parties involved in order to stop the anatomical gift recovery
21 process.

22

23 10. (New section) a. An anatomical gift may be made to the
24 following persons or entities named in the document of gift:

25 (1) a hospital; accredited medical school, dental school, college,
26 or university; organ procurement organization; or other appropriate
27 person, for research or education;

28 (2) subject to the provisions of subsection b. of this section, an
29 individual designated by the person making the anatomical gift if
30 the individual is the recipient of the part; or

31 (3) an eye bank or tissue bank.

32 b. If an anatomical gift to an individual cannot be transplanted
33 into the individual, the part shall pass in accordance with subsection
34 f. of this section in the absence of an express, contrary indication by
35 the person making the anatomical gift.

36 c. If there is more than one purpose of an anatomical gift set
37 forth in the document of gift but the purposes are not set forth in
38 any priority, the gift shall be used for transplantation or therapy, if
39 suitable. If the gift cannot be used for transplantation or therapy,
40 the gift may be used for research or education.

41 d. If an anatomical gift of one or more specific parts is made in a
42 document of gift that does not name a person or entity as described
43 in subsection a. of this section and does not identify the purpose of
44 the gift, the gift shall be used only for transplantation or therapy,
45 and shall pass in accordance with subsection f. of this section.

46 e. If a document of gift specifies only a general intent to make
47 an anatomical gift by words such as "donor," "organ donor," or
48 "body donor," or by a symbol or statement of similar import, the

1 gift shall include all parts, may be used only for transplantation or
2 therapy, and shall pass in accordance with subsection f. of this
3 section.

4 f. For the purposes of subsections b., d., and e. of this
5 subsection, the following shall apply:

6 (1) if the part is an eye, the gift shall pass to the appropriate eye
7 bank;

8 (2) if the part is tissue, the gift shall pass to the appropriate
9 tissue bank; and

10 (3) if the part is an organ, the gift shall pass to the appropriate
11 organ procurement organization as custodian of the organ.

12 g. An anatomical gift of an organ for transplantation or therapy,
13 other than an anatomical gift under paragraph (2) of subsection a. of
14 this section, shall pass to the organ procurement organization as
15 custodian of the organ.

16 h. If an anatomical gift does not pass pursuant to subsections a.
17 through g. of this section or the decedent's body or part is not used
18 for transplantation, therapy, research, or education, custody of the
19 body or part shall pass to the person or entity under obligation to
20 dispose of the body or part.

21 i. A person or entity shall not accept an anatomical gift if the
22 person or entity knows that the gift was not effectively made
23 pursuant to this act or that the decedent made a refusal pursuant to
24 this act that was not revoked. For the purposes of the subsection, if
25 a person or entity knows that an anatomical gift was made on a
26 document of gift, the person or entity shall be deemed to know of
27 any amendment or revocation of the gift or any refusal to make an
28 anatomical gift on the same document of gift.

29 j. Except as otherwise provided in paragraph (2) of subsection a.
30 of this section, nothing in this act shall be construed to affect the
31 allocation of organs for transplantation or therapy.

32

33 11. (New section) a. Upon the request of an organ procurement
34 organization, the following persons shall make a reasonable search
35 of an individual who the person reasonably believes is dead or
36 '[near] whose' death 'is imminent' for a document of gift or other
37 information identifying the individual as a donor or as an individual
38 who made a refusal:

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

41 (2) if no other source of the information is immediately
42 available, a hospital, as soon as practical after the individual's
43 arrival at the hospital.

44 b. If a document of gift or a refusal to make an anatomical gift is
45 located by the search required pursuant to subsection a. of this
46 section, the person responsible for conducting the search shall make
47 the document of gift or refusal immediately available to the organ
48 procurement organization.

1 c. A person shall not be subject to criminal or civil liability, but
2 may be subject to administrative sanctions, for a failure to discharge
3 the duties imposed pursuant to this section.

4
5 12. (New section) a. A document of gift need not be delivered
6 during the donor's lifetime to be effective.

7 b. Upon or after an individual's death, a person in possession of
8 a document of gift or a refusal to make an anatomical gift with
9 respect to the individual shall allow examination and copying of the
10 document of gift or refusal by a person authorized to make or object
11 to the making of an anatomical gift with respect to the individual or
12 by a person to whom the gift may pass pursuant to section 10 of this
13 act.

14
15 13. (New section) a. A hospital shall notify an organ
16 procurement organization or a third party designated by that
17 organization of a person whose death is imminent or who has died
18 in the hospital, in a timely manner sufficient to ensure that the
19 examination, evaluation, and ascertainment of donor status as set
20 forth in subsection d. of this section can be completed within a time
21 frame compatible with the donation of organs and tissues for
22 transplant. The notification shall be made without regard to
23 whether the person has executed an advance directive for health
24 care.

25 b. When a hospital refers a person who is dead or ¹[near]
26 whose¹ death is imminent¹ to an organ procurement organization,
27 the organization shall make a reasonable search of the records of the
28 New Jersey Motor Vehicle Commission and any donor registry that
29 it knows exists for the geographical area in which the person resides
30 in order to ascertain whether the person has made an anatomical
31 gift.

32 c. (1) If the patient has a validly executed donor card, donor
33 designation on a driver's license, advance directive for health care,
34 will, other document of gift, or registration with a Statewide organ
35 and tissue donor registry, the procurement organization
36 representative or the designated requester shall attempt to notify a
37 person listed in section 9 of this act of the gift.

38 If no document of gift is known to the procurement organization
39 representative or the designated requester, one of those two
40 individuals shall ask the persons listed in section 9 of this act
41 whether the decedent had a validly executed document of gift. If
42 there is no evidence of an anatomical gift or ¹[actual notice of
43 contrary indications] refusal¹ by the decedent, the procurement
44 organization representative or the designated requester shall attempt
45 to notify a person listed in section 9 of this act of the option to
46 donate organs or tissues.

47 (2) The person in charge of the hospital or that person's
48 designated representative shall indicate in the medical record of the

1 decedent whether or not a document of gift is known to exist, or
2 otherwise whether consent was granted, the name of the person
3 granting or refusing the consent, and that person's relationship to
4 the decedent.

5 d. When a hospital refers an individual who is dead or ¹[near]
6 whose¹ death ¹is imminent¹ to a procurement organization, ¹and the
7 organization has determined based upon a medical record review
8 that the individual may be a prospective donor, then¹ the
9 organization may conduct any ¹blood or tissue¹ test or ¹minimally
10 invasive¹ examination that is reasonably necessary to evaluate the
11 medical suitability of a part that is or may be the subject of an
12 anatomical gift for transplantation, therapy, research, or education
13 from a donor or a prospective donor. The hospital shall not
14 withdraw any measures that are necessary to maintain the medical
15 suitability of the part until the procurement organization has had the
16 opportunity to advise the applicable persons as set forth in section 9
17 of this act of the option to make an anatomical gift or has
18 ascertained that the individual expressed a contrary intent. ¹The
19 results of such tests and examinations shall be used or disclosed
20 only for purposes of evaluating medical suitability for donation and
21 to facilitate the donation process, and as required or permitted by
22 existing law.¹

23 e. At any time after a donor's death, the person to whom an
24 anatomical gift may pass pursuant to section 10 of this act may
25 conduct any test or examination that is reasonably necessary to
26 evaluate the medical suitability of the body or part for its intended
27 purpose.

28 f. An examination conducted pursuant to this section may
29 include an examination of all medical and dental records of the
30 donor or prospective donor.

31 g. Upon the death of a minor who was a donor or had signed a
32 refusal, the procurement organization shall, unless it knows the
33 minor is emancipated, conduct a reasonable search for the parents
34 of the minor and provide the parents with an opportunity to revoke
35 or amend the anatomical gift or revoke the refusal.

36 h. Subject to the provisions of this act, the rights of a person or
37 entity to whom a part passes pursuant to section 10 of this act shall
38 be superior to the rights of all others with respect to that part. The
39 person or entity may accept or reject an anatomical gift in whole or
40 in part. Subject to the terms of the document of gift and the
41 provisions of this act, a person or entity who accepts an anatomical
42 gift of an entire body may allow embalming, burial or cremation,
43 and the use of remains in a funeral service. If the gift is of a part,
44 the person or entity to which the part passes pursuant to section 10
45 of this act, upon the death of the donor and before embalming,
46 burial or cremation, shall cause the part to be removed without
47 unnecessary mutilation.

1 i. Neither the physician or registered professional nurse who
2 attends the decedent at death nor the physician or registered
3 professional nurse who determines the time of the decedent's death
4 may participate in the procedures for removing or transplanting a
5 part from the decedent.

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

9 k. Each hospital or other licensed health care facility in this
10 State shall be authorized to enter into such agreements or
11 affiliations with procurement organizations as are necessary for the
12 coordination of procurement and use of anatomical gifts.

13
14 14. (New section) A person who seeks to facilitate the making
15 of an anatomical gift, for the purposes of transplantation or therapy,
16 from a decedent who was not a hospital patient at the time of death
17 shall notify the procurement organization at or around the time of
18 the person's death in order to allow the organization to at least
19 initially evaluate the potential donation and coordinate the donation
20 process, as applicable.

21
22 15. (New section) a. A person or entity shall be immune from
23 liability for actions taken in accordance with, or in a good faith
24 attempt to act in accordance with, the provisions of this act or the
25 applicable anatomical gift law of another state.

26 b. Neither the person making an anatomical gift nor the donor's
27 estate shall be liable for any injury or damage that results from the
28 making or use of the gift.

29 c. In determining whether an anatomical gift has been made,
30 amended, or revoked pursuant to this act, a person or entity shall
31 rely upon representations made by an individual as specified in
32 section 9 of this act relating to the individual's relationship to the
33 donor or prospective donor unless the person knows that the
34 representation is untrue.

35
36 16. (New section) a. A document of gift shall be valid if
37 executed in accordance with:

- 38 (1) the provisions of this act;
39 (2) the laws of the state or country in which it is executed; or
40 (3) the laws of the state or country in which the person making
41 the anatomical gift is domiciled, has a place of residence, or is a
42 citizen at the time that the document of gift is executed.

43 b. The law of this State shall govern the interpretation of a valid
44 document of gift to which the provisions of this act apply.

45 c. A person shall presume that a document of gift or amendment
46 of an anatomical gift is valid unless the person knows that it was
47 not validly executed or was revoked.

1 17. (New section) **'[a.]'** If a hospital patient who is a
2 prospective donor has executed an advance directive for health care,
3 or has otherwise specified by record the circumstances under which
4 the patient would want life support to be withheld or withdrawn
5 from that person, and the terms of the advance directive or other
6 record are in conflict with the option of making an anatomical gift
7 by precluding the administration of measures necessary to ensure
8 the medical suitability of a part for transplantation or therapy¹, the
9 following requirements shall apply¹:

10 **'[(1) the prospective donor and that donor's attending physician**
11 **shall seek to mutually resolve the conflict; and]** a. If the patient is
12 determined to have decision making capacity pursuant to the
13 provisions of P.L.1991, c.201 (C.26:2H-53 et seq.), then the patient
14 shall, after consultation with the patient's attending physician about
15 the donor option and all other relevant factors in end-of-life
16 decision making, make a determination concerning the withholding
17 or withdrawing of treatment pursuant to existing law;¹

18 **'[(2) if the patient is unable to resolve the conflict,]** b. If the
19 patient is determined to lack decision making capacity pursuant to
20 section 8 of P.L.1991, c.201 (C.26:2H-60), then¹ an agent acting
21 pursuant to the patient's advance directive or other record or, if no
22 such agent has been designated by the patient or the agent is not
23 reasonably available, another person authorized by law other than
24 this act to make decisions on behalf of the patient with regard to the
25 patient's health care shall act for the patient to resolve the conflict.

26 **'[b.]'** The parties specified in **'this'** subsection **'[a. of this**
27 **section]'** shall seek to resolve the conflict as set forth therein as
28 expeditiously as possible. Information relevant to the resolution of
29 the conflict shall be obtained from the appropriate procurement
30 organization and any other person authorized to make an anatomical
31 gift for the patient pursuant to section 9 of this act.¹

32 **'[c. Information relevant to the resolution of the conflict may be**
33 **obtained from the appropriate procurement organization and any**
34 **other person authorized to make an anatomical gift for the patient**
35 **pursuant to section 9 of this act.**

36 **d.]'** Measures necessary to ensure the medical suitability of the
37 part shall not be withheld or withdrawn from the patient prior to
38 resolution of the conflict if the withholding or withdrawing is not
39 contraindicated by the requirements of providing appropriate end-
40 of-life care.

41
42 18. (New section) a. Each medical examiner shall cooperate
43 with any procurement organization to maximize the opportunity to
44 recover anatomical gifts for the purpose of transplantation, therapy,
45 research, or education.

46 b. A part shall not be removed from the body of a decedent
47 under a medical examiner's jurisdiction for transplantation, therapy,

1 research, or education, nor delivered to a person for research or
2 education, unless the part is the subject of an anatomical gift. The
3 provisions of this section shall not be construed to preclude a
4 medical examiner from performing an investigation as provided in
5 P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the
6 medical examiner's jurisdiction.

7 c. Upon the request of a procurement organization, the medical
8 examiner shall release to the procurement organization the name,
9 contact information, and available medical and social history of a
10 decedent whose body is under the medical examiner's jurisdiction.
11 If the decedent's body or part is medically suitable for
12 transplantation, therapy, research, or education, the medical
13 examiner shall release the post-mortem examination results to the
14 procurement organization. The procurement organization shall
15 make a subsequent disclosure of the post-mortem examination
16 results or other information received from the medical examiner
17 only if relevant to transplantation, therapy, research, or education.

18

19 19. (New section) In applying and construing this uniform act,
20 consideration shall be given to the need to promote uniformity of
21 the law with respect to its subject matter among the states that enact
22 it.

23

24 20. (New section) This act shall be deemed to modify, limit,
25 and supersede the Electronic Signatures in Global and National
26 Commerce Act, 15 U.S.C. s.7001 et seq., but not to modify, limit,
27 or supersede Section 101(a) of that act, 15 U.S.C. s.7001(a), or to
28 authorize electronic delivery of any of the notices described in
29 Section 103(b) of that act, 15 U.S.C. s.7003(b).

30

31 21. N.J.S.2C:20-2 is amended to read as follows:

32 2C:20-2. a. Consolidation of Theft and Computer Criminal
33 Activity Offenses. Conduct denominated theft or computer
34 criminal activity in this chapter constitutes a single offense, but
35 each episode or transaction may be the subject of a separate
36 prosecution and conviction. A charge of theft or computer criminal
37 activity may be supported by evidence that it was committed in any
38 manner that would be theft or computer criminal activity under this
39 chapter, notwithstanding the specification of a different manner in
40 the indictment or accusation, subject only to the power of the court
41 to ensure fair trial by granting a bill of particulars, discovery, a
42 continuance, or other appropriate relief where the conduct of the
43 defense would be prejudiced by lack of fair notice or by surprise.

44 b. Grading of theft offenses.

45 (1) Theft constitutes a crime of the second degree if:

46 (a) The amount involved is \$75,000.00 or more;

47 (b) The property is taken by extortion;

- 1 (c) The property stolen is a controlled dangerous substance or
2 controlled substance analog as defined in N.J.S.2C:35-2 and the
3 quantity is in excess of one kilogram;
- 4 (d) The property stolen is a person's benefits under federal or
5 State law, or from any other source, which the Department of
6 Human Services or an agency acting on its behalf has budgeted for
7 the person's health care and the amount involved is \$75,000.00 or
8 more; or
- 9 (e) The property stolen is human remains or any part thereof;
10 except that, if the human remains are stolen by deception or
11 falsification of a document by which a gift of all or part of a human
12 body may be made pursuant to [P.L.1969, c.161 (C.26:6-57 et
13 seq.)] P.L. , c. (C.)(pending before the Legislature as this bill),
14 the theft constitutes a crime of the first degree.
- 15 (2) Theft constitutes a crime of the third degree if:
- 16 (a) The amount involved exceeds \$500.00 but is less than
17 \$75,000.00;
- 18 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
19 horse, domestic companion animal or airplane;
- 20 (c) The property stolen is a controlled dangerous substance or
21 controlled substance analog as defined in N.J.S.2C:35-2 and the
22 amount involved is less than \$75,000.00 or is undetermined and the
23 quantity is one kilogram or less;
- 24 (d) It is from the person of the victim;
- 25 (e) It is in breach of an obligation by a person in his capacity as
26 a fiduciary;
- 27 (f) It is by threat not amounting to extortion;
- 28 (g) It is of a public record, writing or instrument kept, filed or
29 deposited according to law with or in the keeping of any public
30 office or public servant;
- 31 (h) The property stolen is a person's benefits under federal or
32 State law, or from any other source, which the Department of
33 Human Services or an agency acting on its behalf has budgeted for
34 the person's health care and the amount involved is less than
35 \$75,000.00;
- 36 (i) The property stolen is any real or personal property related
37 to, necessary for, or derived from research, regardless of value,
38 including, but not limited to, any sample, specimens and
39 components thereof, research subject, including any warm-blooded
40 or cold-blooded animals being used for research or intended for use
41 in research, supplies, records, data or test results, prototypes or
42 equipment, as well as any proprietary information or other type of
43 information related to research;
- 44 (j) The property stolen is a New Jersey Prescription Blank as
45 referred to in R.S.45:14-14;
- 46 (k) The property stolen consists of an access device or a defaced
47 access device; or

1 (1) The property stolen consists of anhydrous ammonia and the
2 actor intends it to be used to manufacture methamphetamine.

3 (3) Theft constitutes a crime of the fourth degree if the amount
4 involved is at least \$200.00 but does not exceed \$500.00. If the
5 amount involved was less than \$200.00 the offense constitutes a
6 disorderly persons offense.

7 (4) The amount involved in a theft or computer criminal activity
8 shall be determined by the trier of fact. The amount shall include,
9 but shall not be limited to, the amount of any State tax avoided,
10 evaded or otherwise unpaid, improperly retained or disposed of.
11 Amounts involved in thefts or computer criminal activities
12 committed pursuant to one scheme or course of conduct, whether
13 from the same person or several persons, may be aggregated in
14 determining the grade of the offense.

15 c. Claim of right. It is an affirmative defense to prosecution
16 for theft that the actor:

17 (1) Was unaware that the property or service was that of
18 another;

19 (2) Acted under an honest claim of right to the property or
20 service involved or that he had a right to acquire or dispose of it as
21 he did; or

22 (3) Took property exposed for sale, intending to purchase and
23 pay for it promptly, or reasonably believing that the owner, if
24 present, would have consented.

25 d. Theft from spouse. It is no defense that theft or computer
26 criminal activity was from or committed against the actor's spouse,
27 except that misappropriation of household and personal effects, or
28 other property normally accessible to both spouses, is theft or
29 computer criminal activity only if it occurs after the parties have
30 ceased living together.

31 (cf: P.L.2007, c.36, s.2)

32

33 22. Section 1 of P.L.2007, c.36 (C.2C:22-2) is amended to read
34 as follows:

35 1. a. A person who knowingly, for valuable consideration,
36 purchases or sells a part for transplantation or therapy, if removal of
37 a part from a donor is intended to occur after the donor's death, is
38 guilty of a crime of the third degree and, notwithstanding the
39 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
40 than \$50,000, as well as the term of imprisonment provided under
41 N.J.S.2C:43-6, or both.

42 Nothing in this subsection shall be construed to prohibit a person
43 from charging a reasonable amount for the removal, processing,
44 disposal, preservation, quality control, storage, transportation, or
45 implantation of a part.

46 b. A person who intentionally falsifies, forges, conceals,
47 defaces, or obliterates a document by which a gift of all or part of a
48 human body may be made pursuant to [P.L.1969, c.161 (C.26:6-57

1 et seq.)] P.L. , c. (C.)(pending before the Legislature as this
2 bill), an amendment or revocation of such a document, or any death
3 record or document of medical or social history pertaining to the
4 body or part of the donor, or a refusal to make a gift, in order to
5 obtain a financial benefit or gain, is guilty of a crime of the second
6 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
7 be subject to a fine of not more than \$50,000, as well as the term of
8 imprisonment provided under N.J.S.2C:43-6, or both.

9 c. As used in this section, the terms "decedent," "donor," "part,"
10 and "person" have the meaning ascribed to them in section [1 of
11 P.L.1969, c.161 (C.26:6-57)] 2 of P.L. , c. (C.)(pending before
12 the Legislature as this bill).

13 (cf: P.L.2007, c.36, s.1)

14

15 23. Section 6 of P.L.1995, c.257 (C.26:6-58.5) is amended to
16 read as follows:

17 6. A [transplant recovery specialist] technician as defined in
18 section 2 of P.L. , c. (C.) (pending before the Legislature as this
19 bill) may recover a human body part for any purpose specified in
20 [section 3 of P.L.1969, c.161 (C.26:6-59)] P.L. , c. (C.)
21 (pending before the Legislature as this bill). A physician shall not
22 be required to be present during the recovery procedure. Nothing in
23 this section shall be construed to limit a physician or other person
24 authorized by law to recover human body parts pursuant to law.

25 (cf: P.L.1995, c.257, s.6)

26

27 24. R.S.39:3-10 is amended to read as follows:

28 39:3-10. No person shall drive a motor vehicle on a public
29 highway in this State unless the person is under supervision while
30 participating in a behind-the-wheel driving course pursuant to
31 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a
32 validated permit, or a provisional or basic driver's license issued to
33 him in accordance with this article.

