

52:17B-88.7 to 52:17B-88.9

LEGISLATIVE HISTORY CHECKLIST
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(Anatomical gifts--
time period)

NJSA: 52:17B-88.7 to 52:17B-88.9

LAWS OF: 1993 **CHAPTER:** 276

BILL NO: A1575

SPONSOR(S) DeCroce and Colburn

DATE INTRODUCED: June 15, 1992

COMMITTEE: **ASSEMBLY:** Health and Human Services
SENATE: Health and Human Services

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 25, 1993 Re-enacted 11-15-93
SENATE: June 10, 1993 Re-enacted 12-13-93

DATE OF APPROVAL December 13, 1993 Without Governor's approval

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: ~~No~~ Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached.

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 1575
STATE OF NEW JERSEY

INTRODUCED JUNE 15, 1992

By Assemblymen DeCROCE and COLBURN

1 AN ACT concerning autopsy and tissue or organ analysis and
2 supplementing Title 52 of the Revised Statutes.

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

6 1. Notwithstanding any provision of law to the contrary, if a
7 deceased person whose death is under investigation pursuant to
8 section 9 of P.L.1967, c.234 (C.52:17B-86) is a donor of all or
9 part of his body as evidenced by an advance directive, will, card
10 or other document, or as otherwise provided in the "Uniform
11 Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et seq.), the
12 State Medical Examiner or the county medical examiner¹, or his
13 designee,¹ who has notice of the donation shall perform an
14 examination,¹ autopsy or analysis of tissues or organs only in a
15 manner and within a time period ¹[comptable] compatible¹ with
16 their preservation for the purposes of transplantation.

17 2. A health care professional authorized to remove an
18 anatomical gift from a donor whose death is under investigation
19 pursuant to section 9 of P.L.1967, c.234 (C.52:17B-86), may
20 remove the donated part from the donor's body for acceptance
21 by a person authorized to become a donee ¹[under the following
22 circumstances:

23 a. prior to completion of an autopsy or analysis of tissues or
24 organs of the donor by the State Medical Examiner or the county
25 medical examiner as provided in section 1 of this act; or

26 b. upon, after giving¹ notice to the ¹[person performing the
27 autopsy] State Medical Examiner or the county medical examiner,
28 or his designee,¹ if the examination,¹ autopsy ¹[is] or analysis
29 has¹ not been¹ undertaken in the manner and within the time
30 provided in section 1 of this act. The State Medical Examiner or
31 the county medical examiner, or his designee ¹[may] shall¹ be
32 present during removal of the anatomical gift ¹[if in his judgment
33 those tissues or organs may be involved in the cause of death. In
34 that case, the State Medical Examiner or the county medical
35 examiner, or his designee, may request a biopsy of those tissues
36 or organs or deny removal of the anatomical gift. The State
37 Medical Examiner or the county medical examiner, or his
38 designee, shall explain in writing his reasons for determining that
39 those tissues or organs may be involved in the cause of death and
40 shall include the explanation in the records maintained pursuant
41 to section 15 of P.L.1967, c.234 (C.52:17B-92)¹.

42 3. The health care professional performing a transplant from a
43 donor whose death is under investigation pursuant to section 9 of

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:
¹ Assembly AHH committee amendments adopted January 11, 1993.

1 P.L.1967, c.234 (C.52:17B-86) shall file with the State Medical
2 Examiner a report detailing the condition of the part of the body
3 that is the anatomical gift and its relationship to the cause of
4 death. If appropriate, the report shall include a biopsy or
5 medically approved sample from the anatomical gift. The report
6 shall become part of the Medical Examiner's report.

7 4. This act shall take effect immediately.

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12 _____
13 Requires autopsy or tissue/organ analysis be performed in manner
14 and within time period compatible with preservation for
transplantation.

