CHAPTER 710-B

REVISED UNIFORM ANATOMICAL GIFT ACT

§2941. Short title

This chapter may be known and cited as "the Revised Uniform Anatomical Gift Act." [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2942. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 601, §2 (NEW).]

1. Agent. "Agent" means an individual:

A. Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or [PL 2007, c. 601, §2 (NEW).]

B. Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Anatomical gift. "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purposes of transplantation, therapy, research or education.
[PL 2007, c. 601, §2 (NEW).]

3. Chief Medical Examiner. "Chief Medical Examiner" means the Office of Chief Medical Examiner within the Office of the Attorney General.
[PL 2017, c. 475, Pt. A, §32 (AMD).]

4. Decedent. "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. "Decedent" includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.
[PL 2007, c. 601, §2 (NEW).]

5. Disinterested witness. "Disinterested witness" means a witness other than the spouse, registered domestic partner, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual and who is familiar with the individual's personal values. "Disinterested witness" does not include a person to which an anatomical gift could pass under section 2951.
[PL 2007, c. 601, §2 (NEW).]

6. Document of gift. "Document of gift" means a donor card, advance directive or other record used to make an anatomical gift. "Document of gift" also means inclusion in a donor registry.
[PL 2007, c. 601, §2 (NEW).]

7. Donor. "Donor" means an individual whose body or part is the subject of an anatomical gift.
[PL 2007, c. 601, §2 (NEW).]

8. Donor registry. "Donor registry" means the Maine Organ Donor Registry maintained under Title 29-A, section 1402-A as well as any other electronic database that identifies donors and complies with section 2958.

[PL 2007, c. 601, §2 (NEW).]

9. Driver's license. "Driver's license" means a license or permit issued by the Secretary of State to operate a vehicle whether or not conditions are attached to the license or permit.
[PL 2007, c. 601, §2 (NEW).]

10. Eye bank. "Eye bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.
[PL 2007, c. 601, §2 (NEW).]

11. Guardian. "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health and welfare of an individual. "Guardian" does not include a guardian ad litem.
[PL 2007, c. 601, §2 (NEW).]

12. Hospital. "Hospital" means a facility licensed as a hospital under chapter 405 or the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state.
[PL 2007, c. 601, §2 (NEW).]

13. Identification card. "Identification card" means a nondriver identification card issued by the Secretary of State under Title 29-A, section 1410.
[PL 2007, c. 601, §2 (NEW).]

14. Know. "Know" means to have actual knowledge.
[PL 2007, c. 601, §2 (NEW).]

15. Organ procurement organization. "Organ procurement organization" means a person designated by the United States Secretary of Health and Human Services as an organ procurement organization.
[PL 2007, c. 601, §2 (NEW).]

16. Parent. "Parent" means a parent whose parental rights have not been terminated.
[PL 2007, c. 601, §2 (NEW).]

17. Part. "Part" means an organ, an eye or tissue of a human being. "Part" does not include the whole body.
[PL 2007, c. 601, §2 (NEW).]

18. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.
[PL 2007, c. 601, §2 (NEW).]

19. Physician. "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.
[PL 2007, c. 601, §2 (NEW).]

20. Procurement organization. "Procurement organization" means an eye bank, organ procurement organization or tissue bank.
[PL 2007, c. 601, §2 (NEW).]

21. Prospective donor. "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. "Prospective donor" does not include an individual who has made a refusal that is known by the procurement organization.
[PL 2007, c. 601, §2 (NEW).]

22. Reasonably available. "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.
[PL 2007, c. 601, §2 (NEW).]

23. Recipient. "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.
[PL 2007, c. 601, §2 (NEW).]

24. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
[PL 2007, c. 601, §2 (NEW).]

25. Recovery agency. "Recovery agency" means an eye bank, organ procurement organization, tissue bank, educational institution or research organization that participates in or facilitates the execution of an anatomical gift.
[PL 2007, c. 601, §2 (NEW).]

26. Refusal. "Refusal" means a record created under section 2947 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.
[PL 2007, c. 601, §2 (NEW).]