34 No person under 18 years of age shall be issued a basic license to
35 drive motor vehicles, nor shall a person be issued a validated
36 permit, including a validated examination permit, until he has
37 passed a satisfactory examination and other requirements as to his
38 ability as an operator. The examination shall include a test of the
39 applicant's vision, his ability to understand traffic control devices,
40 his knowledge of safe driving practices and of the effects that
41 ingestion of alcohol or drugs has on a person's ability to operate a
42 motor vehicle, his knowledge of such portions of the mechanism of
43 motor vehicles as is necessary to insure the safe operation of a
44 vehicle of the kind or kinds indicated by the applicant and of the
45 laws and ordinary usages of the road. No person shall sit for an
46 examination for any permit without exhibiting photo identification
47 deemed acceptable by the commission, unless that person is a high
48 school student participating in a course of driving education

1 approved by the State Department of Education and conducted in a
2 public, parochial or private school of this State, pursuant to section
3 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the
4 written law knowledge examination for any person 18 years of age
5 or older possessing a valid driver's license issued by any other state,
6 the District of Columbia or the United States Territories of
7 American Samoa, Guam, Puerto Rico or the Virgin Islands. The
8 commission shall be required to provide that person with a booklet
9 that highlights those motor vehicle laws unique to New Jersey. A
10 road test shall be required for a provisional license and serve as a
11 demonstration of the applicant's ability to operate a vehicle of the
12 class designated. No person shall sit for a road test unless that
13 person exhibits photo identification deemed acceptable by the
14 commission. A high school student who has completed a course of
15 behind-the-wheel automobile driving education approved by the
16 State Department of Education and conducted in a public, parochial
17 or private school of this State, who has been issued a special
18 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-
19 13.1) prior to January 1, 2003, shall not be required to exhibit photo
20 identification in order to sit for a road test. The commission may
21 waive the road test for any person 18 years of age or older
22 possessing a valid driver's license issued by any other state, the
23 District of Columbia or the United States Territories of American
24 Samoa, Guam, Puerto Rico or the Virgin Islands. The road test
25 shall be given on public streets, where practicable and feasible, but
26 may be preceded by an off-street screening process to assess basic
27 skills. The commission shall approve locations for the road test
28 which pose no more than a minimal risk of injury to the applicant,
29 the examiner and other motorists. No new locations for the road
30 test shall be approved unless the test can be given on public streets.

31 The commission shall issue a basic driver's license to operate a
32 motor vehicle other than a motorcycle to a person over 18 years of
33 age who previously has not been licensed to drive a motor vehicle
34 in this State or another jurisdiction only if that person has: (1)
35 operated a passenger automobile in compliance with the
36 requirements of this title for not less than one year, not including
37 any period of suspension or postponement, from the date of
38 issuance of a provisional license pursuant to section 4 of P.L.1950,
39 c.127 (C.39:3-13.4); (2) not been assessed more than two motor
40 vehicle points; (3) not been convicted in the previous year for a
41 violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-
42 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-
43 5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-
44 related violation the commission determines to be significant and
45 applicable pursuant to regulation; and (4) passed an examination of
46 his ability to operate a motor vehicle pursuant to this section.

47 The commission shall expand the driver's license examination by
48 20%. The additional questions to be added shall consist solely of

1 questions developed in conjunction with the State Department of
2 Health and Senior Services concerning the use of alcohol or drugs
3 as related to highway safety. The commission shall develop in
4 conjunction with the State Department of Health and Senior
5 Services supplements to the driver's manual which shall include
6 information necessary to answer any question on the driver's license
7 examination concerning alcohol or drugs as related to highway
8 safety.

9 Up to 20 questions may be added to the examination on subjects
10 to be determined by the commission that are of particular relevance
11 to youthful drivers, after consultation with the Director of the
12 Office of Highway Traffic Safety.

13 The commission shall expand the driver's license examination to
14 include a question asking whether the applicant is aware of the
15 provisions of the ["Uniform Anatomical Gift Act," P.L.1969, c.161
16 (C.26:6-57 et seq.)] "Revised Uniform Anatomical Gift Act,"
17 P.L. , c. (C.)(pending before the Legislature as this bill) and
18 the procedure for indicating on the driver's license the intention to
19 make a donation of body organs or tissues pursuant to P.L.1978,
20 c.181 (C.39:3-12.2).

21 Any person applying for a driver's license to operate a motor
22 vehicle or motorized bicycle in this State shall surrender to the
23 commission any current driver's license issued to him by another
24 state or jurisdiction upon his receipt of a driver's license for this
25 State. The commission shall refuse to issue a driver's license if the
26 applicant fails to comply with this provision. An applicant for a
27 permit or license who is less than 18 years of age, and who holds a
28 permit or license for a passenger automobile issued by another state
29 or country that is valid or has expired within a time period
30 designated by the commission, shall be subject to the permit and
31 license requirements and penalties applicable to State permit and
32 license applicants who are of the same age; except that if the other
33 state or country has permit or license standards substantially similar
34 to those of this State, the credentials of the other state or country
35 shall be acceptable.

36 The commission shall create classified licensing of drivers
37 covering the following classifications:

38 a. Motorcycles, except that for the purposes of this section,
39 motorcycle shall not include any three-wheeled motor vehicle
40 equipped with a single cab with glazing enclosing the occupant,
41 seats similar to those of a passenger vehicle or truck, seat belts and
42 automotive steering.

43 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
44 classified under N.J.S.18A:39-1 et seq.

45 c. (Deleted by amendment, P.L.1999, c.28).

46 d. All motor vehicles not included in classifications a. and b. A
47 license issued pursuant to this classification d. shall be referred to
48 as the "basic driver's license."

1 Every applicant for a license under classification b. shall be a
2 holder of a basic driver's license. Any issuance of a license under
3 classification b. shall be by endorsement on the basic driver's
4 license.

5 A driver's license for motorcycles may be issued separately, but
6 if issued to the holder of a basic driver's license, it shall be by
7 endorsement on the basic driver's license.

8 The commission, upon payment of the lawful fee and after it or a
9 person authorized by it has examined the applicant and is satisfied
10 of the applicant's ability as an operator, may, in its discretion, issue
11 a license to the applicant to drive a motor vehicle. The license shall
12 authorize him to drive any registered vehicle, of the kind or kinds
13 indicated, and shall expire, except as otherwise provided, on the last
14 day of the 48th calendar month following the calendar month in
15 which such license was issued.

16 The commission may, at its discretion and for good cause shown,
17 issue licenses which shall expire on a date fixed by it. If the
18 commission issues a license to a person who has demonstrated
19 authorization to be present in the United States for a period of time
20 shorter than the standard period of the license, the commission shall
21 fix the expiration date of the license at a date based on the period in
22 which the person is authorized to be present in the United States
23 under federal immigration laws. The commission may renew such a
24 license only if it is demonstrated that the person's continued
25 presence in the United States is authorized under federal law. The
26 fee for licenses with expiration dates fixed by the commission shall
27 be fixed by the commission in amounts proportionately less or
28 greater than the fee herein established.

29 The required fee for a license for the 48-month period shall be as
30 follows:

31 Motorcycle license or endorsement: \$18.

32 Omnibus or school bus endorsement: \$18.

33 Basic driver's license: \$18.

34 The commission shall waive the payment of fees for issuance of
35 omnibus endorsements whenever an applicant establishes to the
36 commission's satisfaction that said applicant will use the omnibus
37 endorsement exclusively for operating omnibuses owned by a
38 nonprofit organization duly incorporated under Title 15 or 16 of the
39 Revised Statutes or Title 15A of the New Jersey Statutes.

40 The commission shall issue licenses for the following license
41 period on and after the first day of the calendar month immediately
42 preceding the commencement of such period, such licenses to be
43 effective immediately.

44 All applications for renewals of licenses shall be made in a
45 manner prescribed by the commission and in accordance with
46 procedures established by it.

47 The commission in its discretion may refuse to grant a permit or
48 license to drive motor vehicles to a person who is, in its estimation,

1 not a proper person to be granted such a permit or license, but no
2 defect of the applicant shall debar him from receiving a permit or
3 license unless it can be shown by tests approved by the commission
4 that the defect incapacitates him from safely operating a motor
5 vehicle.

6 In addition to requiring an applicant for a driver's license to
7 submit satisfactory proof of identity and age, the commission also
8 shall require the applicant to provide, as a condition for obtaining a
9 permit and license, satisfactory proof that the applicant's presence
10 in the United States is authorized under federal law.

11 If the commission has reasonable cause to suspect that any
12 document presented by an applicant as proof of identity, age or
13 legal residency is altered, false or otherwise invalid, the
14 commission shall refuse to grant the permit or license until such
15 time as the document may be verified by the issuing agency to the
16 commission's satisfaction.

17 A person violating this section shall be subject to a fine not
18 exceeding \$500 or imprisonment in the county jail for not more
19 than 60 days, but if that person has never been licensed to drive in
20 this State or any other jurisdiction, he shall be subject to a fine of
21 not less than \$200 and, in addition, the court shall issue an order to
22 the commission requiring the commission to refuse to issue a
23 license to operate a motor vehicle to the person for a period of not
24 less than 180 days. The penalties provided for by this paragraph
25 shall not be applicable in cases where failure to have actual
26 possession of the operator's license is due to an administrative or
27 technical error by the commission.

28 Nothing in this section shall be construed to alter or extend the
29 expiration of any license issued prior to the date this amendatory
30 and supplementary act becomes operative.

31 (cf: P.L.2003, c.13, s.37)

32

33 25. Section 1 of P.L.1978, c.181 (C.39:3-12.2) is amended to
34 read as follows:

35 1. a. The Chief Administrator of the New Jersey Motor Vehicle
36 Commission shall provide with every new license, renewal license,
37 identification card or renewal identification card the opportunity for
38 each person pursuant to the provisions of the **["Uniform**
39 **Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et al.)]** "Revised
40 Uniform Anatomical Gift Act," P.L. , c. (C.)(pending before the
41 Legislature as this bill), to designate that the person shall donate all
42 or any **[body]** organs or **[parts]** tissues for the purposes of
43 transplantation~~[,]~~ or therapy~~[,]~~ medical research or education upon
44 his death~~]~~.

45 b. The designation indicating that a person is a donor pursuant
46 to subsection a. of this section shall be done in accordance with
47 procedures prescribed by the chief administrator. The designation
48 shall be displayed in print in a conspicuous form and manner on the

1 license or identification card, and electronically, by substantially
2 the following statement: "ORGAN DONOR" and shall constitute
3 sufficient legal authority for the removal of **[a body organ]** organs
4 or **[part]** tissues for the purposes of transplantation or therapy upon
5 the death of the licensee or identification cardholder. The
6 designation shall be removed in accordance with procedures
7 prescribed by the chief administrator.

8 c. (Deleted by amendment, P.L.1999, c.28).

9 d. (Deleted by amendment, P.L.2007, c.80).

10 e. The chief administrator, in consultation with those organ
11 procurement organizations designated pursuant to 42
12 U.S.C.s.1320b-8 to serve in the State of New Jersey, shall establish
13 and provide an annual education program for agency employees and
14 personnel. The program shall focus on the benefits associated with
15 organ and tissue donations, the scope and operation of New Jersey's
16 donor program, and how the agency's employees and personnel can
17 effectively inform the public about the donor program and can best
18 assist those wishing to participate in the donor program.

19 f. The chief administrator shall electronically record and store
20 all organ donor designations and identification information, and
21 shall provide the organ procurement organizations designated
22 pursuant to 42U.S.C.s.1320b-8 to serve in the State of New Jersey
23 with real-time electronic access to the organ donor designation
24 information collected pursuant to subsection a. of this section. An
25 organ procurement organization designated pursuant to
26 42U.S.C.s.1320b-8 to serve in the State of New Jersey, or any
27 donor registry established by any such organization, shall have real-
28 time electronic access to those organ donor designations and
29 identification at all times, without exception, for the purposes of
30 verifying organ and tissue donation status and identity. For these
31 purposes, the federally designated organ procurement organization
32 shall have electronic access to each recorded donor's name, address,
33 date of birth, gender, color of eyes, height, and driver's license
34 number. Upon request, the chief administrator shall provide a copy
35 of the donor's original driver's license application.

36 g. Those organ procurement organizations designated pursuant
37 to 42U.S.C.s.1320b-8 to serve in the State of New Jersey may
38 contract with a third party, in consultation with the chief
39 administrator, to assess, develop, and implement any system set-up
40 necessary to support the initial and ongoing electronic access by
41 those organizations to the donor designation and identification
42 information required to be made available in accordance with the
43 provisions of this section; however, the organ procurement
44 organizations shall not be required to incur an aggregate cost in
45 excess of \$50,000 for the purposes of this subsection.

46 (cf: P.L.2007, c.80, s.1)

47

48 26. R.S.39:3-41 is amended to read as follows:

1 39:3-41. a. At the time of the issuance of an examination permit
2 or a special learner's permit to operate a motor vehicle, the director
3 shall make available to each applicant for the examination permit or
4 special learner's permit a driver's manual containing information
5 required to be known and followed by licensed drivers relating to
6 licensing requirements.

7 b. At the time of any required examination for renewal of a
8 driver's license, the director shall upon request make available to
9 each applicant for renewal a copy of the manual and any
10 supplements thereto.

11 c. The driver's manual and any supplements thereto or any other
12 booklet or writing prepared in connection with examinations for
13 drivers' licenses or for renewals of drivers' licenses shall contain all
14 information necessary to answer any question on an examination for
15 a driver's license or for a renewal of a driver's license.

16 d. The director, following consultation with the **[New Jersey**
17 **Organ and Tissue Sharing Network]** organ procurement
18 organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve
19 in the State of New Jersey, shall include in the driver's manual
20 information explaining the provisions of the **["Uniform Anatomical**
21 **Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.)]** "Revised Uniform
22 Anatomical Gift Act," P.L. , c. (C.) (pending before the
23 Legislature as this bill), the beneficial uses of donated **[body]**
24 organs and tissues, and the procedure for indicating on the driver's
25 license the intention to make such a donation pursuant to P.L.1978,
26 c.181 (C.39:3-12.2). The director may distribute all remaining
27 copies of the existing driver's manual before reprinting the manual
28 with the information required pursuant to this subsection.

29 (cf: P.L.1992, c.110, s.2)

30

31 27. Section 1 of P.L.1993, c.276 (C.52:17B-88.7) is amended to
32 read as follows:

33 1. Notwithstanding any provision of law to the contrary, if a
34 deceased person whose death is under investigation pursuant to
35 section 9 of P.L.1967, c.234 (C.52:17B-86) is a donor of all or part
36 of his body as evidenced by an advance directive, will, card or other
37 document, or as otherwise provided in the **["Uniform Anatomical**
38 **Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.)]** "Revised Uniform
39 Anatomical Gift Act," P.L. , c. (C.) (pending before the
40 Legislature as this bill), the State Medical Examiner or the county
41 medical examiner, or his designee, who has notice of the donation
42 shall perform an examination, autopsy or analysis of tissues or
43 organs only in a manner and within a time period compatible with
44 their preservation for the purposes of transplantation.

45 (cf: P.L.1993, c.276, s.1)

46

47 28. The following are repealed:

48 P.L.1969, c.161 (C.26:6-57 et seq.); and

1 P.L.1987, c.244 (C.26:6-58.1 et seq.).

2

3 29. This act shall take effect immediately.

4

5

6

7

8 "Revised Uniform Anatomical Gift Act."

SENATE, No. 754

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Co-Sponsored by:

Senator Gordon

SYNOPSIS

“Revised Uniform Anatomical Gift Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/15/2008)

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2

1 AN ACT concerning anatomical gifts, revising parts of the statutory
2 law and supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) a. This act shall be known and may be cited
8 as the "Revised Uniform Anatomical Gift Act."

9 b. Whenever the term "Uniform Anatomical Gift Act" occurs or
10 any reference is made thereto in any law, contract or document, the
11 same shall be deemed to mean or refer to the "Revised Uniform
12 Anatomical Gift Act."

13

14 2. (New section) As used in this act:

15 "Adult" means a person who is at least 18 years of age.

16 "Advance directive for health care" means an advance directive
17 for health care that is executed pursuant to P.L.1991, c.201
18 (C.26:2H-53 et seq.).

19 "Agent" means a person who is authorized to act as a health care
20 representative by an advance directive for health care or is
21 expressly authorized to make an anatomical gift on a donor's behalf
22 by any other record signed by the donor.

23 "Anatomical gift" means a donation of all or part of a human
24 body to take effect after the donor's death for the purpose of
25 transplantation, therapy, research, or education.

26 "Civil union partner" means one partner in a civil union couple
27 as defined in section 2 of P.L.2006, c.103 (C.37:1-29 et al.).

28 "Decedent" means a deceased person whose body or part is or
29 may be the source of an anatomical gift, and includes a stillborn
30 infant or fetus.

31 "Designated requester" means a hospital employee who has
32 completed a course offered or approved by an organ procurement
33 organization.

34 "Disinterested witness" means a witness other than: the spouse,
35 civil union partner, domestic partner, child, parent, sibling,
36 grandchild, grandparent, or guardian of the person who makes,
37 amends, revokes, or refuses to make an anatomical gift; another
38 adult who exhibited special care and concern for the decedent; or a
39 person to whom an anatomical gift may pass pursuant to section 10
40 of this act.

41 "Document of gift" means a donor card or other record used to
42 make an anatomical gift, and includes a statement or symbol on a
43 driver's license, identification card, or donor registry.

44 "Domestic partner" means a domestic partner as defined in
45 section 3 of P.L.2003, c.246 (C.26:8A-3).

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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- 1 “Donor” means a person whose body or part is the subject of an
2 anatomical gift.
- 3 “Donor registry” means a database that contains records of
4 anatomical gifts.
- 5 “Driver’s license” means a license or permit issued by the New
6 Jersey Motor Vehicle Commission to operate a vehicle, whether or
7 not conditions are attached to the license or permit.
- 8 “Eye bank” means an entity that is licensed, accredited, or
9 regulated under federal or State law to engage in the recovery,
10 screening, testing, processing, storage, or distribution of human
11 eyes or portions of human eyes.
- 12 “Guardian” means a person appointed by a court to make
13 decisions regarding the support, care, education, health, or welfare
14 of another individual, but does not include a guardian ad litem.
- 15 “Hospital” means an institution, whether operated for profit or
16 not, whether maintained, supervised or controlled by an agency of
17 State government or a county or municipality or not, which
18 maintains and operates facilities for the diagnosis, treatment, or care
19 of two or more non-related individuals suffering from illness,
20 injury, or deformity, and where emergency, outpatient, surgical,
21 obstetrical, convalescent, or other medical and nursing care is
22 rendered for periods exceeding 24 hours.
- 23 “Identification card” means an identification card issued by the
24 New Jersey Motor Vehicle Commission.
- 25 “Medical examiner” means the State Medical Examiner, a county
26 medical examiner, or another person performing the duties of a
27 medical examiner pursuant to P.L.1967, c.234 (C.52:17B-78 et
28 seq.).
- 29 “Minor” means a person who is under 18 years of age.
- 30 “Organ procurement organization” means an entity designated by
31 the United States Secretary of Health and Human Services as an
32 organ procurement organization.
- 33 “Parent” means a parent whose parental rights have not been
34 terminated.
- 35 “Part” means an organ, eye, or tissue of a human being, but does
36 not include the whole body.
- 37 “Physician” means a person authorized to practice medicine or
38 osteopathy under the laws of any state.
- 39 “Procurement organization” means an eye bank, organ
40 procurement organization, or tissue bank.
- 41 “Prospective donor” means a person who is dead or near death
42 and has been determined by a procurement organization to have a
43 part that could be medically suitable for transplantation, therapy,
44 research, or education, but does not include an individual who has
45 made a refusal.
- 46 “Reasonably available” means able to be contacted by a
47 procurement organization without undue effort and willing and able

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1 to act in a timely manner consistent with existing medical criteria
2 necessary for the making of an anatomical gift.

3 “Recipient” means a person into whose body a decedent’s part
4 has been or is intended to be transplanted.

5 “Record” means information that is inscribed on a tangible
6 medium or stored in an electronic or other medium and is
7 retrievable in perceivable form.

8 “Refusal” means a record created pursuant to this act that
9 expressly states an intent to bar other persons from making an
10 anatomical gift of a person’s body or part.

11 “Sign” means, with the present intent to authenticate or adopt a
12 record, to execute or adopt a tangible symbol, or to attach to or
13 logically associate with the record an electronic symbol, sound, or
14 process.

15 “State” means a state of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of the
18 United States.

19 “Technician” means a person who is determined to be qualified
20 to remove or process parts by an appropriate organization that is
21 licensed, accredited, or regulated under federal or State law, and
22 includes an enucleator.

23 “Tissue” means a portion of the human body other than an organ
24 or an eye, but does not include blood unless it is needed to facilitate
25 the use of other parts or is donated for the purpose of research or
26 education.

27 “Tissue bank” means an entity that is licensed, accredited, or
28 regulated under federal or State law to engage in the recovery,
29 screening, testing, processing, storage, or distribution of tissue.

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

33

34 3. (New section) The provisions of this act shall apply to an
35 anatomical gift, or an amendment to, revocation of, or refusal to
36 make an anatomical gift, whenever made.

37

38 4. (New section) Subject to the provisions of section 8 of this
39 act, an anatomical gift of a donor’s body or part may be made
40 during the life of the donor for the purpose of transplantation,
41 therapy, research, or education in the manner provided in section 5
42 of this act by:

43 a. the donor, if the donor is an adult, or if the donor is a minor
44 and is emancipated or is authorized under the laws of this State to
45 apply for a driver’s license;

46 b. an agent of the donor, unless the advance directive for health
47 care or other record prohibits the agent from making an anatomical
48 gift;

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- 1 c. a parent of the donor, if the donor is an unemancipated minor;
- 2 or
- 3 d. the donor's guardian.

4
5 5. (New section) a. A person may make an anatomical gift and
6 thereby become a donor:

- 7 (1) by authorizing a statement or symbol indicating that the
- 8 donor has made an anatomical gift to be imprinted on the donor's
- 9 driver's license or identification card;
- 10 (2) in a will;
- 11 (3) during a terminal illness or injury of the donor, by any form
- 12 of communication addressed to at least two adults, at least one of
- 13 whom shall be a disinterested witness; or
- 14 (4) as provided in subsection b. of this section.

15 b. A donor or other person authorized to make an anatomical
16 gift pursuant to section 4 of this act may make a gift by a donor
17 card or other record signed by the donor or other person making the
18 gift or by authorizing that a statement or symbol indicating that the
19 donor has made an anatomical gift be included on a donor registry.