ASSEMBLY, No. 1575
STATE OF NEW JERSEY

INTRODUCED JUNE 15, 1992

By Assemblymen DeCROCE and COLBURN

1 AN ACT concerning autopsy and tissue or organ analysis and
2 supplementing Title 52 of the Revised Statutes.

3

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

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

17 2. A health care professional authorized to remove an
18 anatomical gift from a donor whose death is under investigation
19 pursuant to section 9 of P.L.1967, c.234 (C.52:17B-86), may
20 remove the donated part from the donor's body for acceptance
21 by a person authorized to become a donee under the following
22 circumstances:

23 a. prior to completion of an autopsy or analysis of tissues or
24 organs of the donor by the State Medical Examiner or the county
25 medical examiner as provided in section 1 of this act; or

26 b. upon notice to the person performing the autopsy if the
27 autopsy is not undertaken in the manner and within the time
28 provided in section 1 of this act. The State Medical Examiner or
29 the county medical examiner, or his designee may be present
30 during removal of the anatomical gift.

31 3. The health care professional performing a transplant from a
32 donor whose death is under investigation pursuant to section 9 of
33 P.L.1967, c.234 (C.52:17B-86) shall file with the State Medical
34 Examiner a report detailing the condition of the part of the body
35 that is the anatomical gift and its relationship to the cause of
36 death. If appropriate, the report shall include a biopsy or
37 medically approved sample from the anatomical gift. The report
38 shall become part of the Medical Examiner's report.

39 4. This act shall take effect immediately.

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STATEMENT

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This bill requires that an autopsy or analysis of tissues or organs performed on a person whose death is under investigation pursuant to section 9 of P.L.1967, c.234 (C.52:17B-86) and who is a donor of all or part of his body shall be performed in a

1 manner and within a time period compatible with preservation of
2 the tissue or organ for the purposes of transplantation. The bill
3 provides that the anatomical gift may be removed by an
4 authorized health care professional prior to the autopsy or
5 analysis by the State Medical Examiner or the county medical
6 examiner or upon notice to the person performing the autopsy
7 who may be present during the removal of the anatomical gift.

8 The bill also requires that the health care professional who
9 performs a transplant from the donor shall file a report with the
10 State Medical Examiner detailing the condition of the part of the
11 body that is the anatomical gift and its relationship to the cause
12 of death.

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17 Requires autopsy or tissue/organ analysis be performed in manner
18 and within time period compatible with preservation for
19 transplantation.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1575

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 11, 1993

The Assembly Health and Human Services Committee favorably reports Assembly Bill No. 1575 with committee amendments.

As amended by the committee, this bill requires that:

- an examination, autopsy or analysis of tissues or organs performed on a person whose death is under investigation pursuant to section 9 of P.L.1967, c.234, the "State Medical Examiner Act" (C.52:17B-86), and who is a donor of all or part of his body, shall be performed in a manner and within a time period compatible with preservation of the tissue or organ for the purposes of transplantation;
- the anatomical gift may be removed by an authorized health care professional prior to an examination, autopsy or analysis after giving notice to the State Medical Examiner or the county medical examiner, or his designee, if the examination, autopsy or analysis is not undertaken in the manner and within the time provided in the bill;
- the State Medical Examiner or the county medical examiner, or his designee, shall be present during the removal of the anatomical gift if in his judgment those tissues or organs may be involved in the cause of death, in which case, the State medical examiner or the county medical examiner, or his designee, may request a biopsy of those tissues or organs or deny removal of the anatomical gift;
- the State Medical Examiner or the county medical examiner, or his designee, shall explain in writing his reasons for determining that those tissues or organs may be involved in the cause of death and shall include the explanation in the records maintained pursuant to section 15 of P.L.1967, c.234 (C.52:17B-92); and
- the health care professional who performs a transplant from the donor shall file a report with the State Medical Examiner detailing the condition of the part of the body that is the anatomical gift and its relationship to the cause of death.