20 If the donor or other person is physically unable to sign a record,
21 the record may be signed by another individual at the direction of
22 the donor or other person and shall:

- 23 (1) be witnessed by at least two adults, at least one of whom
- 24 shall be a disinterested witness, who have signed at the request of
- 25 the donor or other person; and
- 26 (2) state that it has been signed and witnessed as provided in
- 27 paragraph (1) of this subsection.

28 c. The revocation, suspension, expiration, or cancellation of a
29 driver's license or identification card upon which an anatomical gift
30 is indicated shall not invalidate the gift.

31 d. An anatomical gift made by will shall take effect upon the
32 donor's death, whether or not the will is probated. Invalidation of
33 the will after the donor's death shall not invalidate the gift.

34
35 6. (New section) a. Subject to the provisions of section 8 of
36 this act, a donor or other person authorized to make an anatomical
37 gift pursuant to section 4 of this act may amend or revoke an
38 anatomical gift by:

- 39 (1) a record signed by:
 - 40 (a) the donor or other person; or
 - 41 (b) subject to the provisions of subsection b. of this section,
 - 42 another individual acting at the direction of the donor or the other
 - 43 person if the donor or other person is physically unable to sign; or
- 44 (2) a later-executed document of gift that amends or revokes a
- 45 previous anatomical gift or portion of an anatomical gift, either
- 46 expressly or by inconsistency.

47 b. A record signed pursuant to subparagraph (b) of paragraph (1)
48 of subsection a. of this section shall:

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

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

6 c. Subject to the provisions of section 8 of this act, a donor or
7 other person authorized to make an anatomical gift pursuant to
8 section 4 of this act may revoke an anatomical gift by the
9 destruction or cancellation of the document of gift, or the portion of
10 the document of gift used to make the gift, with the intent to revoke
11 the gift.

12 d. A donor may amend or revoke an anatomical gift that was not
13 made in a will by any form of communication during a terminal
14 illness or injury addressed to at least two adults, at least one of
15 whom shall be a disinterested witness.

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

19

20 7. (New section) a. A person may refuse to make an anatomical
21 gift of the person's body or part by:

22 (1) a record signed by:

23 (a) the person; or

24 (b) subject to subsection b. of this section, another individual
25 acting at the person's direction if the person is physically unable to
26 sign;

27 (2) the person's will, whether or not the will is admitted to
28 probate or invalidated after the person's death; or

29 (3) any form of communication made by the person during the
30 person's terminal illness or injury addressed to at least two adults,
31 at least one of whom shall be a disinterested witness.

32 b. A record signed pursuant to subparagraph (b) of paragraph (1)
33 of subsection a. of this section shall:

34 (1) be witnessed by at least two adults, at least one of whom
35 shall be a disinterested witness, who have signed at the request of
36 the person who is making a refusal; and

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

39 c. A person who has made a refusal may amend or revoke the
40 refusal:

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

43 (2) by subsequently making an anatomical gift that is
44 inconsistent with the refusal; or

45 (3) by destroying or canceling the record evidencing the refusal,
46 or the portion of the record used to make the refusal, with the intent
47 to revoke the refusal.

1 d. Except as otherwise provided in subsection h. of section 8 of
2 this act, in the absence of an express, contrary indication by the
3 person set forth in the refusal, a person's unrevoked refusal to make
4 an anatomical gift of the person's body or part shall preclude
5 another individual from making an anatomical gift of the person's
6 body or part.

7
8 8. (New section) a. In the absence of an express, contrary
9 indication by the donor, a person other than the donor shall be
10 prohibited from making, amending, or revoking an anatomical gift
11 of a donor's body or part if the donor made an anatomical gift of the
12 donor's body or part or an amendment to an anatomical gift of the
13 donor's body or part.

14 b. A donor's revocation of an anatomical gift pursuant to section
15 6 of this act shall not be deemed to be a refusal and shall not
16 preclude another person as specified in section 4 or section 9 of this
17 act from making an anatomical gift of the donor's body or part.

18 c. If a person other than the donor makes an unrevoked
19 anatomical gift of the donor's body or part pursuant to section 5 of
20 this act or an amendment to an anatomical gift of the donor's body
21 or part pursuant to section 6 of this act, another person shall not
22 make, amend, or revoke the gift of the donor's body or part.

23 d. A revocation of an anatomical gift by a person other than the
24 donor pursuant to section 6 of this act shall not preclude another
25 person from making an anatomical gift of the body or part.

26 e. In the absence of an express, contrary indication by a donor or
27 other person authorized to make an anatomical gift under this act,
28 an anatomical gift of a part shall not be deemed to be a refusal to
29 give another part nor a limitation on the making of an anatomical
30 gift of another part at a later time by the donor or other person.

31 f. In the absence of an express, contrary indication by the donor
32 or other person authorized to make an anatomical gift under this act,
33 an anatomical gift of a part for any of the purposes set forth in
34 section 4 of this act shall not be deemed to limit the making of an
35 anatomical gift of the part for any of those other purposes by the
36 donor or other person.

37 g. Notwithstanding the provisions of this section to the contrary,
38 in the event of the death of a donor who is an unemancipated minor,
39 a parent of the donor who is reasonably available may revoke or
40 amend an anatomical gift of the donor's body or part.

41 h. In the event of the death of an unemancipated minor who has
42 signed a refusal, a parent of the minor who is reasonably available
43 may revoke the minor's refusal.

44
45 9. (New section) a. (1) Subject to the provisions of this act, an
46 anatomical gift of a decedent's body or part may be made by any
47 member of the following classes of persons who is reasonably
48 available, in the order of priority listed:

- 1 (a) an agent of the decedent at the time of the decedent's death
2 who could have made an anatomical gift immediately before the
3 decedent's death pursuant to section 4 of this act;
- 4 (b) the spouse, civil union partner, or domestic partner of the
5 decedent;
- 6 (c) an adult child of the decedent;
- 7 (d) either parent of the decedent;
- 8 (e) an adult sibling of the decedent;
- 9 (f) another adult who is related to the decedent by blood,
10 marriage, or adoption, or exhibited special care and concern for the
11 decedent;
- 12 (g) a person who was acting as the guardian of the person of the
13 decedent at the time of the decedent's death; and
- 14 (h) any other person having the authority to dispose of the
15 decedent's body, including the administrator of a hospital in which
16 the decedent was a patient or resident immediately preceding death.
17 In the absence of actual notice of contrary indication by the
18 decedent, the administrator shall make an anatomical gift of a
19 decedent's body or part.
- 20 (2) If there is more than one member of a class as specified in
21 subparagraphs (a) through (g) of paragraph (1) of this subsection
22 who is entitled to make an anatomical gift, a member of the class
23 may make an anatomical gift unless that member or a person to
24 whom the gift may pass pursuant to section 10 of this act knows of
25 an objection by another member of the class. If an objection is
26 known, the gift shall be made only by a majority of the members of
27 the class who are reasonably available. Nothing in this subsection
28 shall be construed to require that all members of the class authorize
29 the making of the gift or participate in the decision to make the gift.
- 30 (3) A person may not make an anatomical gift if, at the time of
31 the decedent's death, a person in a prior class as specified in
32 paragraph (1) of this subsection is reasonably available to make or
33 object to the making of an anatomical gift.
- 34 b. (1) A person authorized to make an anatomical gift pursuant
35 to subsection a. of this section may make an anatomical gift by a
36 document of gift signed by the person making the gift or by that
37 person's oral communication that is electronically recorded or is
38 contemporaneously reduced to a record and signed by the individual
39 receiving the oral communication.
- 40 (2) Subject to the provisions of paragraph (3) of this subsection,
41 an anatomical gift by a person authorized to make the gift pursuant
42 to subsection a. of this section may be amended or revoked orally or
43 in a record by any member of a prior class who is reasonably
44 available. If more than one member of the prior class is reasonably
45 available, the gift made by the authorized person may be:
- 46 (a) amended only if a majority of the reasonably available
47 members agree to amending the gift; or

1 (b) revoked only if a majority of the reasonably available
2 members agree to revoking the gift or if they are equally divided as
3 to whether to revoke the gift.

4 (3) A revocation made pursuant to paragraph (2) of this
5 subsection shall be effective only if, before an incision has been
6 made to remove a part from the donor's body or before invasive
7 procedures have begun to prepare the recipient, the procurement
8 organization, transplant hospital, or physician or technician knows
9 of the revocation. A procurement organization, transplant hospital,
10 or physician or technician with knowledge of a revocation shall
11 make a best effort to communicate that information to the other
12 parties involved in order to stop the anatomical gift recovery
13 process.

14

15 10. (New section) a. An anatomical gift may be made to the
16 following persons or entities named in the document of gift:

17 (1) a hospital; accredited medical school, dental school, college,
18 or university; organ procurement organization; or other appropriate
19 person, for research or education;

20 (2) subject to the provisions of subsection b. of this section, an
21 individual designated by the person making the anatomical gift if
22 the individual is the recipient of the part; or

23 (3) an eye bank or tissue bank.

24 b. If an anatomical gift to an individual cannot be transplanted
25 into the individual, the part shall pass in accordance with subsection
26 f. of this section in the absence of an express, contrary indication by
27 the person making the anatomical gift.

28 c. If there is more than one purpose of an anatomical gift set
29 forth in the document of gift but the purposes are not set forth in
30 any priority, the gift shall be used for transplantation or therapy, if
31 suitable. If the gift cannot be used for transplantation or therapy,
32 the gift may be used for research or education.

33 d. If an anatomical gift of one or more specific parts is made in a
34 document of gift that does not name a person or entity as described
35 in subsection a. of this section and does not identify the purpose of
36 the gift, the gift shall be used only for transplantation or therapy,
37 and shall pass in accordance with subsection f. of this section.

38 e. If a document of gift specifies only a general intent to make
39 an anatomical gift by words such as "donor," "organ donor," or
40 "body donor," or by a symbol or statement of similar import, the
41 gift shall include all parts, may be used only for transplantation or
42 therapy, and shall pass in accordance with subsection f. of this
43 section.

44 f. For the purposes of subsections b., d., and e. of this
45 subsection, the following shall apply:

46 (1) if the part is an eye, the gift shall pass to the appropriate eye
47 bank;

1 (2) if the part is tissue, the gift shall pass to the appropriate
2 tissue bank; and

3 (3) if the part is an organ, the gift shall pass to the appropriate
4 organ procurement organization as custodian of the organ.

5 g. An anatomical gift of an organ for transplantation or therapy,
6 other than an anatomical gift under paragraph (2) of subsection a. of
7 this section, shall pass to the organ procurement organization as
8 custodian of the organ.

9 h. If an anatomical gift does not pass pursuant to subsections a.
10 through g. of this section or the decedent's body or part is not used
11 for transplantation, therapy, research, or education, custody of the
12 body or part shall pass to the person or entity under obligation to
13 dispose of the body or part.

14 i. A person or entity shall not accept an anatomical gift if the
15 person or entity knows that the gift was not effectively made
16 pursuant to this act or that the decedent made a refusal pursuant to
17 this act that was not revoked. For the purposes of the subsection, if
18 a person or entity knows that an anatomical gift was made on a
19 document of gift, the person or entity shall be deemed to know of
20 any amendment or revocation of the gift or any refusal to make an
21 anatomical gift on the same document of gift.

22 j. Except as otherwise provided in paragraph (2) of subsection a.
23 of this section, nothing in this act shall be construed to affect the
24 allocation of organs for transplantation or therapy.

25
26 11. (New section) a. Upon the request of an organ procurement
27 organization, the following persons shall make a reasonable search
28 of an individual who the person reasonably believes is dead or near
29 death for a document of gift or other information identifying the
30 individual as a donor or as an individual who made a refusal:

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

33 (2) if no other source of the information is immediately
34 available, a hospital, as soon as practical after the individual's
35 arrival at the hospital.

36 b. If a document of gift or a refusal to make an anatomical gift is
37 located by the search required pursuant to subsection a. of this
38 section, the person responsible for conducting the search shall make
39 the document of gift or refusal immediately available to the organ
40 procurement organization.

41 c. A person shall not be subject to criminal or civil liability, but
42 may be subject to administrative sanctions, for a failure to discharge
43 the duties imposed pursuant to this section.

44
45 12. (New section) a. A document of gift need not be delivered
46 during the donor's lifetime to be effective.

47 b. Upon or after an individual's death, a person in possession of
48 a document of gift or a refusal to make an anatomical gift with

1 respect to the individual shall allow examination and copying of the
2 document of gift or refusal by a person authorized to make or object
3 to the making of an anatomical gift with respect to the individual or
4 by a person to whom the gift may pass pursuant to section 10 of this
5 act.

6
7 13. (New section) a. A hospital shall notify an organ
8 procurement organization or a third party designated by that
9 organization of a person whose death is imminent or who has died
10 in the hospital, in a timely manner sufficient to ensure that the
11 examination, evaluation, and ascertainment of donor status as set
12 forth in subsection d. of this section can be completed within a time
13 frame compatible with the donation of organs and tissues for
14 transplant. The notification shall be made without regard to
15 whether the person has executed an advance directive for health
16 care.

17 b. When a hospital refers a person who is dead or near death to
18 an organ procurement organization, the organization shall make a
19 reasonable search of the records of the New Jersey Motor Vehicle
20 Commission and any donor registry that it knows exists for the
21 geographical area in which the person resides in order to ascertain
22 whether the person has made an anatomical gift.

23 c. (1) If the patient has a validly executed donor card, donor
24 designation on a driver's license, advance directive for health care,
25 will, other document of gift, or registration with a Statewide organ
26 and tissue donor registry, the procurement organization
27 representative or the designated requester shall attempt to notify a
28 person listed in section 9 of this act of the gift. If no document of
29 gift is known to the procurement organization representative or the
30 designated requester, one of those two individuals shall ask the
31 persons listed in section 9 of this act whether the decedent had a
32 validly executed document of gift. If there is no evidence of an
33 anatomical gift or actual notice of contrary indications by the
34 decedent, the procurement organization representative or the
35 designated requester shall attempt to notify a person listed in
36 section 9 of this act of the option to donate organs or tissues.

37 (2) The person in charge of the hospital or that person's
38 designated representative shall indicate in the medical record of the
39 decedent whether or not a document of gift is known to exist, or
40 otherwise whether consent was granted, the name of the person
41 granting or refusing the consent, and that person's relationship to
42 the decedent.

43 d. When a hospital refers an individual who is dead or near
44 death to a procurement organization, the organization may conduct
45 any test or examination that is reasonably necessary to evaluate the
46 medical suitability of a part that is or may be the subject of an
47 anatomical gift for transplantation, therapy, research, or education
48 from a donor or a prospective donor. The hospital shall not

1 withdraw any measures that are necessary to maintain the medical
2 suitability of the part until the procurement organization has had the
3 opportunity to advise the applicable persons as set forth in section 9
4 of this act of the option to make an anatomical gift or has
5 ascertained that the individual expressed a contrary intent.

6 e. At any time after a donor's death, the person to whom an
7 anatomical gift may pass pursuant to section 10 of this act may
8 conduct any test or examination that is reasonably necessary to
9 evaluate the medical suitability of the body or part for its intended
10 purpose.

11 f. An examination conducted pursuant to this section may
12 include an examination of all medical and dental records of the
13 donor or prospective donor.

14 g. Upon the death of a minor who was a donor or had signed a
15 refusal, the procurement organization shall, unless it knows the
16 minor is emancipated, conduct a reasonable search for the parents
17 of the minor and provide the parents with an opportunity to revoke
18 or amend the anatomical gift or revoke the refusal.

19 h. Subject to the provisions of this act, the rights of a person or
20 entity to whom a part passes pursuant to section 10 of this act shall
21 be superior to the rights of all others with respect to that part. The
22 person or entity may accept or reject an anatomical gift in whole or
23 in part. Subject to the terms of the document of gift and the
24 provisions of this act, a person or entity who accepts an anatomical
25 gift of an entire body may allow embalming, burial or cremation,
26 and the use of remains in a funeral service. If the gift is of a part,
27 the person or entity to which the part passes pursuant to section 10
28 of this act, upon the death of the donor and before embalming,
29 burial or cremation, shall cause the part to be removed without
30 unnecessary mutilation.

31 i. Neither the physician or registered professional nurse who
32 attends the decedent at death nor the physician or registered
33 professional nurse who determines the time of the decedent's death
34 may participate in the procedures for removing or transplanting a
35 part from the decedent.

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

39 k. Each hospital or other licensed health care facility in this
40 State shall be authorized to enter into such agreements or
41 affiliations with procurement organizations as are necessary for the
42 coordination of procurement and use of anatomical gifts.

43
44 14. (New section) A person who seeks to facilitate the making
45 of an anatomical gift, for the purposes of transplantation or therapy,
46 from a decedent who was not a hospital patient at the time of death
47 shall notify the procurement organization at or around the time of
48 the person's death in order to allow the organization to at least

1 initially evaluate the potential donation and coordinate the donation
2 process, as applicable.

3

4 15. (New section) a. A person or entity shall be immune from
5 liability for actions taken in accordance with, or in a good faith
6 attempt to act in accordance with, the provisions of this act or the
7 applicable anatomical gift law of another state.

8 b. Neither the person making an anatomical gift nor the donor's
9 estate shall be liable for any injury or damage that results from the
10 making or use of the gift.

11 c. In determining whether an anatomical gift has been made,
12 amended, or revoked pursuant to this act, a person or entity shall
13 rely upon representations made by an individual as specified in
14 section 9 of this act relating to the individual's relationship to the
15 donor or prospective donor unless the person knows that the
16 representation is untrue.

17

18 16. (New section) a. A document of gift shall be valid if
19 executed in accordance with:

20 (1) the provisions of this act;

21 (2) the laws of the state or country in which it is executed; or

22 (3) the laws of the state or country in which the person making
23 the anatomical gift is domiciled, has a place of residence, or is a
24 citizen at the time that the document of gift is executed.

25 b. The law of this State shall govern the interpretation of a valid
26 document of gift to which the provisions of this act apply.

27 c. A person shall presume that a document of gift or amendment
28 of an anatomical gift is valid unless the person knows that it was
29 not validly executed or was revoked.

30

31 17. (New section) a. If a hospital patient who is a prospective
32 donor has executed an advance directive for health care, or has
33 otherwise specified by record the circumstances under which the
34 patient would want life support to be withheld or withdrawn from
35 that person, and the terms of the advance directive or other record
36 are in conflict with the option of making an anatomical gift by
37 precluding the administration of measures necessary to ensure the
38 medical suitability of a part for transplantation or therapy:

39 (1) the prospective donor and that donor's attending physician
40 shall seek to mutually resolve the conflict; and

41 (2) if the patient is unable to resolve the conflict, an agent acting
42 pursuant to the patient's advance directive or other record or, if no
43 such agent has been designated by the patient or the agent is not
44 reasonably available, another person authorized by law other than
45 this act to make decisions on behalf of the patient with regard to the
46 patient's health care shall act for the patient to resolve the conflict.

1 b. The parties specified in subsection a. of this section shall seek
2 to resolve the conflict as set forth therein as expeditiously as
3 possible.

4 c. Information relevant to the resolution of the conflict may be
5 obtained from the appropriate procurement organization and any
6 other person authorized to make an anatomical gift for the patient
7 pursuant to section 9 of this act.

8 d. Measures necessary to ensure the medical suitability of the
9 part shall not be withheld or withdrawn from the patient prior to
10 resolution of the conflict if the withholding or withdrawing is not
11 contraindicated by the requirements of providing appropriate end-
12 of-life care.

13

14 18. (New section) a. Each medical examiner shall cooperate
15 with any procurement organization to maximize the opportunity to
16 recover anatomical gifts for the purpose of transplantation, therapy,
17 research, or education.

18 b. A part shall not be removed from the body of a decedent
19 under a medical examiner's jurisdiction for transplantation, therapy,
20 research, or education, nor delivered to a person for research or
21 education, unless the part is the subject of an anatomical gift. The
22 provisions of this section shall not be construed to preclude a
23 medical examiner from performing an investigation as provided in
24 P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the
25 medical examiner's jurisdiction.

26 c. Upon the request of a procurement organization, the medical
27 examiner shall release to the procurement organization the name,
28 contact information, and available medical and social history of a
29 decedent whose body is under the medical examiner's jurisdiction.
30 If the decedent's body or part is medically suitable for
31 transplantation, therapy, research, or education, the medical
32 examiner shall release the post-mortem examination results to the
33 procurement organization. The procurement organization shall
34 make a subsequent disclosure of the post-mortem examination
35 results or other information received from the medical examiner
36 only if relevant to transplantation, therapy, research, or education.

37

38 19. (New section) In applying and construing this uniform act,
39 consideration shall be given to the need to promote uniformity of
40 the law with respect to its subject matter among the states that enact
41 it.

42

43 20. (New section) This act shall be deemed to modify, limit,
44 and supersede the Electronic Signatures in Global and National
45 Commerce Act, 15 U.S.C. s.7001 et seq., but not to modify, limit,
46 or supersede Section 101(a) of that act, 15 U.S.C. s.7001(a), or to
47 authorize electronic delivery of any of the notices described in
48 Section 103(b) of that act, 15 U.S.C. s.7003(b).

1 21. N.J.S.2C:20-2 is amended to read as follows:

2 2C:20-2. a. Consolidation of Theft and Computer Criminal
3 Activity Offenses. Conduct denominated theft or computer
4 criminal activity in this chapter constitutes a single offense, but
5 each episode or transaction may be the subject of a separate
6 prosecution and conviction. A charge of theft or computer criminal
7 activity may be supported by evidence that it was committed in any
8 manner that would be theft or computer criminal activity under this
9 chapter, notwithstanding the specification of a different manner in
10 the indictment or accusation, subject only to the power of the court
11 to ensure fair trial by granting a bill of particulars, discovery, a
12 continuance, or other appropriate relief where the conduct of the
13 defense would be prejudiced by lack of fair notice or by surprise.

14 b. Grading of theft offenses.