The following causes of death are subject to investigation by the State Medical Examiner or the county medical examiner under section 9 of P.L.1967, c.234 (C.52:17B-86):

- Violent deaths, whether apparently homicidal, suicidal or accidental;
- Deaths not caused by readily recognizable disease, disability or infirmity;
- Deaths under suspicious or unusual circumstances;
- Deaths within 24 hours after admission to a hospital or institution;
- Deaths of prison inmates;

- Deaths of persons in State or county institutions who were not hospitalized for organic disease;
- Deaths from causes which might constitute a threat to public health;
- Deaths related to disease resulting from employment or an employment-related accident; and
- Sudden or unexpected deaths of infants and children under three years of age and fetal deaths occurring without medical attendance.

The committee amended the bill at the request of the New Jersey Organ and Tissue Sharing Network to provide that:

- in the case of a person whose death is under investigation pursuant to section 9 of P.L.1967, c.234, the "State Medical Examiner Act" (C.52:17B-86), an anatomical gift may be removed by an authorized health care professional prior to an examination, autopsy or analysis after giving notice to the State Medical Examiner or the county medical examiner, or his designee, if the examination, autopsy or analysis is not undertaken in a manner and within a time period compatible with preservation of the tissue or organ for the purposes of transplantation;
- the State Medical Examiner or the county medical examiner, or his designee, shall be present during the removal of the anatomical gift if in his judgment those tissues or organs may be involved in the cause of death;
- if the State Medical Examiner or the county medical examiner, or his designee, believes that the tissues or organs may be involved in the cause of death, he may request a biopsy of those tissues or organs or deny removal of the anatomical gift; and
- the State Medical Examiner or the county medical examiner, or his designee, shall explain in writing his reasons for determining that those tissues or organs may be involved in the cause of death and shall include the explanation in the records maintained pursuant to section 15 of P.L.1967, c.234 (C.52:17B-92).

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[FIRST REPRINT]
ASSEMBLY, No. 1575

STATE OF NEW JERSEY

DATED: MAY 10, 1993

The Senate Health and Human Services Committee favorably reports Assembly Bill No. 1575 (1R).

This bill requires that an examination, autopsy or analysis of tissues or organs performed on a person whose death is under investigation pursuant to section 9 of P.L.1967, c.234, the "State Medical Examiner Act" (C.52:17B-86), and who is a donor of all or part of his body, shall be performed in a manner and within a time period compatible with preservation of the tissue or organ for the purposes of transplantation. The bill also provides that the anatomical gift may be removed by an authorized health care professional prior to an examination, autopsy or analysis after giving notice to the State Medical Examiner or the county medical examiner, or his designee, if the examination, autopsy or analysis is not undertaken in the manner and within the time provided in the bill.

The State Medical Examiner or the county medical examiner, or his designee, shall be present during the removal of the anatomical gift if in his judgment those tissues or organs may be involved in the cause of death, in which case, the State medical examiner or the county medical examiner, or his designee, may request a biopsy of those tissues or organs or deny removal of the anatomical gift. Also, the State Medical Examiner or the county medical examiner, or his designee, shall explain in writing his reasons for determining that those tissues or organs may be involved in the cause of death and shall include the explanation in the records maintained pursuant to section 15 of P.L.1967, c.234 (C.52:17B-92). Finally, the bill provides that the health care professional who performs a transplant from the donor shall file a report with the State Medical Examiner detailing the condition of the part of the body that is the anatomical gift and its relationship to the cause of death.

The following causes of death are subject to investigation by the State Medical Examiner or the county medical examiner under section 9 of P.L.1967, c.234 (C.52:17B-86):

- Violent deaths, whether apparently homicidal, suicidal or accidental;
- Deaths not caused by readily recognizable disease, disability or infirmity;
- Deaths under suspicious or unusual circumstances;
- Deaths within 24 hours after admission to a hospital or institution;
- Deaths of prison inmates;
- Deaths of persons in State or county institutions who were not hospitalized for organic disease;

- Deaths from causes which might constitute a threat to public health;
- Deaths related to disease resulting from employment or an employment-related accident; and
- Sudden or unexpected deaths of infants and children under three years of age and fetal deaths occurring without medical attendance.