15 (1) Theft constitutes a crime of the second degree if:

16 (a) The amount involved is \$75,000.00 or more;

17 (b) The property is taken by extortion;

18 (c) The property stolen is a controlled dangerous substance or
19 controlled substance analog as defined in N.J.S.2C:35-2 and the
20 quantity is in excess of one kilogram;

21 (d) The property stolen is a person's benefits under federal or
22 State law, or from any other source, which the Department of
23 Human Services or an agency acting on its behalf has budgeted for
24 the person's health care and the amount involved is \$75,000.00 or
25 more; or

26 (e) The property stolen is human remains or any part thereof;
27 except that, if the human remains are stolen by deception or
28 falsification of a document by which a gift of all or part of a human
29 body may be made pursuant to 【P.L.1969, c.161 (C.26:6-57 et
30 seq.)】 P.L. , c. (C.)(pending before the Legislature as this bill),
31 the theft constitutes a crime of the first degree.

32 (2) Theft constitutes a crime of the third degree if:

33 (a) The amount involved exceeds \$500.00 but is less than
34 \$75,000.00;

35 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
36 horse, domestic companion animal or airplane;

37 (c) The property stolen is a controlled dangerous substance or
38 controlled substance analog as defined in N.J.S.2C:35-2 and the
39 amount involved is less than \$75,000.00 or is undetermined and the
40 quantity is one kilogram or less;

41 (d) It is from the person of the victim;

42 (e) It is in breach of an obligation by a person in his capacity as
43 a fiduciary;

44 (f) It is by threat not amounting to extortion;

45 (g) It is of a public record, writing or instrument kept, filed or
46 deposited according to law with or in the keeping of any public
47 office or public servant;

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- 1 (h) The property stolen is a person's benefits under federal or
2 State law, or from any other source, which the Department of
3 Human Services or an agency acting on its behalf has budgeted for
4 the person's health care and the amount involved is less than
5 \$75,000.00;
- 6 (i) The property stolen is any real or personal property related
7 to, necessary for, or derived from research, regardless of value,
8 including, but not limited to, any sample, specimens and
9 components thereof, research subject, including any warm-blooded
10 or cold-blooded animals being used for research or intended for use
11 in research, supplies, records, data or test results, prototypes or
12 equipment, as well as any proprietary information or other type of
13 information related to research;
- 14 (j) The property stolen is a New Jersey Prescription Blank as
15 referred to in R.S.45:14-14;
- 16 (k) The property stolen consists of an access device or a defaced
17 access device; or
- 18 (l) The property stolen consists of anhydrous ammonia and the
19 actor intends it to be used to manufacture methamphetamine.
- 20 (3) Theft constitutes a crime of the fourth degree if the amount
21 involved is at least \$200.00 but does not exceed \$500.00. If the
22 amount involved was less than \$200.00 the offense constitutes a
23 disorderly persons offense.
- 24 (4) The amount involved in a theft or computer criminal activity
25 shall be determined by the trier of fact. The amount shall include,
26 but shall not be limited to, the amount of any State tax avoided,
27 evaded or otherwise unpaid, improperly retained or disposed of.
28 Amounts involved in thefts or computer criminal activities
29 committed pursuant to one scheme or course of conduct, whether
30 from the same person or several persons, may be aggregated in
31 determining the grade of the offense.
- 32 c. Claim of right. It is an affirmative defense to prosecution
33 for theft that the actor:
- 34 (1) Was unaware that the property or service was that of
35 another;
- 36 (2) Acted under an honest claim of right to the property or
37 service involved or that he had a right to acquire or dispose of it as
38 he did; or
- 39 (3) Took property exposed for sale, intending to purchase and
40 pay for it promptly, or reasonably believing that the owner, if
41 present, would have consented.
- 42 d. Theft from spouse. It is no defense that theft or computer
43 criminal activity was from or committed against the actor's spouse,
44 except that misappropriation of household and personal effects, or
45 other property normally accessible to both spouses, is theft or
46 computer criminal activity only if it occurs after the parties have
47 ceased living together.
- 48 (cf: P.L.2007, c.36, s.2)

1 22. Section 1 of P.L.2007, c.36 (C.2C:22-2) is amended to read
2 as follows:

3 1. a. A person who knowingly, for valuable consideration,
4 purchases or sells a part for transplantation or therapy, if removal of
5 a part from a donor is intended to occur after the donor's death, is
6 guilty of a crime of the third degree and, notwithstanding the
7 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
8 than \$50,000, as well as the term of imprisonment provided under
9 N.J.S.2C:43-6, or both.

10 Nothing in this subsection shall be construed to prohibit a person
11 from charging a reasonable amount for the removal, processing,
12 disposal, preservation, quality control, storage, transportation, or
13 implantation of a part.

14 b. A person who intentionally falsifies, forges, conceals,
15 defaces, or obliterates a document by which a gift of all or part of a
16 human body may be made pursuant to [P.L.1969, c.161 (C.26:6-57
17 et seq.)] P.L. , c. (C.)(pending before the Legislature as this
18 bill), an amendment or revocation of such a document, or any death
19 record or document of medical or social history pertaining to the
20 body or part of the donor, or a refusal to make a gift, in order to
21 obtain a financial benefit or gain, is guilty of a crime of the second
22 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
23 be subject to a fine of not more than \$50,000, as well as the term of
24 imprisonment provided under N.J.S.2C:43-6, or both.

25 c. As used in this section, the terms "decedent," "donor," "part,"
26 and "person" have the meaning ascribed to them in section [1 of
27 P.L.1969, c.161 (C.26:6-57)] 2 of P.L. , c. (C.)(pending before
28 the Legislature as this bill).

29 (cf: P.L.2007, c.36, s.1)

30

31 23. Section 6 of P.L.1995, c.257 (C.26:6-58.5) is amended to
32 read as follows:

33 6. A **[transplant recovery specialist] technician as defined in**
34 **section 2 of P.L. , c. (C.) (pending before the Legislature as this**
35 **bill)** may recover a human body part for any purpose specified in
36 **[section 3 of P.L.1969, c.161 (C.26:6-59)] P.L. , c. (C.)**
37 **(pending before the Legislature as this bill)**. A physician shall not
38 be required to be present during the recovery procedure. Nothing in
39 this section shall be construed to limit a physician or other person
40 authorized by law to recover human body parts pursuant to law.

41 (cf: P.L.1995, c.257, s.6)

42

43 24. R.S.39:3-10 is amended to read as follows:

44 39:3-10. No person shall drive a motor vehicle on a public
45 highway in this State unless the person is under supervision while
46 participating in a behind-the-wheel driving course pursuant to
47 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a

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1 validated permit, or a provisional or basic driver's license issued to
2 him in accordance with this article.

3 No person under 18 years of age shall be issued a basic license to
4 drive motor vehicles, nor shall a person be issued a validated
5 permit, including a validated examination permit, until he has
6 passed a satisfactory examination and other requirements as to his
7 ability as an operator. The examination shall include a test of the
8 applicant's vision, his ability to understand traffic control devices,
9 his knowledge of safe driving practices and of the effects that
10 ingestion of alcohol or drugs has on a person's ability to operate a
11 motor vehicle, his knowledge of such portions of the mechanism of
12 motor vehicles as is necessary to insure the safe operation of a
13 vehicle of the kind or kinds indicated by the applicant and of the
14 laws and ordinary usages of the road. No person shall sit for an
15 examination for any permit without exhibiting photo identification
16 deemed acceptable by the commission, unless that person is a high
17 school student participating in a course of driving education
18 approved by the State Department of Education and conducted in a
19 public, parochial or private school of this State, pursuant to section
20 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the
21 written law knowledge examination for any person 18 years of age
22 or older possessing a valid driver's license issued by any other state,
23 the District of Columbia or the United States Territories of
24 American Samoa, Guam, Puerto Rico or the Virgin Islands. The
25 commission shall be required to provide that person with a booklet
26 that highlights those motor vehicle laws unique to New Jersey. A
27 road test shall be required for a provisional license and serve as a
28 demonstration of the applicant's ability to operate a vehicle of the
29 class designated. No person shall sit for a road test unless that
30 person exhibits photo identification deemed acceptable by the
31 commission. A high school student who has completed a course of
32 behind-the-wheel automobile driving education approved by the
33 State Department of Education and conducted in a public, parochial
34 or private school of this State, who has been issued a special
35 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-
36 13.1) prior to January 1, 2003, shall not be required to exhibit photo
37 identification in order to sit for a road test. The commission may
38 waive the road test for any person 18 years of age or older
39 possessing a valid driver's license issued by any other state, the
40 District of Columbia or the United States Territories of American
41 Samoa, Guam, Puerto Rico or the Virgin Islands. The road test
42 shall be given on public streets, where practicable and feasible, but
43 may be preceded by an off-street screening process to assess basic
44 skills. The commission shall approve locations for the road test
45 which pose no more than a minimal risk of injury to the applicant,
46 the examiner and other motorists. No new locations for the road
47 test shall be approved unless the test can be given on public streets.

1 The commission shall issue a basic driver's license to operate a
2 motor vehicle other than a motorcycle to a person over 18 years of
3 age who previously has not been licensed to drive a motor vehicle
4 in this State or another jurisdiction only if that person has: (1)
5 operated a passenger automobile in compliance with the
6 requirements of this title for not less than one year, not including
7 any period of suspension or postponement, from the date of
8 issuance of a provisional license pursuant to section 4 of P.L.1950,
9 c.127 (C.39:3-13.4); (2) not been assessed more than two motor
10 vehicle points; (3) not been convicted in the previous year for a
11 violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-
12 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-
13 5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-
14 related violation the commission determines to be significant and
15 applicable pursuant to regulation; and (4) passed an examination of
16 his ability to operate a motor vehicle pursuant to this section.

17 The commission shall expand the driver's license examination by
18 20%. The additional questions to be added shall consist solely of
19 questions developed in conjunction with the State Department of
20 Health and Senior Services concerning the use of alcohol or drugs
21 as related to highway safety. The commission shall develop in
22 conjunction with the State Department of Health and Senior
23 Services supplements to the driver's manual which shall include
24 information necessary to answer any question on the driver's license
25 examination concerning alcohol or drugs as related to highway
26 safety.

27 Up to 20 questions may be added to the examination on subjects
28 to be determined by the commission that are of particular relevance
29 to youthful drivers, after consultation with the Director of the
30 Office of Highway Traffic Safety.

31 The commission shall expand the driver's license examination to
32 include a question asking whether the applicant is aware of the
33 provisions of the ["Uniform Anatomical Gift Act," P.L.1969, c.161
34 (C.26:6-57 et seq.)] "Revised Uniform Anatomical Gift Act,"
35 P.L. , c. (C.)(pending before the Legislature as this bill) and
36 the procedure for indicating on the driver's license the intention to
37 make a donation of body organs or tissues pursuant to P.L.1978,
38 c.181 (C.39:3-12.2).

39 Any person applying for a driver's license to operate a motor
40 vehicle or motorized bicycle in this State shall surrender to the
41 commission any current driver's license issued to him by another
42 state or jurisdiction upon his receipt of a driver's license for this
43 State. The commission shall refuse to issue a driver's license if the
44 applicant fails to comply with this provision. An applicant for a
45 permit or license who is less than 18 years of age, and who holds a
46 permit or license for a passenger automobile issued by another state
47 or country that is valid or has expired within a time period
48 designated by the commission, shall be subject to the permit and

1 license requirements and penalties applicable to State permit and
2 license applicants who are of the same age; except that if the other
3 state or country has permit or license standards substantially similar
4 to those of this State, the credentials of the other state or country
5 shall be acceptable.

6 The commission shall create classified licensing of drivers
7 covering the following classifications:

8 a. Motorcycles, except that for the purposes of this section,
9 motorcycle shall not include any three-wheeled motor vehicle
10 equipped with a single cab with glazing enclosing the occupant,
11 seats similar to those of a passenger vehicle or truck, seat belts and
12 automotive steering.

13 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
14 classified under N.J.S.18A:39-1 et seq.

15 c. (Deleted by amendment, P.L.1999, c.28).

16 d. All motor vehicles not included in classifications a. and b. A
17 license issued pursuant to this classification d. shall be referred to
18 as the "basic driver's license."

19 Every applicant for a license under classification b. shall be a
20 holder of a basic driver's license. Any issuance of a license under
21 classification b. shall be by endorsement on the basic driver's
22 license.

23 A driver's license for motorcycles may be issued separately, but
24 if issued to the holder of a basic driver's license, it shall be by
25 endorsement on the basic driver's license.

26 The commission, upon payment of the lawful fee and after it or a
27 person authorized by it has examined the applicant and is satisfied
28 of the applicant's ability as an operator, may, in its discretion, issue
29 a license to the applicant to drive a motor vehicle. The license shall
30 authorize him to drive any registered vehicle, of the kind or kinds
31 indicated, and shall expire, except as otherwise provided, on the last
32 day of the 48th calendar month following the calendar month in
33 which such license was issued.

34 The commission may, at its discretion and for good cause shown,
35 issue licenses which shall expire on a date fixed by it. If the
36 commission issues a license to a person who has demonstrated
37 authorization to be present in the United States for a period of time
38 shorter than the standard period of the license, the commission shall
39 fix the expiration date of the license at a date based on the period in
40 which the person is authorized to be present in the United States
41 under federal immigration laws. The commission may renew such a
42 license only if it is demonstrated that the person's continued
43 presence in the United States is authorized under federal law. The
44 fee for licenses with expiration dates fixed by the commission shall
45 be fixed by the commission in amounts proportionately less or
46 greater than the fee herein established.

47 The required fee for a license for the 48-month period shall be as
48 follows:

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1 Motorcycle license or endorsement: \$18.

2 Omnibus or school bus endorsement: \$18.

3 Basic driver's license: \$18.

4 The commission shall waive the payment of fees for issuance of
5 omnibus endorsements whenever an applicant establishes to the
6 commission's satisfaction that said applicant will use the omnibus
7 endorsement exclusively for operating omnibuses owned by a
8 nonprofit organization duly incorporated under Title 15 or 16 of the
9 Revised Statutes or Title 15A of the New Jersey Statutes.

10 The commission shall issue licenses for the following license
11 period on and after the first day of the calendar month immediately
12 preceding the commencement of such period, such licenses to be
13 effective immediately.

14 All applications for renewals of licenses shall be made in a
15 manner prescribed by the commission and in accordance with
16 procedures established by it.

17 The commission in its discretion may refuse to grant a permit or
18 license to drive motor vehicles to a person who is, in its estimation,
19 not a proper person to be granted such a permit or license, but no
20 defect of the applicant shall debar him from receiving a permit or
21 license unless it can be shown by tests approved by the commission
22 that the defect incapacitates him from safely operating a motor
23 vehicle.

24 In addition to requiring an applicant for a driver's license to
25 submit satisfactory proof of identity and age, the commission also
26 shall require the applicant to provide, as a condition for obtaining a
27 permit and license, satisfactory proof that the applicant's presence
28 in the United States is authorized under federal law.

29 If the commission has reasonable cause to suspect that any
30 document presented by an applicant as proof of identity, age or
31 legal residency is altered, false or otherwise invalid, the
32 commission shall refuse to grant the permit or license until such
33 time as the document may be verified by the issuing agency to the
34 commission's satisfaction.

35 A person violating this section shall be subject to a fine not
36 exceeding \$500 or imprisonment in the county jail for not more
37 than 60 days, but if that person has never been licensed to drive in
38 this State or any other jurisdiction, he shall be subject to a fine of
39 not less than \$200 and, in addition, the court shall issue an order to
40 the commission requiring the commission to refuse to issue a
41 license to operate a motor vehicle to the person for a period of not
42 less than 180 days. The penalties provided for by this paragraph
43 shall not be applicable in cases where failure to have actual
44 possession of the operator's license is due to an administrative or
45 technical error by the commission.

46 Nothing in this section shall be construed to alter or extend the
47 expiration of any license issued prior to the date this amendatory

1 and supplementary act becomes operative.

2 (cf: P.L.2003, c.13, s.37)

3

4 25. Section 1 of P.L.1978, c.181 (C.39:3-12.2) is amended to
5 read as follows:

6 1. a. The Chief Administrator of the New Jersey Motor Vehicle
7 Commission shall provide with every new license, renewal license,
8 identification card or renewal identification card the opportunity for
9 each person pursuant to the provisions of the **["Uniform**
10 **Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et al.)]** "Revised
11 Uniform Anatomical Gift Act," P.L. , c. (C.)(pending before the
12 Legislature as this bill), to designate that the person shall donate all
13 or any **[body]** organs or **[parts]** tissues for the purposes of
14 transplantation~~[,]~~ or therapy~~[,]~~ medical research or education upon
15 his death~~]~~.

16 b. The designation indicating that a person is a donor pursuant
17 to subsection a. of this section shall be done in accordance with
18 procedures prescribed by the chief administrator. The designation
19 shall be displayed in print in a conspicuous form and manner on the
20 license or identification card, and electronically, by substantially
21 the following statement: "ORGAN DONOR" and shall constitute
22 sufficient legal authority for the removal of **[a body organ]** organs
23 or **[part]** tissues for the purposes of transplantation or therapy upon
24 the death of the licensee or identification cardholder. The
25 designation shall be removed in accordance with procedures
26 prescribed by the chief administrator.

27 c. (Deleted by amendment, P.L.1999, c.28).

28 d. (Deleted by amendment, P.L.2007, c.80).

29 e. The chief administrator, in consultation with those organ
30 procurement organizations designated pursuant to 42
31 U.S.C.s.1320b-8 to serve in the State of New Jersey, shall establish
32 and provide an annual education program for agency employees and
33 personnel. The program shall focus on the benefits associated with
34 organ and tissue donations, the scope and operation of New Jersey's
35 donor program, and how the agency's employees and personnel can
36 effectively inform the public about the donor program and can best
37 assist those wishing to participate in the donor program.

38 f. The chief administrator shall electronically record and store
39 all organ donor designations and identification information, and
40 shall provide the organ procurement organizations designated
41 pursuant to 42U.S.C.s.1320b-8 to serve in the State of New Jersey
42 with real-time electronic access to the organ donor designation
43 information collected pursuant to subsection a. of this section. An
44 organ procurement organization designated pursuant to
45 42U.S.C.s.1320b-8 to serve in the State of New Jersey, or any
46 donor registry established by any such organization, shall have real-
47 time electronic access to those organ donor designations and
48 identification at all times, without exception, for the purposes of

1 verifying organ and tissue donation status and identity. For these
2 purposes, the federally designated organ procurement organization
3 shall have electronic access to each recorded donor's name, address,
4 date of birth, gender, color of eyes, height, and driver's license
5 number. Upon request, the chief administrator shall provide a copy
6 of the donor's original driver's license application.

7 g. Those organ procurement organizations designated pursuant
8 to 42U.S.C.s.1320b-8 to serve in the State of New Jersey may
9 contract with a third party, in consultation with the chief
10 administrator, to assess, develop, and implement any system set-up
11 necessary to support the initial and ongoing electronic access by
12 those organizations to the donor designation and identification
13 information required to be made available in accordance with the
14 provisions of this section; however, the organ procurement
15 organizations shall not be required to incur an aggregate cost in
16 excess of \$50,000 for the purposes of this subsection.

17 (cf: P.L.2007, c.80, s.1)

18

19 26. R.S.39:3-41 is amended to read as follows:

20 39:3-41. a. At the time of the issuance of an examination permit
21 or a special learner's permit to operate a motor vehicle, the director
22 shall make available to each applicant for the examination permit or
23 special learner's permit a driver's manual containing information
24 required to be known and followed by licensed drivers relating to
25 licensing requirements.

26 b. At the time of any required examination for renewal of a
27 driver's license, the director shall upon request make available to
28 each applicant for renewal a copy of the manual and any
29 supplements thereto.

30 c. The driver's manual and any supplements thereto or any other
31 booklet or writing prepared in connection with examinations for
32 drivers' licenses or for renewals of drivers' licenses shall contain all
33 information necessary to answer any question on an examination for
34 a driver's license or for a renewal of a driver's license.

35 d. The director, following consultation with the **[New Jersey**
36 **Organ and Tissue Sharing Network]** organ procurement
37 organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve
38 in the State of New Jersey, shall include in the driver's manual
39 information explaining the provisions of the **["Uniform Anatomical**
40 **Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.)]** "Revised Uniform
41 Anatomical Gift Act," P.L. , c. (C.)(pending before the
42 Legislature as this bill), the beneficial uses of donated **[body]**
43 organs and tissues, and the procedure for indicating on the driver's
44 license the intention to make such a donation pursuant to P.L.1978,
45 c.181 (C.39:3-12.2). The director may distribute all remaining
46 copies of the existing driver's manual before reprinting the manual
47 with the information required pursuant to this subsection.