This bill is identical to Senate Bill No. 1626 (Bassano), which the committee also reported favorably on this date.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 13, 1993

ASSEMBLY BILL NO. 1575
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I herewith return Assembly Bill No. 1575 (First Reprint) with my objections for reconsideration.

This bill establishes standards for determining when a health care professional may remove a donated organ from a deceased person. The purpose of the bill is to properly balance the interest of a medical examiner in making an accurate determination of the cause of death in cases within his/her jurisdiction and the ability of health care professionals and a medical examiner to facilitate transplantation in cases where it does not interfere with that responsibility.

I fully support organ donation and believe that medical examiners should do everything in their power to facilitate organ transplantation. Organ and tissue donation and transplantation saves lives. I strongly urge all citizens of New Jersey to seriously consider contributing to this life-giving process. I also support increased public education and counseling for families who are experiencing the trauma of death and struggling with the decision regarding donating organs for transplantation.

In deciding whether removal of an organ for transplantation is appropriate, however, a medical examiner must take into account whether that removal will jeopardize an accurate determination of the cause of death. Most denials of organ removal for transplantation by New Jersey medical examiners involve incidents of unwitnessed homicide and child abuse. In such cases, it is essential that a medical examiner have the unfettered ability to

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conduct the examinations and analyses necessary to determine the cause of death and collect forensic evidence to support that determination. Unfortunately, Assembly Bill No. 1575, in its present form, could shift this decision in important homicide and child abuse cases from a medical examiner to the organ procurement organizations.

Given the above, I recommend that the bill be amended so that it advances the desire to facilitate transplantation in a way that does not compromise the responsibilities of a medical examiner. The amendments I propose provide that a medical examiner may deny authorization for the removal of a donor's organs and tissues only if he/she has undertaken all of the following steps in a time period compatible with the preservation of the donor's organs and tissues for purposes of transplantation: (1) conducted an investigation into the cause of the donor's death; (2) concluded in good faith from the results of that investigation that removal of the anatomical gift would jeopardize an accurate determination of the cause of death; (3) submitted the results of that investigation to the State Medical Examiner; and (4) received the concurrence of the State Medical Examiner. The inclusion of oversight regarding the decision to allow removal of organs and tissues from donors for the purpose of transplantation is crucial as it empowers the State Medical Examiner to facilitate transplantation whenever possible.

The proposed amendments also provide:

- that a medical examiner receive notice as early as possible of a prospective organ or tissue donor;
- that a medical examiner be granted the power to conduct an investigation into the probable cause of death before the actual declaration of death is made;

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- that if a medical examiner is unable to determine whether removal of an anatomical gift will jeopardize an accurate determination of death, the medical examiner will, when possible, be present to personally examine the deceased donor;
- that the State Medical Examiner shall promulgate rules and regulations to establish a system to provide back-up assistance to county medical examiners in the event that a medical examiner is unable to be present to examine the deceased donor due to circumstances beyond the medical examiner's control;
- that a medical examiner and the health care professional removing the donated gift will work together to assure that the important missions of both groups are fulfilled in the most efficient manner.

Organ and tissue transplantation is saving more and more lives and the quality and length of those lives are increasing dramatically. The medical examiners in New Jersey can make a significant contribution in this area if they become active advocates for transplantation. I commend them to do so.

Therefore, I herewith return Assembly Bill No. A-1575 (First Reprint) and recommend that it be amended as follows:

Page 1, Sections 1, 2,
and 3, Lines 6-43:

Delete in entirety

Page 2, Section 3,
Lines 1-6:

Delete in entirety and insert as follows:

"1. For the purposes of this act, "medical examiner" means the State Medical Examiner or any assistant state medical examiner, county medical examiner, deputy or assistant county medical examiner or designated physician who holds a valid certificate of eligibility issued by the State Medical Examiner Office.