48 (cf: P.L.1992, c.110, s.2)

- 1 • A person may make an anatomical gift and thereby become a
2 donor:
- 3 -- by authorizing a statement or symbol indicating that the donor
4 has made an anatomical gift to be imprinted on the donor's driver's
5 license or identification card;
- 6 -- in a will;
- 7 -- during a terminal illness or injury of the donor, by any form
8 of communication addressed to at least two adults, at least one of
9 whom shall be a disinterested witness; or
- 10 -- by a donor card or other record signed by the donor or other
11 person making the gift or by authorizing that a statement or symbol
12 indicating that the donor has made an anatomical gift be included
13 on a donor registry.
- 14 • A donor or other person authorized to make an anatomical gift
15 pursuant to the bill may amend or revoke an anatomical gift by:
- 16 -- a record signed by the donor or other authorized person, or
17 another individual acting at the direction of the donor or the other
18 person if the donor or other person is physically unable to sign; or
- 19 -- a later-executed document of gift that amends or revokes a
20 previous anatomical gift or portion of an anatomical gift, either
21 expressly or by inconsistency.
- 22 • A donor or other person authorized to make an anatomical gift
23 may revoke an anatomical gift by the destruction or cancellation
24 of the document of gift, or the portion of the document of gift
25 used to make the gift, with the intent to revoke the gift.
- 26 • A person may refuse to make an anatomical gift of the person's
27 body or part by:
- 28 -- a record signed by the person or another individual acting at
29 the person's direction if the person is physically unable to sign;
- 30 -- the person's will, whether or not the will is admitted to
31 probate or invalidated after the person's death; or
- 32 -- any form of communication made by the person during the
33 person's terminal illness or injury addressed to at least two adults,
34 at least one of whom is a disinterested witness.
- 35 • A person who has made a refusal may amend or revoke the
36 refusal as specified in the bill.
- 37 • In the event of the death of a donor who is an unemancipated
38 minor, a parent of the donor who is reasonably available may
39 revoke or amend an anatomical gift of the donor's body or part.
40 In the event of the death of an unemancipated minor who has
41 signed a refusal, a parent of the minor who is reasonably
42 available may revoke the minor's refusal.
- 43 • An anatomical gift of a decedent's body or part for the purpose of
44 transplantation, therapy, research, or education may be made by
45 any member of the following classes of persons who is
46 reasonably available, in the order of priority listed:

- 1 -- an agent of the decedent at the time of the decedent's death
- 2 who could have made an anatomical gift immediately before the
- 3 decedent's death pursuant to the bill;
- 4 -- the spouse, civil union partner, or domestic partner of the
- 5 decedent;
- 6 -- an adult child of the decedent;
- 7 -- either parent of the decedent;
- 8 -- an adult sibling of the decedent;
- 9 -- an adult grandchild of the decedent;
- 10 -- a grandparent of the decedent;
- 11 -- another adult who is related to the decedent by blood,
- 12 marriage, or adoption, or exhibited special care and concern for the
- 13 decedent;
- 14 -- a person who was acting as the guardian of the person of the
- 15 decedent at the time of the decedent's death; and
- 16 -- any other person having the authority to dispose of the
- 17 decedent's body, including the administrator of a hospital in which
- 18 the decedent was a patient or resident immediately preceding death.
- 19 • If there is more than one member of a class as specified above
- 20 who is entitled to make an anatomical gift, a member of the class
- 21 may make an anatomical gift unless that member or a person to
- 22 whom the gift may pass pursuant to the bill knows of an objection
- 23 by another member of the class. If an objection is known, the gift
- 24 is to be made only by a majority of the members of the class who
- 25 are reasonably available.
- 26 • A person may not make an anatomical gift if, at the time of the
- 27 decedent's death, a person in a prior class is reasonably available
- 28 to make or object to the making of an anatomical gift.
- 29 • An anatomical gift may be made to the following persons or
- 30 entities named in the document of gift:
- 31 -- a hospital; accredited medical school, dental school, college,
- 32 or university; organ procurement organization; or other appropriate
- 33 person, for research or education;
- 34 -- an individual designated by the person making the anatomical
- 35 gift if the individual is the recipient of the part; or
- 36 -- an eye bank or tissue bank.
- 37 • If an anatomical gift to an individual cannot be transplanted into
- 38 the individual, the part shall pass in accordance with the bill in
- 39 the absence of an express, contrary indication by the person
- 40 making the anatomical gift.
- 41 • If an anatomical gift of one or more specific parts or all parts is
- 42 made in a document of gift that does not name a person or entity
- 43 as described in the bill but identifies the purpose for which an
- 44 anatomical gift may be used, the following rules are to apply:
- 45 -- If the part is an eye and the gift is for the purpose of
- 46 transplantation or therapy, the gift passes to the appropriate eye
- 47 bank;

- 1 -- If the part is tissue and the gift is for the purpose of
2 transplantation or therapy, the gift passes to the appropriate tissue
3 bank;
- 4 -- If the part is an organ and the gift is for the purpose of
5 transplantation or therapy, the gift passes to the appropriate organ
6 procurement organization as custodian of the organ; and
- 7 -- If the part is an organ, eye, or tissue and the gift is for the
8 purpose of research or education, the gift passes to the appropriate
9 procurement organization.
- 10 • If there is more than one purpose of an anatomical gift set forth in
11 the document of gift but the purposes are not set forth in any
12 priority, the gift is to be used for transplantation or therapy, if
13 suitable. If the gift cannot be used for transplantation or therapy,
14 the gift may be used for research or education.
- 15 • Upon the request of an organ procurement organization, the
16 following persons are to make a reasonable search of an
17 individual who the person reasonably believes is dead or near
18 death for a document of gift or other information identifying the
19 individual as a donor or as an individual who made a refusal:
- 20 -- a law enforcement officer, firefighter, paramedic, or other
21 emergency rescuer finding the individual; and
- 22 -- if no other source of the information is immediately available,
23 a hospital, as soon as practical after the individual's arrival at the
24 hospital.
- 25 • A document of gift need not be delivered during the donor's
26 lifetime to be effective.
- 27 • A hospital is to notify an organ procurement organization or a
28 third party designated by that organization of a person whose
29 death is imminent or who has died in the hospital, in a timely
30 manner sufficient to ensure that the examination, evaluation, and
31 ascertainment of donor status as set forth in the bill can be
32 completed within a time frame compatible with the donation of
33 organs and tissues for transplant.
- 34 • When a hospital refers an individual who is dead or near death to
35 an organ procurement organization, the organization is to make a
36 reasonable search of the records of the New Jersey Motor Vehicle
37 Commission and any donor registry that it knows exists for the
38 geographical area in which the individual resides in order to
39 ascertain whether the individual has made an anatomical gift.
- 40 • When a hospital refers an individual who is dead or near death to
41 a procurement organization, the organization may conduct any
42 test or examination that is reasonably necessary to evaluate the
43 medical suitability of a part that is or may be the subject of an
44 anatomical gift. During the examination period, the hospital is
45 not to withdraw any measures that are necessary to maintain the
46 medical suitability of the part until the procurement organization
47 has had the opportunity to advise the applicable persons as set

- 1 forth in this bill of the option to make an anatomical gift or has
2 ascertained that the individual expressed a contrary intent.
- 3 • At any time after a donor's death, the person to whom an
4 anatomical gift may pass pursuant to the bill may conduct any test
5 or examination that is reasonably necessary to evaluate the
6 medical suitability of the body or part for its intended purpose.
 - 7 • The rights of a person or entity to whom a part passes pursuant to
8 the bill are superior to the rights of all others with respect to that
9 part. The person or entity may accept or reject an anatomical gift
10 in whole or in part.
 - 11 • Neither the physician or registered professional nurse who attends
12 the decedent at death nor the physician who determines the time
13 of the decedent's death may participate in the procedures for
14 removing or transplanting a part from the decedent.
 - 15 • Each hospital or other licensed health care facility in this State is
16 authorized to enter into such agreements or affiliations with
17 procurement organizations as are necessary for the coordination
18 of procurement and use of anatomical gifts.
 - 19 • A person who seeks to facilitate the making of an anatomical gift,
20 for the purposes of transplantation or therapy, from a decedent
21 who was not a hospital patient at the time of death is to notify the
22 procurement organization at or around the time of the person's
23 death in order to allow the organization to at least initially
24 evaluate the potential donation and coordinate the donation
25 process, as applicable.
 - 26 • A person or entity is immune from liability for actions taken in
27 accordance with, or in a good faith attempt to act in accordance
28 with, the provisions of the bill or the applicable anatomical gift
29 law of another state. Neither the person making an anatomical
30 gift nor the donor's estate is liable for any injury or damage that
31 results from the making or use of the gift.
 - 32 • A document of gift is valid if executed in accordance with:
 - 33 -- the provisions of the bill;
 - 34 -- the laws of the state or country in which it is executed; or
 - 35 -- the laws of the state or country in which the person making
36 the anatomical gift is domiciled, has a place of residence, or is a
37 citizen at the time that the document of gift is executed.
 - 38 • A person or entity is to presume that a document of gift or
39 amendment of an anatomical gift is valid unless the person knows
40 that it was not validly executed or was revoked.
 - 41 • If a hospital patient who is a prospective donor has executed an
42 advance directive for health care, or has otherwise specified by
43 record the circumstances under which the patient would want life
44 support to be withheld or withdrawn from that person, and the
45 terms of the advance directive or other record are in conflict with
46 the option of making an anatomical gift by precluding the
47 administration of measures necessary to ensure the medical
48 suitability of a part for transplantation or therapy:

- 1 -- the prospective donor and that donor's attending physician are
2 to seek to mutually resolve the conflict; and
- 3 -- if the patient is unable to resolve the conflict, an agent acting
4 pursuant to the patient's advance directive or other record or, if no
5 such agent has been designated by the patient or the agent is not
6 reasonably available, another person authorized by another law to
7 make decisions on behalf of the patient with regard to the patient's
8 health care is to act for the patient to resolve the conflict.
- 9 • Each medical examiner is to cooperate with any procurement
10 organization to maximize the opportunity to recover anatomical
11 gifts for the purpose of transplantation, therapy, research, or
12 education.
- 13 -- A part is not to be removed from the body of a decedent under
14 a medical examiner's jurisdiction for transplantation, therapy,
15 research, or education, nor delivered to a person for research or
16 education, unless the part is the subject of an anatomical gift.
- 17 -- The provisions of the bill are not to be construed to preclude a
18 medical examiner from performing an investigation as provided in
19 P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the
20 medical examiner's jurisdiction.
- 21 -- Upon the request of a procurement organization, the medical
22 examiner is to release to the procurement organization the name,
23 contact information, and available medical and social history of a
24 decedent whose body is under the medical examiner's jurisdiction.
- 25 -- If the decedent's body or part is medically suitable for
26 transplantation, therapy, research, or education, the medical
27 examiner is to release the post-mortem examination results to the
28 procurement organization.
- 29 • Finally, the bill amends various statutes to delete references to the
30 "Uniform Anatomical Gift Act" and replace them with references
31 to this bill.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 754

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 754.

This bill, which is designated the "Revised Uniform Anatomical Gift Act," represents a revised version of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), which this bill is intended to replace.

The bill repeals P.L.1969, c.161, as well as P.L.1987, c.244 (C.26:6-58.1 et seq.) (concerning hospital procedures applicable to the making of anatomical gifts), as the provisions of both laws have been incorporated into or are otherwise obviated by this bill.

The bill provides specifically as follows:

- 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 the bill by:
 - the donor, if the donor is an adult, or if the donor is a minor and is emancipated or is authorized under State law to apply for a driver's license;
 - an agent (such as a health care representative) of the donor, unless the advance directive for health care or other record prohibits the agent from making an anatomical gift;
 - a parent of the donor, if the donor is an unemancipated minor; or
 - the donor's guardian.
- A person may make an anatomical gift and thereby become a donor:
 - 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;
 - in a will;
 - during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom shall be a disinterested witness; or
 - 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.

- A donor or other person authorized to make an anatomical gift pursuant to the bill may amend or revoke an anatomical gift by:
 - a record signed by the donor or other authorized person, or 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
 - a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- A donor or other person authorized to make an anatomical gift 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.
- A person may refuse to make an anatomical gift of the person's body or part by:
 - a record signed by the person or another individual acting at the person's direction if the person is physically unable to sign;
 - the person's will, whether or not the will is admitted to probate or invalidated after the person's death; or
 - any form of communication made by the person during the person's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- A person who has made a refusal may amend or revoke the refusal as specified in the bill.
- In the event of the death of a donor who is an unemancipated minor, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part. In the event of the death of an unemancipated minor who has signed a refusal, a parent of the minor who is reasonably available may revoke the minor's refusal.
- An anatomical gift of a decedent's body or part for the 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:
 - an agent of the decedent at the time of the decedent's death who could have made an anatomical gift immediately before the decedent's death pursuant to the bill;
 - the spouse, civil union partner, or domestic partner of the decedent;
 - an adult child of the decedent;
 - either parent of the decedent;
 - an adult sibling of the decedent;
 - another adult who is related to the decedent by blood, marriage, or adoption, or exhibited special care and concern for the decedent;
 - a person who was acting as the guardian of the person of the decedent at the time of the decedent's death; and
 - any other person having the authority to dispose of the decedent's body, including the administrator of a hospital in which the decedent

was a patient or resident immediately preceding death. In the absence of actual notice of contrary indication by the decedent, the administrator shall make an anatomical gift of a decedent's body or part.

- If there is more than one member of a class as specified above who is entitled to make an anatomical gift, a member of the class may make an anatomical gift unless that member or a person to whom the gift may pass pursuant to the bill knows of an objection by another member of the class. If an objection is known, the gift is to be made only by a majority of the members of the class who are reasonably available.
- A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class is reasonably available to make or object to the making of an anatomical gift.
- An anatomical gift may be made to the following persons or entities named in the document of gift:
 - a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;
 - an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or
 - an eye bank or tissue bank.
- If an anatomical gift to an individual cannot be transplanted into the individual, the part shall pass in accordance with the bill in the absence of an express, contrary indication by the person making the anatomical gift.
- If an anatomical gift of one or more specific parts or all parts is made in a document of gift that does not name a person or entity as described in the bill and does not identify the purpose of the gift, the gift shall be used only for transplantation or therapy in accordance with the following rules:
 - If the part is an eye, the gift passes to the appropriate eye bank;
 - If the part is tissue, the gift passes to the appropriate tissue bank;
 - and
 - If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- 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 is to 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.
- Upon the request of an organ procurement organization, the following persons are to make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

-- a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

-- if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

- A document of gift need not be delivered during the donor's lifetime to be effective.
- A hospital is to notify an organ procurement organization or a third party designated by that organization of a person whose death is imminent or who has died in the hospital, in a timely manner sufficient to ensure that the examination, evaluation, and ascertainment of donor status as set forth in the bill can be completed within a time frame compatible with the donation of organs and tissues for transplant.
- When a hospital refers an individual who is dead or near death to an organ procurement organization, the organization is to make a reasonable search of the records of the New Jersey Motor Vehicle Commission and any donor registry that it knows exists for the geographical area in which the individual resides in order to ascertain whether the individual has made an anatomical gift.
- When a hospital refers an individual who is dead or near death to a procurement organization, the organization may conduct any test or examination that is reasonably necessary to evaluate the medical suitability of a part that is or may be the subject of an anatomical gift. During the examination period, the hospital is not to withdraw any measures that are necessary to maintain the medical suitability of the part until the procurement organization has had the opportunity to advise the applicable persons as set forth in this bill of the option to make an anatomical gift or has ascertained that the individual expressed a contrary intent.
- At any time after a donor's death, the person to whom an anatomical gift may pass pursuant to the bill may conduct any test or examination that is reasonably necessary to evaluate the medical suitability of the body or part for its intended purpose.
- The rights of a person or entity to whom a part passes pursuant to the bill are superior to the rights of all others with respect to that part. The person or entity may accept or reject an anatomical gift in whole or in part.
- Neither the physician or registered professional nurse who attends the decedent at death nor the physician or nurse who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
- Each hospital or other licensed health care facility in this State is authorized to enter into such agreements or affiliations with procurement organizations as are necessary for the coordination of procurement and use of anatomical gifts.

- A person who seeks to facilitate the making of an anatomical gift, for the purposes of transplantation or therapy, from a decedent who was not a hospital patient at the time of death is to notify the procurement organization at or around the time of the person's death in order to allow the organization to at least initially evaluate the potential donation and coordinate the donation process, as applicable.
- A person or entity is immune from liability for actions taken in accordance with, or in a good faith attempt to act in accordance with, the provisions of the bill or the applicable anatomical gift law of another state. 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.
- A document of gift is valid if executed in accordance with:
 - the provisions of the bill;
 - the laws of the state or country in which it is executed; or
 - the laws of the state or country in which the person making the anatomical gift is domiciled, has a place of residence, or is a citizen at the time that the document of gift is executed.
- A person or entity is to presume that a document of gift or amendment of an anatomical gift is valid unless the person knows that it was not validly executed or was revoked.
- If a hospital patient who is a prospective donor has executed an advance directive for health care, or has otherwise specified by record the circumstances under which the patient would want life support to be withheld or withdrawn from that person, and the terms of the advance directive or other record are in conflict with the option of making an anatomical gift by precluding the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:
 - the prospective donor and that donor's attending physician are to seek to mutually resolve the conflict; and
 - if the patient is unable to resolve the conflict, an agent acting pursuant to the patient's advance directive or other record or, if no such agent has been designated by the patient or the agent is not reasonably available, another person authorized by another law to make decisions on behalf of the patient with regard to the patient's health care is to act for the patient to resolve the conflict.
- Each medical examiner is to cooperate with any procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.
 - A part is not to be removed from the body of a decedent under a medical examiner's jurisdiction for transplantation, therapy, research, or education, nor delivered to a person for research or education, unless the part is the subject of an anatomical gift.
 - The provisions of the bill are not to be construed to preclude a medical examiner from performing an investigation as provided in

P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the medical examiner's jurisdiction.

-- Upon the request of a procurement organization, the medical examiner is to release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the medical examiner's jurisdiction.

-- If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner is to release the post-mortem examination results to the procurement organization.

- Finally, the bill amends various statutes to delete references to the "Uniform Anatomical Gift Act" and replace them with references to this bill.

This bill is identical to Assembly Bill No. 2206 (Conaway).

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

STATEMENT TO
SENATE, No. 754

with Assembly Floor Amendments
(Proposed By Assemblyman CONAWAY)

ADOPTED: JUNE 16, 2008

These amendments:

- change the term “near death” to “whose death is imminent” (sections 2, 11 and 13.b);
- provide that if there is no evidence of an anatomical gift or “refusal” by the decedent, rather than “actual notice of contrary indications,” the organ procurement organization representative or the designated requester shall attempt to notify the appropriate individual specified in the bill (section 13.c.);
- specify that the organ procurement organization must review medical records to determine that the individual may be a prospective donor; specify that it may conduct a “blood or tissue” test or “minimally invasive” examination to evaluate medical suitability; and provide that the “results of such tests and examinations shall be used or disclosed only for purposes of evaluating medical suitability for donation and to facilitate the donation process, and as required or permitted by existing law” (section 13); and
- distinguish the procedures to follow when a prospective organ donor is either determined to have decision making capacity or lack decision making capacity, and the terms of the advance directive or other record are in conflict with the option of making an anatomical gift (section 17).

ASSEMBLY, No. 2206

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 25, 2008

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

SYNOPSIS

“Revised Uniform Anatomical Gift Act.”

CURRENT VERSION OF TEXT

As introduced.



A2206 CONAWAY

2

1 AN ACT concerning anatomical gifts, revising parts of the statutory
2 law and supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) a. This act shall be known and may be cited
8 as the "Revised Uniform Anatomical Gift Act."

9 b. Whenever the term "Uniform Anatomical Gift Act" occurs or
10 any reference is made thereto in any law, contract or document, the
11 same shall be deemed to mean or refer to the "Revised Uniform
12 Anatomical Gift Act."

13

14 2. (New section) As used in this act:

15 "Adult" means a person who is at least 18 years of age.

16 "Advance directive for health care" means an advance directive
17 for health care that is executed pursuant to P.L.1991, c.201
18 (C.26:2H-53 et seq.).

19 "Agent" means a person who is authorized to act as a health care
20 representative by an advance directive for health care or is
21 expressly authorized to make an anatomical gift on a donor's behalf
22 by any other record signed by the donor.

23 "Anatomical gift" means a donation of all or part of a human
24 body to take effect after the donor's death for the purpose of
25 transplantation, therapy, research, or education.

26 "Civil union partner" means one partner in a civil union couple
27 as defined in section 2 of P.L.2006, c.103 (C.37:1-29 et al.).

28 "Decedent" means a deceased person whose body or part is or
29 may be the source of an anatomical gift, and includes a stillborn
30 infant or fetus.

31 "Designated requester" means a hospital employee who has
32 completed a course offered or approved by an organ procurement
33 organization.

34 "Disinterested witness" means a witness other than: the spouse,
35 civil union partner, domestic partner, child, parent, sibling,
36 grandchild, grandparent, or guardian of the person who makes,
37 amends, revokes, or refuses to make an anatomical gift; another
38 adult who exhibited special care and concern for the decedent; or a
39 person to whom an anatomical gift may pass pursuant to section 10
40 of this act.

41 "Document of gift" means a donor card or other record used to
42 make an anatomical gift, and includes a statement or symbol on a
43 driver's license, identification card, or donor registry.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 “Domestic partner” means a domestic partner as defined in
2 section 3 of P.L.2003, c.246 (C.26:8A-3).
- 3 “Donor” means a person whose body or part is the subject of an
4 anatomical gift.
- 5 “Donor registry” means a database that contains records of
6 anatomical gifts.
- 7 “Driver’s license” means a license or permit issued by the New
8 Jersey Motor Vehicle Commission to operate a vehicle, whether or
9 not conditions are attached to the license or permit.
- 10 “Eye bank” means an entity that is licensed, accredited, or
11 regulated under federal or State law to engage in the recovery,
12 screening, testing, processing, storage, or distribution of human
13 eyes or portions of human eyes.
- 14 “Guardian” means a person appointed by a court to make
15 decisions regarding the support, care, education, health, or welfare
16 of another individual, but does not include a guardian ad litem.
- 17 “Hospital” means an institution, whether operated for profit or
18 not, whether maintained, supervised or controlled by an agency of
19 State government or a county or municipality or not, which
20 maintains and operates facilities for the diagnosis, treatment, or care
21 of two or more non-related individuals suffering from illness,
22 injury, or deformity, and where emergency, outpatient, surgical,
23 obstetrical, convalescent, or other medical and nursing care is
24 rendered for periods exceeding 24 hours.
- 25 “Identification card” means an identification card issued by the
26 New Jersey Motor Vehicle Commission.
- 27 “Medical examiner” means the State Medical Examiner, a county
28 medical examiner, or another person performing the duties of a
29 medical examiner pursuant to P.L.1967, c.234 (C.52:17B-78 et
30 seq.).
- 31 “Minor” means a person who is under 18 years of age.
- 32 “Organ procurement organization” means an entity designated by
33 the United States Secretary of Health and Human Services as an
34 organ procurement organization.
- 35 “Parent” means a parent whose parental rights have not been
36 terminated.
- 37 “Part” means an organ, eye, or tissue of a human being, but does
38 not include the whole body.
- 39 “Physician” means a person authorized to practice medicine or
40 osteopathy under the laws of any state.
- 41 “Procurement organization” means an eye bank, organ
42 procurement organization, or tissue bank.
- 43 “Prospective donor” means a person who is dead or near death
44 and has been determined by a procurement organization to have a
45 part that could be medically suitable for transplantation, therapy,
46 research, or education, but does not include an individual who has
47 made a refusal.

A2206 CONAWAY

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

5 “Recipient” means a person into whose body a decedent’s part
6 has been or is intended to be transplanted.

7 “Record” means information that is inscribed on a tangible
8 medium or stored in an electronic or other medium and is
9 retrievable in perceivable form.

10 “Refusal” means a record created pursuant to this act that
11 expressly states an intent to bar other persons from making an
12 anatomical gift of a person’s body or part.

13 “Sign” means, with the present intent to authenticate or adopt a
14 record, to execute or adopt a tangible symbol, or to attach to or
15 logically associate with the record an electronic symbol, sound, or
16 process.

17 “State” means a state of the United States, the District of
18 Columbia, Puerto Rico, the United States Virgin Islands, or any
19 territory or insular possession subject to the jurisdiction of the
20 United States.

21 “Technician” means a person who is determined to be qualified
22 to remove or process parts by an appropriate organization that is
23 licensed, accredited, or regulated under federal or State law, and
24 includes an enucleator.

25 “Tissue” means a portion of the human body other than an organ
26 or an eye, but does not include blood unless it is needed to facilitate
27 the use of other parts or is donated for the purpose of research or
28 education.

29 “Tissue bank” means an entity that is licensed, accredited, or
30 regulated under federal or State law to engage in the recovery,
31 screening, testing, processing, storage, or distribution of tissue.

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

35

36 3. (New section) The provisions of this act shall apply to an
37 anatomical gift, or an amendment to, revocation of, or refusal to
38 make an anatomical gift, whenever made.

39

40 4. (New section) Subject to the provisions of section 8 of this
41 act, an anatomical gift of a donor’s body or part may be made
42 during the life of the donor for the purpose of transplantation,
43 therapy, research, or education in the manner provided in section 5
44 of this act by:

45 a. the donor, if the donor is an adult, or if the donor is a minor
46 and is emancipated or is authorized under the laws of this State to
47 apply for a driver’s license;

1 b. an agent of the donor, unless the advance directive for health
2 care or other record prohibits the agent from making an anatomical
3 gift;

4 c. a parent of the donor, if the donor is an unemancipated minor;
5 or

6 d. the donor's guardian.
7

8 5. (New section) a. A person may make an anatomical gift and
9 thereby become a donor:

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

13 (2) in a will;

14 (3) during a terminal illness or injury of the donor, by any form
15 of communication addressed to at least two adults, at least one of
16 whom shall be a disinterested witness; or

17 (4) as provided in subsection b. of this section.

18 b. A donor or other person authorized to make an anatomical
19 gift pursuant to section 4 of this act may make a gift by a donor
20 card or other record signed by the donor or other person making the
21 gift or by authorizing that a statement or symbol indicating that the
22 donor has made an anatomical gift be included on a donor registry.

23 If the donor or other person is physically unable to sign a record,
24 the record may be signed by another individual at the direction of
25 the donor or other person and shall:

26 (1) be witnessed by at least two adults, at least one of whom
27 shall be a disinterested witness, who have signed at the request of
28 the donor or other person; and

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

31 c. The revocation, suspension, expiration, or cancellation of a
32 driver's license or identification card upon which an anatomical gift
33 is indicated shall not invalidate the gift.

34 d. An anatomical gift made by will shall take effect upon the
35 donor's death, whether or not the will is probated. Invalidation of
36 the will after the donor's death shall not invalidate the gift.
37

38 6. (New section) a. Subject to the provisions of section 8 of
39 this act, a donor or other person authorized to make an anatomical
40 gift pursuant to section 4 of this act may amend or revoke an
41 anatomical gift by:

42 (1) a record signed by:

43 (a) the donor or other person; or

44 (b) subject to the provisions of subsection b. of this section,
45 another individual acting at the direction of the donor or the other
46 person if the donor or other person is physically unable to sign; or

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6

1 (2) a later-executed document of gift that amends or revokes a
2 previous anatomical gift or portion of an anatomical gift, either
3 expressly or by inconsistency.

4 b. A record signed pursuant to subparagraph (b) of paragraph (1)
5 of subsection a. of this section shall:

6 (1) be witnessed by at least two adults, at least one of whom
7 shall be a disinterested witness, who have signed at the request of
8 the donor or other person; and

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

11 c. Subject to the provisions of section 8 of this act, a donor or
12 other person authorized to make an anatomical gift pursuant to
13 section 4 of this act may revoke an anatomical gift by the
14 destruction or cancellation of the document of gift, or the portion of
15 the document of gift used to make the gift, with the intent to revoke
16 the gift.

17 d. A donor may amend or revoke an anatomical gift that was not
18 made in a will by any form of communication during a terminal
19 illness or injury addressed to at least two adults, at least one of
20 whom shall be a disinterested witness.

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

24

25 7. (New section) a. A person may refuse to make an anatomical
26 gift of the person's body or part by:

27 (1) a record signed by:

28 (a) the person; or

29 (b) subject to subsection b. of this section, another individual
30 acting at the person's direction if the person is physically unable to
31 sign;

32 (2) the person's will, whether or not the will is admitted to
33 probate or invalidated after the person's death; or

34 (3) any form of communication made by the person during the
35 person's terminal illness or injury addressed to at least two adults,
36 at least one of whom shall be a disinterested witness.

37 b. A record signed pursuant to subparagraph (b) of paragraph (1)
38 of subsection a. of this section shall:

39 (1) be witnessed by at least two adults, at least one of whom
40 shall be a disinterested witness, who have signed at the request of
41 the person who is making a refusal; and

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

44 c. A person who has made a refusal may amend or revoke the
45 refusal:

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

1 (2) by subsequently making an anatomical gift that is
2 inconsistent with the refusal; or

3 (3) by destroying or canceling the record evidencing the refusal,
4 or the portion of the record used to make the refusal, with the intent
5 to revoke the refusal.

6 d. Except as otherwise provided in subsection h. of section 8 of
7 this act, in the absence of an express, contrary indication by the
8 person set forth in the refusal, a person's unrevoked refusal to make
9 an anatomical gift of the person's body or part shall preclude
10 another individual from making an anatomical gift of the person's
11 body or part.

12
13 8. (New section) a. In the absence of an express, contrary
14 indication by the donor, a person other than the donor shall be
15 prohibited from making, amending, or revoking an anatomical gift
16 of a donor's body or part if the donor made an anatomical gift of the
17 donor's body or part or an amendment to an anatomical gift of the
18 donor's body or part.

19 b. A donor's revocation of an anatomical gift pursuant to section
20 6 of this act shall not be deemed to be a refusal and shall not
21 preclude another person as specified in section 4 or section 9 of this
22 act from making an anatomical gift of the donor's body or part.

23 c. If a person other than the donor makes an unrevoked
24 anatomical gift of the donor's body or part pursuant to section 5 of
25 this act or an amendment to an anatomical gift of the donor's body
26 or part pursuant to section 6 of this act, another person shall not
27 make, amend, or revoke the gift of the donor's body or part.

28 d. A revocation of an anatomical gift by a person other than the
29 donor pursuant to section 6 of this act shall not preclude another
30 person from making an anatomical gift of the body or part.

31 e. In the absence of an express, contrary indication by a donor or
32 other person authorized to make an anatomical gift under this act,
33 an anatomical gift of a part shall not be deemed to be a refusal to
34 give another part nor a limitation on the making of an anatomical
35 gift of another part at a later time by the donor or other person.

36 f. In the absence of an express, contrary indication by the donor
37 or other person authorized to make an anatomical gift under this act,
38 an anatomical gift of a part for any of the purposes set forth in
39 section 4 of this act shall not be deemed to limit the making of an
40 anatomical gift of the part for any of those other purposes by the
41 donor or other person.

42 g. Notwithstanding the provisions of this section to the contrary,
43 in the event of the death of a donor who is an unemancipated minor,
44 a parent of the donor who is reasonably available may revoke or
45 amend an anatomical gift of the donor's body or part.

46 h. In the event of the death of an unemancipated minor who has
47 signed a refusal, a parent of the minor who is reasonably available
48 may revoke the minor's refusal.

1 9. (New section) a. (1) Subject to the provisions of this act, an
2 anatomical gift of a decedent's body or part may be made by any
3 member of the following classes of persons who is reasonably
4 available, in the order of priority listed:

5 (a) an agent of the decedent at the time of the decedent's death
6 who could have made an anatomical gift immediately before the
7 decedent's death pursuant to section 4 of this act;

8 (b) the spouse, civil union partner, or domestic partner of the
9 decedent;

10 (c) an adult child of the decedent;

11 (d) either parent of the decedent;

12 (e) an adult sibling of the decedent;

13 (f) another adult who is related to the decedent by blood,
14 marriage, or adoption, or exhibited special care and concern for the
15 decedent;

16 (g) a person who was acting as the guardian of the person of the
17 decedent at the time of the decedent's death; and

18 (h) any other person having the authority to dispose of the
19 decedent's body, including the administrator of a hospital in which
20 the decedent was a patient or resident immediately preceding death.

21 In the absence of actual notice of contrary indication by the
22 decedent, the administrator shall make an anatomical gift of a
23 decedent's body or part.

24 (2) If there is more than one member of a class as specified in
25 subparagraphs (a) through (g) of paragraph (1) of this subsection
26 who is entitled to make an anatomical gift, a member of the class
27 may make an anatomical gift unless that member or a person to
28 whom the gift may pass pursuant to section 10 of this act knows of
29 an objection by another member of the class. If an objection is
30 known, the gift shall be made only by a majority of the members of
31 the class who are reasonably available. Nothing in this subsection
32 shall be construed to require that all members of the class authorize
33 the making of the gift or participate in the decision to make the gift.

34 (3) A person may not make an anatomical gift if, at the time of
35 the decedent's death, a person in a prior class as specified in
36 paragraph (1) of this subsection is reasonably available to make or
37 object to the making of an anatomical gift.

38 b. (1) A person authorized to make an anatomical gift pursuant
39 to subsection a. of this section may make an anatomical gift by a
40 document of gift signed by the person making the gift or by that
41 person's oral communication that is electronically recorded or is
42 contemporaneously reduced to a record and signed by the individual
43 receiving the oral communication.

44 (2) Subject to the provisions of paragraph (3) of this subsection,
45 an anatomical gift by a person authorized to make the gift pursuant
46 to subsection a. of this section may be amended or revoked orally or
47 in a record by any member of a prior class who is reasonably

1 available. If more than one member of the prior class is reasonably
2 available, the gift made by the authorized person may be:

3 (a) amended only if a majority of the reasonably available
4 members agree to amending the gift; or

5 (b) revoked only if a majority of the reasonably available
6 members agree to revoking the gift or if they are equally divided as
7 to whether to revoke the gift.

8 (3) A revocation made pursuant to paragraph (2) of this
9 subsection shall be effective only if, before an incision has been
10 made to remove a part from the donor's body or before invasive
11 procedures have begun to prepare the recipient, the procurement
12 organization, transplant hospital, or physician or technician knows
13 of the revocation. A procurement organization, transplant hospital,
14 or physician or technician with knowledge of a revocation shall
15 make a best effort to communicate that information to the other
16 parties involved in order to stop the anatomical gift recovery
17 process.

18

19 10. (New section) a. An anatomical gift may be made to the
20 following persons or entities named in the document of gift:

21 (1) a hospital; accredited medical school, dental school, college,
22 or university; organ procurement organization; or other appropriate
23 person, for research or education;

24 (2) subject to the provisions of subsection b. of this section, an
25 individual designated by the person making the anatomical gift if
26 the individual is the recipient of the part; or

27 (3) an eye bank or tissue bank.

28 b. If an anatomical gift to an individual cannot be transplanted
29 into the individual, the part shall pass in accordance with subsection
30 f. of this section in the absence of an express, contrary indication by
31 the person making the anatomical gift.

32 c. If there is more than one purpose of an anatomical gift set
33 forth in the document of gift but the purposes are not set forth in
34 any priority, the gift shall be used for transplantation or therapy, if
35 suitable. If the gift cannot be used for transplantation or therapy,
36 the gift may be used for research or education.

37 d. If an anatomical gift of one or more specific parts is made in a
38 document of gift that does not name a person or entity as described
39 in subsection a. of this section and does not identify the purpose of
40 the gift, the gift shall be used only for transplantation or therapy,
41 and shall pass in accordance with subsection f. of this section.

42 e. If a document of gift specifies only a general intent to make
43 an anatomical gift by words such as "donor," "organ donor," or
44 "body donor," or by a symbol or statement of similar import, the
45 gift shall include all parts, may be used only for transplantation or
46 therapy, and shall pass in accordance with subsection f. of this
47 section.

1 f. For the purposes of subsections b., d., and e. of this
2 subsection, the following shall apply:

3 (1) if the part is an eye, the gift shall pass to the appropriate eye
4 bank;

5 (2) if the part is tissue, the gift shall pass to the appropriate
6 tissue bank; and

7 (3) if the part is an organ, the gift shall pass to the appropriate
8 organ procurement organization as custodian of the organ.

9 g. An anatomical gift of an organ for transplantation or therapy,
10 other than an anatomical gift under paragraph (2) of subsection a. of
11 this section, shall pass to the organ procurement organization as
12 custodian of the organ.

13 h. If an anatomical gift does not pass pursuant to subsections a.
14 through g. of this section or the decedent's body or part is not used
15 for transplantation, therapy, research, or education, custody of the
16 body or part shall pass to the person or entity under obligation to
17 dispose of the body or part.

18 i. A person or entity shall not accept an anatomical gift if the
19 person or entity knows that the gift was not effectively made
20 pursuant to this act or that the decedent made a refusal pursuant to
21 this act that was not revoked. For the purposes of the subsection, if
22 a person or entity knows that an anatomical gift was made on a
23 document of gift, the person or entity shall be deemed to know of
24 any amendment or revocation of the gift or any refusal to make an
25 anatomical gift on the same document of gift.

26 j. Except as otherwise provided in paragraph (2) of subsection a.
27 of this section, nothing in this act shall be construed to affect the
28 allocation of organs for transplantation or therapy.

29

30 11. (New section) a. Upon the request of an organ procurement
31 organization, the following persons shall make a reasonable search
32 of an individual who the person reasonably believes is dead or near
33 death for a document of gift or other information identifying the
34 individual as a donor or as an individual who made a refusal:

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

37 (2) if no other source of the information is immediately
38 available, a hospital, as soon as practical after the individual's
39 arrival at the hospital.

40 b. If a document of gift or a refusal to make an anatomical gift is
41 located by the search required pursuant to subsection a. of this
42 section, the person responsible for conducting the search shall make
43 the document of gift or refusal immediately available to the organ
44 procurement organization.

45 c. A person shall not be subject to criminal or civil liability, but
46 may be subject to administrative sanctions, for a failure to discharge
47 the duties imposed pursuant to this section.

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

3 b. Upon or after an individual's death, a person in possession of
4 a document of gift or a refusal to make an anatomical gift with
5 respect to the individual shall allow examination and copying of the
6 document of gift or refusal by a person authorized to make or object
7 to the making of an anatomical gift with respect to the individual or
8 by a person to whom the gift may pass pursuant to section 10 of this
9 act.

10
11 13. (New section) a. A hospital shall notify an organ
12 procurement organization or a third party designated by that
13 organization of a person whose death is imminent or who has died
14 in the hospital, in a timely manner sufficient to ensure that the
15 examination, evaluation, and ascertainment of donor status as set
16 forth in subsection d. of this section can be completed within a time
17 frame compatible with the donation of organs and tissues for
18 transplant. The notification shall be made without regard to
19 whether the person has executed an advance directive for health
20 care.

21 b. When a hospital refers a person who is dead or near death to
22 an organ procurement organization, the organization shall make a
23 reasonable search of the records of the New Jersey Motor Vehicle
24 Commission and any donor registry that it knows exists for the
25 geographical area in which the person resides in order to ascertain
26 whether the person has made an anatomical gift.

27 c. (1) If the patient has a validly executed donor card, donor
28 designation on a driver's license, advance directive for health care,
29 will, other document of gift, or registration with a Statewide organ
30 and tissue donor registry, the procurement organization
31 representative or the designated requester shall attempt to notify a
32 person listed in section 9 of this act of the gift.

33 If no document of gift is known to the procurement organization
34 representative or the designated requester, one of those two
35 individuals shall ask the persons listed in section 9 of this act
36 whether the decedent had a validly executed document of gift. If
37 there is no evidence of an anatomical gift or actual notice of
38 contrary indications by the decedent, the procurement organization
39 representative or the designated requester shall attempt to notify a
40 person listed in section 9 of this act of the option to donate organs
41 or tissues.

42 (2) The person in charge of the hospital or that person's
43 designated representative shall indicate in the medical record of the
44 decedent whether or not a document of gift is known to exist, or
45 otherwise whether consent was granted, the name of the person
46 granting or refusing the consent, and that person's relationship to
47 the decedent.

1 d. When a hospital refers an individual who is dead or near
2 death to a procurement organization, the organization may conduct
3 any test or examination that is reasonably necessary to evaluate the
4 medical suitability of a part that is or may be the subject of an
5 anatomical gift for transplantation, therapy, research, or education
6 from a donor or a prospective donor. The hospital shall not
7 withdraw any measures that are necessary to maintain the medical
8 suitability of the part until the procurement organization has had the
9 opportunity to advise the applicable persons as set forth in section 9
10 of this act of the option to make an anatomical gift or has
11 ascertained that the individual expressed a contrary intent.

12 e. At any time after a donor's death, the person to whom an
13 anatomical gift may pass pursuant to section 10 of this act may
14 conduct any test or examination that is reasonably necessary to
15 evaluate the medical suitability of the body or part for its intended
16 purpose.

17 f. An examination conducted pursuant to this section may
18 include an examination of all medical and dental records of the
19 donor or prospective donor.

20 g. Upon the death of a minor who was a donor or had signed a
21 refusal, the procurement organization shall, unless it knows the
22 minor is emancipated, conduct a reasonable search for the parents
23 of the minor and provide the parents with an opportunity to revoke
24 or amend the anatomical gift or revoke the refusal.

25 h. Subject to the provisions of this act, the rights of a person or
26 entity to whom a part passes pursuant to section 10 of this act shall
27 be superior to the rights of all others with respect to that part. The
28 person or entity may accept or reject an anatomical gift in whole or
29 in part. Subject to the terms of the document of gift and the
30 provisions of this act, a person or entity who accepts an anatomical
31 gift of an entire body may allow embalming, burial or cremation,
32 and the use of remains in a funeral service. If the gift is of a part,
33 the person or entity to which the part passes pursuant to section 10
34 of this act, upon the death of the donor and before embalming,
35 burial or cremation, shall cause the part to be removed without
36 unnecessary mutilation.

37 i. Neither the physician or registered professional nurse who
38 attends the decedent at death nor the physician or registered
39 professional nurse who determines the time of the decedent's death
40 may participate in the procedures for removing or transplanting a
41 part from the decedent.

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

45 k. Each hospital or other licensed health care facility in this
46 State shall be authorized to enter into such agreements or
47 affiliations with procurement organizations as are necessary for the
48 coordination of procurement and use of anatomical gifts.

1 14. (New section) A person who seeks to facilitate the making
2 of an anatomical gift, for the purposes of transplantation or therapy,
3 from a decedent who was not a hospital patient at the time of death
4 shall notify the procurement organization at or around the time of
5 the person's death in order to allow the organization to at least
6 initially evaluate the potential donation and coordinate the donation
7 process, as applicable.

8
9 15. (New section) a. A person or entity shall be immune from
10 liability for actions taken in accordance with, or in a good faith
11 attempt to act in accordance with, the provisions of this act or the
12 applicable anatomical gift law of another state.

13 b. Neither the person making an anatomical gift nor the donor's
14 estate shall be liable for any injury or damage that results from the
15 making or use of the gift.

16 c. In determining whether an anatomical gift has been made,
17 amended, or revoked pursuant to this act, a person or entity shall
18 rely upon representations made by an individual as specified in
19 section 9 of this act relating to the individual's relationship to the
20 donor or prospective donor unless the person knows that the
21 representation is untrue.

22
23 16. (New section) a. A document of gift shall be valid if
24 executed in accordance with:

25 (1) the provisions of this act;

26 (2) the laws of the state or country in which it is executed; or

27 (3) the laws of the state or country in which the person making
28 the anatomical gift is domiciled, has a place of residence, or is a
29 citizen at the time that the document of gift is executed.

30 b. The law of this State shall govern the interpretation of a valid
31 document of gift to which the provisions of this act apply.

32 c. A person shall presume that a document of gift or amendment
33 of an anatomical gift is valid unless the person knows that it was
34 not validly executed or was revoked.

35
36 17. (New section) a. If a hospital patient who is a prospective
37 donor has executed an advance directive for health care, or has
38 otherwise specified by record the circumstances under which the
39 patient would want life support to be withheld or withdrawn from
40 that person, and the terms of the advance directive or other record
41 are in conflict with the option of making an anatomical gift by
42 precluding the administration of measures necessary to ensure the
43 medical suitability of a part for transplantation or therapy:

44 (1) the prospective donor and that donor's attending physician
45 shall seek to mutually resolve the conflict; and

46 (2) if the patient is unable to resolve the conflict, an agent acting
47 pursuant to the patient's advance directive or other record or, if no
48 such agent has been designated by the patient or the agent is not

1 reasonably available, another person authorized by law other than
2 this act to make decisions on behalf of the patient with regard to the
3 patient's health care shall act for the patient to resolve the conflict.

4 b. The parties specified in subsection a. of this section shall seek
5 to resolve the conflict as set forth therein as expeditiously as
6 possible.

7 c. Information relevant to the resolution of the conflict may be
8 obtained from the appropriate procurement organization and any
9 other person authorized to make an anatomical gift for the patient
10 pursuant to section 9 of this act.

11 d. Measures necessary to ensure the medical suitability of the
12 part shall not be withheld or withdrawn from the patient prior to
13 resolution of the conflict if the withholding or withdrawing is not
14 contraindicated by the requirements of providing appropriate end-
15 of-life care.

16
17 18. (New section) a. Each medical examiner shall cooperate
18 with any procurement organization to maximize the opportunity to
19 recover anatomical gifts for the purpose of transplantation, therapy,
20 research, or education.