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2. Whenever there is identified a prospective organ or tissue donor whose death would be reportable to the medical examiner pursuant to Section 9 of P.L. 1967, c. 234 (C.52:17B-86), as evidenced by advance directive, will, card or other document, or as otherwise provided in the "Uniform Anatomical Gift Act," P.L. 1969, c. 161 (C.26:6-57 et seq.), the person in charge of the hospital, or that person's designated representative as specified in the "Uniform Anatomical Gift Act," or the transplant coordinator, shall promptly notify the medical examiner office in the county where the death is expected to be pronounced.

3. Upon receipt of such notice, the medical examiner shall fully and promptly investigate the essential facts concerning the medical causes of death of the donor. The medical examiner, as part of this investigation, is authorized to:

- a) obtain witness statements or copies of witness statements;
- b) review medical records and interview treating physicians and hospital personnel;
- c) collect information from police, health care facilities, social service agencies, and records of the Division of Youth and Family Services, and others;
- d) confer with the prosecutor;
- e) visit and examine the scene of the fatal incident;
- f) examine and photograph the patient and collect evidence; and
- g) request such clinical specimens, tests and procedures that may be useful in the investigation of the cause of death and which are not in conflict with the diagnostic and therapeutic regimens established by the treating physicians.

4. Except as provided in section 5, the medical examiner may not deny authorization to remove the anatomical gift unless the medical examiner has, in a manner and within a time period compatible with preservation of the donor's tissues and organs for transplantation:

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- (1) conducted the investigation pursuant to section 3 of this act;
- (2) concluded in good faith from the results of that investigation that removal of the anatomical gift would jeopardize an accurate determination of the cause of death;
- (3) submitted the results of that investigation to the State Medical Examiner; and
- (4) received the concurrence of the State Medical Examiner or designee.

Upon receiving proper authorization and consent, a health care professional authorized to remove an anatomical gift from a donor who is under the jurisdiction of the medical examiner may remove the donated part from the donor's body for acceptance by a person authorized to become a donee.

5. If the medical examiner is unable to determine whether removal of an anatomical gift will jeopardize an accurate determination of death, the medical examiner may deny authorization to remove the anatomical gift if the medical examiner has first examined the deceased donor or if the medical examiner or backup as provided in section 6 is unable to be present to examine the deceased donor due to circumstances beyond their control.

The State Medical Examiner shall promulgate rules and regulations to establish a system to provide backup assistance to county medical examiners in the event that a medical examiner is unable to be present to examine the deceased donor due to circumstances beyond the medical examiner's control.

6. The medical examiner may be present during the removal of the anatomical gift of any decedent under the jurisdiction of that office and may request a biopsy or specimen from the anatomical gift provided this does not impair the usefulness of the gift. Whenever, in the opinion of the medical examiner, there is a compelling public necessity as defined by P.L. 1983, c. 535 (C.52:17B-88.1, a(1) or a(4)), the medical examiner shall be present during the removal of the anatomical gift, observing the field of operation, and shall file a report of observations in the office which has jurisdiction.

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7. The health care professional shall promptly provide the medical examiner office with 1) a certification that the anatomical gift was removed in functioning condition if applicable, and 2) a description of all signs of disease or injury observed on the body of the decedent in the operative field at the site of incision(s) and within the body cavity. The transplant coordinator shall provide the medical examiner with a report documenting the results of all pending tests including, but not limited to, HIV, hepatitis B, cultures, serological or antibody testing.

8. If, after donor retrieval, the medical examiner conducts an autopsy, the findings shall be forwarded by the medical examiner to the transplant coordinator by the most expeditious means whenever evidence of unsuspected infectious disease or malignancy is identified at the time of autopsy.

Page 2, Section 4, Line 7: Delete "4" insert "9"

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Scott A. Weiner

Chief Counsel to the Governor