21 b. A part shall not be removed from the body of a decedent
22 under a medical examiner's jurisdiction for transplantation, therapy,
23 research, or education, nor delivered to a person for research or
24 education, unless the part is the subject of an anatomical gift. The
25 provisions of this section shall not be construed to preclude a
26 medical examiner from performing an investigation as provided in
27 P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the
28 medical examiner's jurisdiction.

29 c. Upon the request of a procurement organization, the medical
30 examiner shall release to the procurement organization the name,
31 contact information, and available medical and social history of a
32 decedent whose body is under the medical examiner's jurisdiction.
33 If the decedent's body or part is medically suitable for
34 transplantation, therapy, research, or education, the medical
35 examiner shall release the post-mortem examination results to the
36 procurement organization. The procurement organization shall
37 make a subsequent disclosure of the post-mortem examination
38 results or other information received from the medical examiner
39 only if relevant to transplantation, therapy, research, or education.

40
41 19. (New section) In applying and construing this uniform act,
42 consideration shall be given to the need to promote uniformity of
43 the law with respect to its subject matter among the states that enact
44 it.

45
46 20. (New section) This act shall be deemed to modify, limit,
47 and supersede the Electronic Signatures in Global and National
48 Commerce Act, 15 U.S.C.s.7001 et seq., but not to modify, limit, or

1 supersede Section 101(a) of that act, 15 U.S.C.s.7001(a), or to
2 authorize electronic delivery of any of the notices described in
3 Section 103(b) of that act, 15 U.S.C.s.7003(b).

4
5 21. N.J.S.2C:20-2 is amended to read as follows:

6 2C:20-2. a. Consolidation of Theft and Computer Criminal
7 Activity Offenses. Conduct denominated theft or computer
8 criminal activity in this chapter constitutes a single offense, but
9 each episode or transaction may be the subject of a separate
10 prosecution and conviction. A charge of theft or computer criminal
11 activity may be supported by evidence that it was committed in any
12 manner that would be theft or computer criminal activity under this
13 chapter, notwithstanding the specification of a different manner in
14 the indictment or accusation, subject only to the power of the court
15 to ensure fair trial by granting a bill of particulars, discovery, a
16 continuance, or other appropriate relief where the conduct of the
17 defense would be prejudiced by lack of fair notice or by surprise.

18 b. Grading of theft offenses.

19 (1) Theft constitutes a crime of the second degree if:

20 (a) The amount involved is \$75,000.00 or more;

21 (b) The property is taken by extortion;

22 (c) The property stolen is a controlled dangerous substance or
23 controlled substance analog as defined in N.J.S.2C:35-2 and the
24 quantity is in excess of one kilogram;

25 (d) The property stolen is a person's benefits under federal or
26 State law, or from any other source, which the Department of
27 Human Services or an agency acting on its behalf has budgeted for
28 the person's health care and the amount involved is \$75,000.00 or
29 more; or

30 (e) The property stolen is human remains or any part thereof;
31 except that, if the human remains are stolen by deception or
32 falsification of a document by which a gift of all or part of a human
33 body may be made pursuant to 【P.L.1969, c.161 (C.26:6-57 et
34 seq.)】 P.L. , c. (C.)(pending before the Legislature as this bill),
35 the theft constitutes a crime of the first degree.

36 (2) Theft constitutes a crime of the third degree if:

37 (a) The amount involved exceeds \$500.00 but is less than
38 \$75,000.00;

39 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
40 horse, domestic companion animal or airplane;

41 (c) The property stolen is a controlled dangerous substance or
42 controlled substance analog as defined in N.J.S.2C:35-2 and the
43 amount involved is less than \$75,000.00 or is undetermined and the
44 quantity is one kilogram or less;

45 (d) It is from the person of the victim;

46 (e) It is in breach of an obligation by a person in his capacity as
47 a fiduciary;

48 (f) It is by threat not amounting to extortion;

1 (g) It is of a public record, writing or instrument kept, filed or
2 deposited according to law with or in the keeping of any public
3 office or public servant;

4 (h) The property stolen is a person's benefits under federal or
5 State law, or from any other source, which the Department of
6 Human Services or an agency acting on its behalf has budgeted for
7 the person's health care and the amount involved is less than
8 \$75,000.00;

9 (i) The property stolen is any real or personal property related
10 to, necessary for, or derived from research, regardless of value,
11 including, but not limited to, any sample, specimens and
12 components thereof, research subject, including any warm-blooded
13 or cold-blooded animals being used for research or intended for use
14 in research, supplies, records, data or test results, prototypes or
15 equipment, as well as any proprietary information or other type of
16 information related to research;

17 (j) The property stolen is a New Jersey Prescription Blank as
18 referred to in R.S.45:14-14;

19 (k) The property stolen consists of an access device or a defaced
20 access device; or

21 (l) The property stolen consists of anhydrous ammonia and the
22 actor intends it to be used to manufacture methamphetamine.

23 (3) Theft constitutes a crime of the fourth degree if the amount
24 involved is at least \$200.00 but does not exceed \$500.00. If the
25 amount involved was less than \$200.00 the offense constitutes a
26 disorderly persons offense.

27 (4) The amount involved in a theft or computer criminal activity
28 shall be determined by the trier of fact. The amount shall include,
29 but shall not be limited to, the amount of any State tax avoided,
30 evaded or otherwise unpaid, improperly retained or disposed of.
31 Amounts involved in thefts or computer criminal activities
32 committed pursuant to one scheme or course of conduct, whether
33 from the same person or several persons, may be aggregated in
34 determining the grade of the offense.

35 c. Claim of right. It is an affirmative defense to prosecution
36 for theft that the actor:

37 (1) Was unaware that the property or service was that of
38 another;

39 (2) Acted under an honest claim of right to the property or
40 service involved or that he had a right to acquire or dispose of it as
41 he did; or

42 (3) Took property exposed for sale, intending to purchase and
43 pay for it promptly, or reasonably believing that the owner, if
44 present, would have consented.

45 d. Theft from spouse. It is no defense that theft or computer
46 criminal activity was from or committed against the actor's spouse,
47 except that misappropriation of household and personal effects, or
48 other property normally accessible to both spouses, is theft or

1 computer criminal activity only if it occurs after the parties have
2 ceased living together.

3 (cf: P.L.2007, c.36, s.2)

4

5 22. Section 1 of P.L.2007, c.36 (C.2C:22-2) is amended to read
6 as follows:

7 1. a. A person who knowingly, for valuable consideration,
8 purchases or sells a part for transplantation or therapy, if removal of
9 a part from a donor is intended to occur after the donor's death, is
10 guilty of a crime of the third degree and, notwithstanding the
11 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more
12 than \$50,000, as well as the term of imprisonment provided under
13 N.J.S.2C:43-6, or both.

14 Nothing in this subsection shall be construed to prohibit a person
15 from charging a reasonable amount for the removal, processing,
16 disposal, preservation, quality control, storage, transportation, or
17 implantation of a part.

18 b. A person who intentionally falsifies, forges, conceals,
19 defaces, or obliterates a document by which a gift of all or part of a
20 human body may be made pursuant to 【P.L.1969, c.161 (C.26:6-57
21 et seq.)】 P.L. , c. (C.)(pending before the Legislature as this
22 bill), an amendment or revocation of such a document, or any death
23 record or document of medical or social history pertaining to the
24 body or part of the donor, or a refusal to make a gift, in order to
25 obtain a financial benefit or gain, is guilty of a crime of the second
26 degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall
27 be subject to a fine of not more than \$50,000, as well as the term of
28 imprisonment provided under N.J.S.2C:43-6, or both.

29 c. As used in this section, the terms "decedent," "donor," "part,"
30 and "person" have the meaning ascribed to them in section 【1 of
31 P.L.1969, c.161 (C.26:6-57)】 2 of P.L. , c. (C.)(pending before
32 the Legislature as this bill).

33 (cf: P.L.2007, c.36, s.1)

34

35 23. Section 6 of P.L.1995, c.257 (C.26:6-58.5) is amended to
36 read as follows:

37 6. A 【transplant recovery specialist】 technician as defined in
38 section 2 of P.L. , c. (C.) (pending before the Legislature as this
39 bill) may recover a human body part for any purpose specified in
40 【section 3 of P.L.1969, c.161 (C.26:6-59)】 P.L. , c. (C.)
41 (pending before the Legislature as this bill). A physician shall not
42 be required to be present during the recovery procedure. Nothing in
43 this section shall be construed to limit a physician or other person
44 authorized by law to recover human body parts pursuant to law.

45 (cf: P.L.1995, c.257, s.6)

46

47 24. R.S.39:3-10 is amended to read as follows:

1 39:3-10. No person shall drive a motor vehicle on a public
2 highway in this State unless the person is under supervision while
3 participating in a behind-the-wheel driving course pursuant to
4 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a
5 validated permit, or a provisional or basic driver's license issued to
6 him in accordance with this article.

7 No person under 18 years of age shall be issued a basic license to
8 drive motor vehicles, nor shall a person be issued a validated
9 permit, including a validated examination permit, until he has
10 passed a satisfactory examination and other requirements as to his
11 ability as an operator. The examination shall include a test of the
12 applicant's vision, his ability to understand traffic control devices,
13 his knowledge of safe driving practices and of the effects that
14 ingestion of alcohol or drugs has on a person's ability to operate a
15 motor vehicle, his knowledge of such portions of the mechanism of
16 motor vehicles as is necessary to insure the safe operation of a
17 vehicle of the kind or kinds indicated by the applicant and of the
18 laws and ordinary usages of the road. No person shall sit for an
19 examination for any permit without exhibiting photo identification
20 deemed acceptable by the commission, unless that person is a high
21 school student participating in a course of driving education
22 approved by the State Department of Education and conducted in a
23 public, parochial or private school of this State, pursuant to section
24 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the
25 written law knowledge examination for any person 18 years of age
26 or older possessing a valid driver's license issued by any other state,
27 the District of Columbia or the United States Territories of
28 American Samoa, Guam, Puerto Rico or the Virgin Islands. The
29 commission shall be required to provide that person with a booklet
30 that highlights those motor vehicle laws unique to New Jersey. A
31 road test shall be required for a provisional license and serve as a
32 demonstration of the applicant's ability to operate a vehicle of the
33 class designated. No person shall sit for a road test unless that
34 person exhibits photo identification deemed acceptable by the
35 commission. A high school student who has completed a course of
36 behind-the-wheel automobile driving education approved by the
37 State Department of Education and conducted in a public, parochial
38 or private school of this State, who has been issued a special
39 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-
40 13.1) prior to January 1, 2003, shall not be required to exhibit photo
41 identification in order to sit for a road test. The commission may
42 waive the road test for any person 18 years of age or older
43 possessing a valid driver's license issued by any other state, the
44 District of Columbia or the United States Territories of American
45 Samoa, Guam, Puerto Rico or the Virgin Islands. The road test
46 shall be given on public streets, where practicable and feasible, but
47 may be preceded by an off-street screening process to assess basic
48 skills. The commission shall approve locations for the road test

1 which pose no more than a minimal risk of injury to the applicant,
2 the examiner and other motorists. No new locations for the road
3 test shall be approved unless the test can be given on public streets.

4 The commission shall issue a basic driver's license to operate a
5 motor vehicle other than a motorcycle to a person over 18 years of
6 age who previously has not been licensed to drive a motor vehicle
7 in this State or another jurisdiction only if that person has: (1)
8 operated a passenger automobile in compliance with the
9 requirements of this title for not less than one year, not including
10 any period of suspension or postponement, from the date of
11 issuance of a provisional license pursuant to section 4 of P.L.1950,
12 c.127 (C.39:3-13.4); (2) not been assessed more than two motor
13 vehicle points; (3) not been convicted in the previous year for a
14 violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-
15 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-
16 5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-
17 related violation the commission determines to be significant and
18 applicable pursuant to regulation; and (4) passed an examination of
19 his ability to operate a motor vehicle pursuant to this section.

20 The commission shall expand the driver's license examination by
21 20%. The additional questions to be added shall consist solely of
22 questions developed in conjunction with the State Department of
23 Health and Senior Services concerning the use of alcohol or drugs
24 as related to highway safety. The commission shall develop in
25 conjunction with the State Department of Health and Senior
26 Services supplements to the driver's manual which shall include
27 information necessary to answer any question on the driver's license
28 examination concerning alcohol or drugs as related to highway
29 safety.

30 Up to 20 questions may be added to the examination on subjects
31 to be determined by the commission that are of particular relevance
32 to youthful drivers, after consultation with the Director of the
33 Office of Highway Traffic Safety.

34 The commission shall expand the driver's license examination to
35 include a question asking whether the applicant is aware of the
36 provisions of the ["Uniform Anatomical Gift Act," P.L.1969, c.161
37 (C.26:6-57 et seq.)] "Revised Uniform Anatomical Gift Act,"
38 P.L. , c. (C.)(pending before the Legislature as this bill) and
39 the procedure for indicating on the driver's license the intention to
40 make a donation of body organs or tissues pursuant to P.L.1978,
41 c.181 (C.39:3-12.2).

42 Any person applying for a driver's license to operate a motor
43 vehicle or motorized bicycle in this State shall surrender to the
44 commission any current driver's license issued to him by another
45 state or jurisdiction upon his receipt of a driver's license for this
46 State. The commission shall refuse to issue a driver's license if the
47 applicant fails to comply with this provision. An applicant for a
48 permit or license who is less than 18 years of age, and who holds a

1 permit or license for a passenger automobile issued by another state
2 or country that is valid or has expired within a time period
3 designated by the commission, shall be subject to the permit and
4 license requirements and penalties applicable to State permit and
5 license applicants who are of the same age; except that if the other
6 state or country has permit or license standards substantially similar
7 to those of this State, the credentials of the other state or country
8 shall be acceptable.

9 The commission shall create classified licensing of drivers
10 covering the following classifications:

11 a. Motorcycles, except that for the purposes of this section,
12 motorcycle shall not include any three-wheeled motor vehicle
13 equipped with a single cab with glazing enclosing the occupant,
14 seats similar to those of a passenger vehicle or truck, seat belts and
15 automotive steering.

16 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
17 classified under N.J.S.18A:39-1 et seq.

18 c. (Deleted by amendment, P.L.1999, c.28).

19 d. All motor vehicles not included in classifications a. and b. A
20 license issued pursuant to this classification d. shall be referred to
21 as the "basic driver's license."

22 Every applicant for a license under classification b. shall be a
23 holder of a basic driver's license. Any issuance of a license under
24 classification b. shall be by endorsement on the basic driver's
25 license.

26 A driver's license for motorcycles may be issued separately, but
27 if issued to the holder of a basic driver's license, it shall be by
28 endorsement on the basic driver's license.

29 The commission, upon payment of the lawful fee and after it or a
30 person authorized by it has examined the applicant and is satisfied
31 of the applicant's ability as an operator, may, in its discretion, issue
32 a license to the applicant to drive a motor vehicle. The license shall
33 authorize him to drive any registered vehicle, of the kind or kinds
34 indicated, and shall expire, except as otherwise provided, on the last
35 day of the 48th calendar month following the calendar month in
36 which such license was issued.

37 The commission may, at its discretion and for good cause shown,
38 issue licenses which shall expire on a date fixed by it. If the
39 commission issues a license to a person who has demonstrated
40 authorization to be present in the United States for a period of time
41 shorter than the standard period of the license, the commission shall
42 fix the expiration date of the license at a date based on the period in
43 which the person is authorized to be present in the United States
44 under federal immigration laws. The commission may renew such a
45 license only if it is demonstrated that the person's continued
46 presence in the United States is authorized under federal law. The
47 fee for licenses with expiration dates fixed by the commission shall

1 be fixed by the commission in amounts proportionately less or
2 greater than the fee herein established.

3 The required fee for a license for the 48-month period shall be as
4 follows:

5 Motorcycle license or endorsement: \$18.

6 Omnibus or school bus endorsement: \$18.

7 Basic driver's license: \$18.

8 The commission shall waive the payment of fees for issuance of
9 omnibus endorsements whenever an applicant establishes to the
10 commission's satisfaction that said applicant will use the omnibus
11 endorsement exclusively for operating omnibuses owned by a
12 nonprofit organization duly incorporated under Title 15 or 16 of the
13 Revised Statutes or Title 15A of the New Jersey Statutes.

14 The commission shall issue licenses for the following license
15 period on and after the first day of the calendar month immediately
16 preceding the commencement of such period, such licenses to be
17 effective immediately.

18 All applications for renewals of licenses shall be made in a
19 manner prescribed by the commission and in accordance with
20 procedures established by it.

21 The commission in its discretion may refuse to grant a permit or
22 license to drive motor vehicles to a person who is, in its estimation,
23 not a proper person to be granted such a permit or license, but no
24 defect of the applicant shall debar him from receiving a permit or
25 license unless it can be shown by tests approved by the commission
26 that the defect incapacitates him from safely operating a motor
27 vehicle.

28 In addition to requiring an applicant for a driver's license to
29 submit satisfactory proof of identity and age, the commission also
30 shall require the applicant to provide, as a condition for obtaining a
31 permit and license, satisfactory proof that the applicant's presence
32 in the United States is authorized under federal law.

33 If the commission has reasonable cause to suspect that any
34 document presented by an applicant as proof of identity, age or
35 legal residency is altered, false or otherwise invalid, the
36 commission shall refuse to grant the permit or license until such
37 time as the document may be verified by the issuing agency to the
38 commission's satisfaction.

39 A person violating this section shall be subject to a fine not
40 exceeding \$500 or imprisonment in the county jail for not more
41 than 60 days, but if that person has never been licensed to drive in
42 this State or any other jurisdiction, he shall be subject to a fine of
43 not less than \$200 and, in addition, the court shall issue an order to
44 the commission requiring the commission to refuse to issue a
45 license to operate a motor vehicle to the person for a period of not
46 less than 180 days. The penalties provided for by this paragraph
47 shall not be applicable in cases where failure to have actual

1 possession of the operator's license is due to an administrative or
2 technical error by the commission.

3 Nothing in this section shall be construed to alter or extend the
4 expiration of any license issued prior to the date this amendatory
5 and supplementary act becomes operative.

6 (cf: P.L.2003, c.13, s.37)

7

8 25. Section 1 of P.L.1978, c.181 (C.39:3-12.2) is amended to
9 read as follows:

10 1. a. The Chief Administrator of the New Jersey Motor Vehicle
11 Commission shall provide with every new license, renewal license,
12 identification card or renewal identification card the opportunity for
13 each person pursuant to the provisions of the **["Uniform**
14 **Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et al.)]** **"Revised**
15 **Uniform Anatomical Gift Act," P.L. , c. (C.) (pending before the**
16 **Legislature as this bill)**, to designate that the person shall donate all
17 or any **[body]** organs or **[parts]** **tissues** for the purposes of
18 transplantation**[,] or therapy[**, medical research or education upon
19 his death**]**.

20 b. The designation indicating that a person is a donor pursuant
21 to subsection a. of this section shall be done in accordance with
22 procedures prescribed by the chief administrator. The designation
23 shall be displayed in print in a conspicuous form and manner on the
24 license or identification card, and electronically, by substantially
25 the following statement: "ORGAN DONOR" and shall constitute
26 sufficient legal authority for the removal of **[a body organ]** **organs**
27 **or [part] tissues for the purposes of transplantation or therapy** upon
28 the death of the licensee or identification cardholder. The
29 designation shall be removed in accordance with procedures
30 prescribed by the chief administrator.

31 c. (Deleted by amendment, P.L.1999, c.28).

32 d. (Deleted by amendment, P.L.2007, c.80).

33 e. The chief administrator, in consultation with those organ
34 procurement organizations designated pursuant to 42
35 U.S.C.s.1320b-8 to serve in the State of New Jersey, shall establish
36 and provide an annual education program for agency employees and
37 personnel. The program shall focus on the benefits associated with
38 organ and tissue donations, the scope and operation of New Jersey's
39 donor program, and how the agency's employees and personnel can
40 effectively inform the public about the donor program and can best
41 assist those wishing to participate in the donor program.

42 f. The chief administrator shall electronically record and store
43 all organ donor designations and identification information, and
44 shall provide the organ procurement organizations designated
45 pursuant to 42U.S.C.s.1320b-8 to serve in the State of New Jersey
46 with real-time electronic access to the organ donor designation
47 information collected pursuant to subsection a. of this section. An

1 organ procurement organization designated pursuant to
2 42U.S.C.s.1320b-8 to serve in the State of New Jersey, or any
3 donor registry established by any such organization, shall have real-
4 time electronic access to those organ donor designations and
5 identification at all times, without exception, for the purposes of
6 verifying organ and tissue donation status and identity. For these
7 purposes, the federally designated organ procurement organization
8 shall have electronic access to each recorded donor's name, address,
9 date of birth, gender, color of eyes, height, and driver's license
10 number. Upon request, the chief administrator shall provide a copy
11 of the donor's original driver's license application.

12 g. Those organ procurement organizations designated pursuant
13 to 42U.S.C.s.1320b-8 to serve in the State of New Jersey may
14 contract with a third party, in consultation with the chief
15 administrator, to assess, develop, and implement any system set-up
16 necessary to support the initial and ongoing electronic access by
17 those organizations to the donor designation and identification
18 information required to be made available in accordance with the
19 provisions of this section; however, the organ procurement
20 organizations shall not be required to incur an aggregate cost in
21 excess of \$50,000 for the purposes of this subsection.

22 (cf: P.L.2007, c.80, s.1)

23

24 26. R.S.39:3-41 is amended to read as follows:

25 39:3-41. a. At the time of the issuance of an examination permit
26 or a special learner's permit to operate a motor vehicle, the director
27 shall make available to each applicant for the examination permit or
28 special learner's permit a driver's manual containing information
29 required to be known and followed by licensed drivers relating to
30 licensing requirements.

31 b. At the time of any required examination for renewal of a
32 driver's license, the director shall upon request make available to
33 each applicant for renewal a copy of the manual and any
34 supplements thereto.

35 c. The driver's manual and any supplements thereto or any other
36 booklet or writing prepared in connection with examinations for
37 drivers' licenses or for renewals of drivers' licenses shall contain all
38 information necessary to answer any question on an examination for
39 a driver's license or for a renewal of a driver's license.

40 d. The director, following consultation with the **【New Jersey**
41 **Organ and Tissue Sharing Network】** organ procurement
42 organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in
43 the State of New Jersey, shall include in the driver's manual
44 information explaining the provisions of the **【"Uniform Anatomical**
45 **Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.)】** "Revised Uniform
46 Anatomical Gift Act," P.L. , c. (C.)(pending before the
47 Legislature as this bill), the beneficial uses of donated **【body】**

1 organs and tissues, and the procedure for indicating on the driver's
 2 license the intention to make such a donation pursuant to P.L.1978,
 3 c.181 (C.39:3-12.2). The director may distribute all remaining
 4 copies of the existing driver's manual before reprinting the manual
 5 with the information required pursuant to this subsection.

6 (cf: P.L.1992, c.110, s.2)

7
 8 27. Section 1 of P.L.1993, c.276 (C.52:17B-88.7) is amended to
 9 read as follows:

10 1. Notwithstanding any provision of law to the contrary, if a
 11 deceased person whose death is under investigation pursuant to
 12 section 9 of P.L.1967, c.234 (C.52:17B-86) is a donor of all or part
 13 of his body as evidenced by an advance directive, will, card or other
 14 document, or as otherwise provided in the ["Uniform Anatomical
 15 Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.)] "Revised Uniform
 16 Anatomical Gift Act," P.L. , c. (C.)(pending before the
 17 Legislature as this bill), the State Medical Examiner or the county
 18 medical examiner, or his designee, who has notice of the donation
 19 shall perform an examination, autopsy or analysis of tissues or
 20 organs only in a manner and within a time period compatible with
 21 their preservation for the purposes of transplantation.

22 (cf: P.L.1993, c.276, s.1)

23
 24 28. The following are repealed:

25 P.L.1969, c.161 (C.26:6-57 et seq.); and

26 P.L.1987, c.244 (C.26:6-58.1 et seq.).

27
 28 29. This act shall take effect immediately.

30 31 STATEMENT

32
 33 This bill, which is designated the "Revised Uniform Anatomical
 34 Gift Act," represents a revised version of the "Uniform Anatomical
 35 Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), which this bill is
 36 intended to replace.

37 The bill repeals P.L.1969, c.161, as well as P.L.1987, c.244
 38 (C.26:6-58.1 et seq.) (concerning hospital procedures applicable to
 39 the making of anatomical gifts), as the provisions of both laws have
 40 been incorporated into or are otherwise obviated by this bill.

41 The bill provides specifically as follows:

- 42 • An anatomical gift of a donor's body or part may be made during
 43 the life of the donor for the purpose of transplantation, therapy,
 44 research, or education in the manner provided in the bill by:
 45 -- the donor, if the donor is an adult, or if the donor is a minor
 46 and is emancipated or is authorized under State law to apply for a
 47 driver's license;

- 1 -- an agent (such as a health care representative) of the donor,
2 unless the advance directive for health care or other record prohibits
3 the agent from making an anatomical gift;
- 4 -- a parent of the donor, if the donor is an unemancipated minor;
5 or
6 -- the donor's guardian.
- 7 • A person may make an anatomical gift and thereby become a
8 donor:
- 9 -- by authorizing a statement or symbol indicating that the donor
10 has made an anatomical gift to be imprinted on the donor's driver's
11 license or identification card;
- 12 -- in a will;
- 13 -- during a terminal illness or injury of the donor, by any form
14 of communication addressed to at least two adults, at least one of
15 whom shall be a disinterested witness; or
16 -- by a donor card or other record signed by the donor or other
17 person making the gift or by authorizing that a statement or symbol
18 indicating that the donor has made an anatomical gift be included
19 on a donor registry.
- 20 • A donor or other person authorized to make an anatomical gift
21 pursuant to the bill may amend or revoke an anatomical gift by:
- 22 -- a record signed by the donor or other authorized person, or
23 another individual acting at the direction of the donor or the other
24 person if the donor or other person is physically unable to sign; or
25 -- a later-executed document of gift that amends or revokes a
26 previous anatomical gift or portion of an anatomical gift, either
27 expressly or by inconsistency.
- 28 • A donor or other person authorized to make an anatomical gift
29 may revoke an anatomical gift by the destruction or cancellation
30 of the document of gift, or the portion of the document of gift
31 used to make the gift, with the intent to revoke the gift.
- 32 • A person may refuse to make an anatomical gift of the person's
33 body or part by:
- 34 -- a record signed by the person or another individual acting at
35 the person's direction if the person is physically unable to sign;
36 -- the person's will, whether or not the will is admitted to
37 probate or invalidated after the person's death; or
38 -- any form of communication made by the person during the
39 person's terminal illness or injury addressed to at least two adults,
40 at least one of whom is a disinterested witness.
- 41 • A person who has made a refusal may amend or revoke the
42 refusal as specified in the bill.
- 43 • In the event of the death of a donor who is an unemancipated
44 minor, a parent of the donor who is reasonably available may
45 revoke or amend an anatomical gift of the donor's body or part.
46 In the event of the death of an unemancipated minor who has
47 signed a refusal, a parent of the minor who is reasonably
48 available may revoke the minor's refusal.

- 1 • An anatomical gift of a decedent's body or part for the purpose of
2 transplantation, therapy, research, or education may be made by
3 any member of the following classes of persons who is
4 reasonably available, in the order of priority listed:
- 5 -- an agent of the decedent at the time of the decedent's death
6 who could have made an anatomical gift immediately before the
7 decedent's death pursuant to the bill;
 - 8 -- the spouse, civil union partner, or domestic partner of the
9 decedent;
 - 10 -- an adult child of the decedent;
 - 11 -- either parent of the decedent;
 - 12 -- an adult sibling of the decedent;
 - 13 -- another adult who is related to the decedent by blood,
14 marriage, or adoption, or exhibited special care and concern for the
15 decedent;
 - 16 -- a person who was acting as the guardian of the person of the
17 decedent at the time of the decedent's death; and
 - 18 -- any other person having the authority to dispose of the
19 decedent's body, including the administrator of a hospital in which
20 the decedent was a patient or resident immediately preceding death.
- 21 In the absence of actual notice of contrary indication by the
22 decedent, the administrator shall make an anatomical gift of a
23 decedent's body or part.
- 24 • If there is more than one member of a class as specified above
25 who is entitled to make an anatomical gift, a member of the class
26 may make an anatomical gift unless that member or a person to
27 whom the gift may pass pursuant to the bill knows of an objection
28 by another member of the class. If an objection is known, the gift
29 is to be made only by a majority of the members of the class who
30 are reasonably available.
 - 31 • A person may not make an anatomical gift if, at the time of the
32 decedent's death, a person in a prior class is reasonably available
33 to make or object to the making of an anatomical gift.
 - 34 • An anatomical gift may be made to the following persons or
35 entities named in the document of gift:
 - 36 -- a hospital; accredited medical school, dental school, college,
37 or university; organ procurement organization; or other appropriate
38 person, for research or education;
 - 39 -- an individual designated by the person making the anatomical
40 gift if the individual is the recipient of the part; or
 - 41 -- an eye bank or tissue bank.
 - 42 • If an anatomical gift to an individual cannot be transplanted into
43 the individual, the part shall pass in accordance with the bill in
44 the absence of an express, contrary indication by the person
45 making the anatomical gift.
 - 46 • If an anatomical gift of one or more specific parts or all parts is
47 made in a document of gift that does not name a person or entity
48 as described in the bill and does not identify the purpose of the

- 1 gift, the gift shall be used only for transplantation or therapy in
2 accordance with the following rules:
- 3 -- If the part is an eye, the gift passes to the appropriate eye
4 bank;
- 5 -- If the part is tissue, the gift passes to the appropriate tissue
6 bank; and
- 7 -- If the part is an organ, the gift passes to the appropriate organ
8 procurement organization as custodian of the organ.
- 9 • If there is more than one purpose of an anatomical gift set forth in
10 the document of gift but the purposes are not set forth in any
11 priority, the gift is to be used for transplantation or therapy, if
12 suitable. If the gift cannot be used for transplantation or therapy,
13 the gift may be used for research or education.
- 14 • Upon the request of an organ procurement organization, the
15 following persons are to make a reasonable search of an
16 individual who the person reasonably believes is dead or near
17 death for a document of gift or other information identifying the
18 individual as a donor or as an individual who made a refusal:
- 19 -- a law enforcement officer, firefighter, paramedic, or other
20 emergency rescuer finding the individual; and
- 21 -- if no other source of the information is immediately available,
22 a hospital, as soon as practical after the individual's arrival at the
23 hospital.
- 24 • A document of gift need not be delivered during the donor's
25 lifetime to be effective.
- 26 • A hospital is to notify an organ procurement organization or a
27 third party designated by that organization of a person whose
28 death is imminent or who has died in the hospital, in a timely
29 manner sufficient to ensure that the examination, evaluation, and
30 ascertainment of donor status as set forth in the bill can be
31 completed within a time frame compatible with the donation of
32 organs and tissues for transplant.
- 33 • When a hospital refers an individual who is dead or near death to
34 an organ procurement organization, the organization is to make a
35 reasonable search of the records of the New Jersey Motor Vehicle
36 Commission and any donor registry that it knows exists for the
37 geographical area in which the individual resides in order to
38 ascertain whether the individual has made an anatomical gift.
- 39 • When a hospital refers an individual who is dead or near death to
40 a procurement organization, the organization may conduct any
41 test or examination that is reasonably necessary to evaluate the
42 medical suitability of a part that is or may be the subject of an
43 anatomical gift. During the examination period, the hospital is
44 not to withdraw any measures that are necessary to maintain the
45 medical suitability of the part until the procurement organization
46 has had the opportunity to advise the applicable persons as set
47 forth in this bill of the option to make an anatomical gift or has
48 ascertained that the individual expressed a contrary intent.

- 1 • At any time after a donor's death, the person to whom an
2 anatomical gift may pass pursuant to the bill may conduct any test
3 or examination that is reasonably necessary to evaluate the
4 medical suitability of the body or part for its intended purpose.
- 5 • The rights of a person or entity to whom a part passes pursuant to
6 the bill are superior to the rights of all others with respect to that
7 part. The person or entity may accept or reject an anatomical gift
8 in whole or in part.
- 9 • Neither the physician or registered professional nurse who attends
10 the decedent at death nor the physician or nurse who determines
11 the time of the decedent's death may participate in the procedures
12 for removing or transplanting a part from the decedent.
- 13 • Each hospital or other licensed health care facility in this State is
14 authorized to enter into such agreements or affiliations with
15 procurement organizations as are necessary for the coordination
16 of procurement and use of anatomical gifts.
- 17 • A person who seeks to facilitate the making of an anatomical gift,
18 for the purposes of transplantation or therapy, from a decedent
19 who was not a hospital patient at the time of death is to notify the
20 procurement organization at or around the time of the person's
21 death in order to allow the organization to at least initially
22 evaluate the potential donation and coordinate the donation
23 process, as applicable.
- 24 • A person or entity is immune from liability for actions taken in
25 accordance with, or in a good faith attempt to act in accordance
26 with, the provisions of the bill or the applicable anatomical gift
27 law of another state. Neither the person making an anatomical
28 gift nor the donor's estate is liable for any injury or damage that
29 results from the making or use of the gift.
- 30 • A document of gift is valid if executed in accordance with:
31 -- the provisions of the bill;
32 -- the laws of the state or country in which it is executed; or
33 -- the laws of the state or country in which the person making
34 the anatomical gift is domiciled, has a place of residence, or is a
35 citizen at the time that the document of gift is executed.
- 36 • A person or entity is to presume that a document of gift or
37 amendment of an anatomical gift is valid unless the person knows
38 that it was not validly executed or was revoked.
- 39 • If a hospital patient who is a prospective donor has executed an
40 advance directive for health care, or has otherwise specified by
41 record the circumstances under which the patient would want life
42 support to be withheld or withdrawn from that person, and the
43 terms of the advance directive or other record are in conflict with
44 the option of making an anatomical gift by precluding the
45 administration of measures necessary to ensure the medical
46 suitability of a part for transplantation or therapy:
47 -- the prospective donor and that donor's attending physician are
48 to seek to mutually resolve the conflict; and

- 1 -- if the patient is unable to resolve the conflict, an agent acting
2 pursuant to the patient's advance directive or other record or, if no
3 such agent has been designated by the patient or the agent is not
4 reasonably available, another person authorized by another law to
5 make decisions on behalf of the patient with regard to the patient's
6 health care is to act for the patient to resolve the conflict.
- 7 • Each medical examiner is to cooperate with any procurement
8 organization to maximize the opportunity to recover anatomical
9 gifts for the purpose of transplantation, therapy, research, or
10 education.
- 11 -- A part is not to be removed from the body of a decedent under
12 a medical examiner's jurisdiction for transplantation, therapy,
13 research, or education, nor delivered to a person for research or
14 education, unless the part is the subject of an anatomical gift.
- 15 -- The provisions of the bill are not to be construed to preclude a
16 medical examiner from performing an investigation as provided in
17 P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the
18 medical examiner's jurisdiction.
- 19 -- Upon the request of a procurement organization, the medical
20 examiner is to release to the procurement organization the name,
21 contact information, and available medical and social history of a
22 decedent whose body is under the medical examiner's jurisdiction.
- 23 -- If the decedent's body or part is medically suitable for
24 transplantation, therapy, research, or education, the medical
25 examiner is to release the post-mortem examination results to the
26 procurement organization.
- 27 • Finally, the bill amends various statutes to delete references to the
28 "Uniform Anatomical Gift Act" and replace them with references
29 to this bill.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2206

STATE OF NEW JERSEY

DATED: MARCH 3, 2008

The Assembly Health and Senior Services Committee reports favorably Assembly Bill No. 2206.

This bill, which is designated the "Revised Uniform Anatomical Gift Act," represents a revised version of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), which this bill is intended to replace.

The bill repeals P.L.1969, c.161, as well as P.L.1987, c.244 (C.26:6-58.1 et seq.) (concerning hospital procedures applicable to the making of anatomical gifts), as the provisions of both laws have been incorporated into or are otherwise obviated by this bill.

The bill provides specifically as follows:

- 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 the bill by:
 - the donor, if the donor is an adult, or if the donor is a minor and is emancipated or is authorized under State law to apply for a driver's license;
 - an agent (such as a health care representative) of the donor, unless the advance directive for health care or other record prohibits the agent from making an anatomical gift;
 - a parent of the donor, if the donor is an unemancipated minor; or
 - the donor's guardian.
- A person may make an anatomical gift and thereby become a donor:
 - 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;
 - in a will;
 - during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom shall be a disinterested witness; or
 - 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.
- A donor or other person authorized to make an anatomical gift pursuant to the bill may amend or revoke an anatomical gift by:

- a record signed by the donor or other authorized person, or 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
- a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- A donor or other person authorized to make an anatomical gift 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.
- A person may refuse to make an anatomical gift of the person's body or part by:
 - a record signed by the person or another individual acting at the person's direction if the person is physically unable to sign;
 - the person's will, whether or not the will is admitted to probate or invalidated after the person's death; or
 - any form of communication made by the person during the person's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- A person who has made a refusal may amend or revoke the refusal as specified in the bill.
- In the event of the death of a donor who is an unemancipated minor, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part. In the event of the death of an unemancipated minor who has signed a refusal, a parent of the minor who is reasonably available may revoke the minor's refusal.
- An anatomical gift of a decedent's body or part for the 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:
 - an agent of the decedent at the time of the decedent's death who could have made an anatomical gift immediately before the decedent's death pursuant to the bill;
 - the spouse, civil union partner, or domestic partner of the decedent;
 - an adult child of the decedent;
 - either parent of the decedent;
 - an adult sibling of the decedent;
 - another adult who is related to the decedent by blood, marriage, or adoption, or exhibited special care and concern for the decedent;
 - a person who was acting as the guardian of the person of the decedent at the time of the decedent's death; and
 - any other person having the authority to dispose of the decedent's body, including the administrator of a hospital in which the decedent was a patient or resident immediately preceding death. In the absence of actual notice of contrary indication by the decedent, the

administrator shall make an anatomical gift of a decedent's body or part.

- If there is more than one member of a class as specified above who is entitled to make an anatomical gift, a member of the class may make an anatomical gift unless that member or a person to whom the gift may pass pursuant to the bill knows of an objection by another member of the class. If an objection is known, the gift is to be made only by a majority of the members of the class who are reasonably available.
- A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class is reasonably available to make or object to the making of an anatomical gift.
- An anatomical gift may be made to the following persons or entities named in the document of gift:
 - a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;
 - an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or
 - an eye bank or tissue bank.
- If an anatomical gift to an individual cannot be transplanted into the individual, the part shall pass in accordance with the bill in the absence of an express, contrary indication by the person making the anatomical gift.
- If an anatomical gift of one or more specific parts or all parts is made in a document of gift that does not name a person or entity as described in the bill and does not identify the purpose of the gift, the gift shall be used only for transplantation or therapy in accordance with the following rules:
 - If the part is an eye, the gift passes to the appropriate eye bank;
 - If the part is tissue, the gift passes to the appropriate tissue bank;
 - and
 - If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- 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 is to 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.
- Upon the request of an organ procurement organization, the following persons are to make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:
 - a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

-- if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

- A document of gift need not be delivered during the donor's lifetime to be effective.
- A hospital is to notify an organ procurement organization or a third party designated by that organization of a person whose death is imminent or who has died in the hospital, in a timely manner sufficient to ensure that the examination, evaluation, and ascertainment of donor status as set forth in the bill can be completed within a time frame compatible with the donation of organs and tissues for transplant.
- When a hospital refers an individual who is dead or near death to an organ procurement organization, the organization is to make a reasonable search of the records of the New Jersey Motor Vehicle Commission and any donor registry that it knows exists for the geographical area in which the individual resides in order to ascertain whether the individual has made an anatomical gift.
- When a hospital refers an individual who is dead or near death to a procurement organization, the organization may conduct any test or examination that is reasonably necessary to evaluate the medical suitability of a part that is or may be the subject of an anatomical gift. During the examination period, the hospital is not to withdraw any measures that are necessary to maintain the medical suitability of the part until the procurement organization has had the opportunity to advise the applicable persons as set forth in this bill of the option to make an anatomical gift or has ascertained that the individual expressed a contrary intent.
- At any time after a donor's death, the person to whom an anatomical gift may pass pursuant to the bill may conduct any test or examination that is reasonably necessary to evaluate the medical suitability of the body or part for its intended purpose.
- The rights of a person or entity to whom a part passes pursuant to the bill are superior to the rights of all others with respect to that part. The person or entity may accept or reject an anatomical gift in whole or in part.
- Neither the physician or registered professional nurse who attends the decedent at death nor the physician or nurse who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
- Each hospital or other licensed health care facility in this State is authorized to enter into such agreements or affiliations with procurement organizations as are necessary for the coordination of procurement and use of anatomical gifts.
- A person who seeks to facilitate the making of an anatomical gift, for the purposes of transplantation or therapy, from a decedent who was not a hospital patient at the time of death is to notify the

procurement organization at or around the time of the person's death in order to allow the organization to at least initially evaluate the potential donation and coordinate the donation process, as applicable.

- A person or entity is immune from liability for actions taken in accordance with, or in a good faith attempt to act in accordance with, the provisions of the bill or the applicable anatomical gift law of another state. 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.
- A document of gift is valid if executed in accordance with:
 - the provisions of the bill;
 - the laws of the state or country in which it is executed; or
 - the laws of the state or country in which the person making the anatomical gift is domiciled, has a place of residence, or is a citizen at the time that the document of gift is executed.
- A person or entity is to presume that a document of gift or amendment of an anatomical gift is valid unless the person knows that it was not validly executed or was revoked.
- If a hospital patient who is a prospective donor has executed an advance directive for health care, or has otherwise specified by record the circumstances under which the patient would want life support to be withheld or withdrawn from that person, and the terms of the advance directive or other record are in conflict with the option of making an anatomical gift by precluding the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:
 - the prospective donor and that donor's attending physician are to seek to mutually resolve the conflict; and
 - if the patient is unable to resolve the conflict, an agent acting pursuant to the patient's advance directive or other record or, if no such agent has been designated by the patient or the agent is not reasonably available, another person authorized by another law to make decisions on behalf of the patient with regard to the patient's health care is to act for the patient to resolve the conflict.
- Each medical examiner is to cooperate with any procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.
 - A part is not to be removed from the body of a decedent under a medical examiner's jurisdiction for transplantation, therapy, research, or education, nor delivered to a person for research or education, unless the part is the subject of an anatomical gift.
 - The provisions of the bill are not to be construed to preclude a medical examiner from performing an investigation as provided in P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the medical examiner's jurisdiction.

-- Upon the request of a procurement organization, the medical examiner is to release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the medical examiner's jurisdiction.

-- If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner is to release the post-mortem examination results to the procurement organization.

- Finally, the bill amends various statutes to delete references to the "Uniform Anatomical Gift Act" and replace them with references to this bill.

This bill is identical to Senate Bill No. 754 (Codey), which is currently pending before the Senate.

STATEMENT TO
ASSEMBLY, No. 2206

with Assembly Floor Amendments
(Proposed By Assemblyman CONAWAY)

ADOPTED: JUNE 16, 2008

These amendments:

- change the term “near death” to “whose death is imminent” (sections 2, 11 and 13.b);
- provide that if there is no evidence of an anatomical gift or “refusal” by the decedent, rather than “actual notice of contrary indications,” the organ procurement organization representative or the designated requester shall attempt to notify the appropriate individual specified in the bill (section 13.c.);
- specify that the organ procurement organization must review medical records to determine that the individual may be a prospective donor; specify that it may conduct a “blood or tissue” test or “minimally invasive” examination to evaluate medical suitability; and provide that the “results of such tests and examinations shall be used or disclosed only for purposes of evaluating medical suitability for donation and to facilitate the donation process, and as required or permitted by existing law” (section 13); and
- distinguish the procedures to follow when a prospective organ donor is either determined to have decision making capacity or lack decision making capacity, and the terms of the advance directive or other record are in conflict with the option of making an anatomical gift (section 17).