27. Registered domestic partner. "Registered domestic partner" means an individual registered as a domestic partner under section 2710, subsection 3.
[PL 2007, c. 601, §2 (NEW).]

28. Sign. "Sign" means, with the present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [PL 2007, c. 601, §2 (NEW).]

B. To attach or logically associate with the record an electronic symbol, sound or process. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

29. State. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.
[PL 2007, c. 601, §2 (NEW).]

30. Technician. "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated under federal or state law. "Technician" includes an enucleator.
[PL 2007, c. 601, §2 (NEW).]

31. Tissue. "Tissue" means a portion of the human body other than an organ or an eye. "Tissue" does not include blood unless the blood is donated for purposes of research or education.
[PL 2007, c. 601, §2 (NEW).]

32. Tissue bank. "Tissue bank" means a person that is licensed, accredited or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.
[PL 2007, c. 601, §2 (NEW).]

33. Transplant hospital. "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW). PL 2017, c. 475, Pt. A, §32 (AMD).

§2943. Applicability

This chapter applies to an anatomical gift or amendment to, revocation of or refusal to make an anatomical gift, whenever made. [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2944. Who may make anatomical gift before donor's death

Subject to section 2948, 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 section 2945 by: [PL 2007, c. 601, §2 (NEW).]

1. Donor. The donor, if the donor is at least 18 years of age or is under 18 years of age and is:

A. An emancipated minor; or [PL 2007, c. 601, §2 (NEW).]

B. Authorized under state law to apply for a driver's license because the donor is at least 16 years of age; [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Agent of donor. An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

[PL 2007, c. 601, §2 (NEW).]

3. Parent of the donor. A parent of the donor, if the donor is under 18 years of age and not emancipated; or

[PL 2007, c. 601, §2 (NEW).]

4. Guardian of donor. The donor's guardian.

[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2945. Manner of making anatomical gift before donor's death

1. Donor. A donor may make an anatomical gift:

A. By authorizing inclusion in the donor registry; [PL 2007, c. 601, §2 (NEW).]

B. In a will; or [PL 2007, c. 601, §2 (NEW).]

C. During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Donor or other authorized person. A donor or other person authorized to make an anatomical gift under section 2944 may make a gift by a donor card, advance directive or other record signed by the donor or other person making the gift authorizing inclusion in the donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or the other person and must:

A. Be witnessed by at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and [PL 2007, c. 601, §2 (NEW).]

B. State that it has been signed and witnessed as provided in paragraph A. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

3. Anatomical gift not invalidated. Revocation, suspension, expiration or cancellation of the driver's license or identification card issued to a donor does not invalidate an anatomical gift.
[PL 2007, c. 601, §2 (NEW).]

4. Anatomical gift by will. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2946. Amending or revoking anatomical gift before donor's death

1. Donor or authorized person. Subject to section 2948, a donor or other person authorized to make an anatomical gift under section 2944 may amend or revoke an anatomical gift by:

A. A record signed by:

(1) The donor;

(2) The other person; or

(3) Subject to subsection 2, 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 [PL 2007, c. 601, §2 (NEW).]

B. 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. [PL 2007, c. 601, §2 (NEW).]
[PL 2007, c. 601, §2 (NEW).]

2. Individual acting at donor's or authorized person's direction. A record signed pursuant to subsection 1, paragraph A, subparagraph (3) must:

A. Be witnessed by at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and [PL 2007, c. 601, §2 (NEW).]

B. State that it has been signed and witnessed as provided in paragraph A. [PL 2007, c. 601, §2 (NEW).]
[PL 2007, c. 601, §2 (NEW).]

3. Revocation by destruction or cancellation of document. Subject to section 2948, a donor or other person authorized to make an anatomical gift under section 2944 may revoke the gift by the destruction or cancellation of the document of gift, or a portion of the document of gift used to make the gift, with the intent to revoke the gift.
[PL 2007, c. 601, §2 (NEW).]

4. Amendment or revocation by donor during terminal illness or injury. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness.
[PL 2007, c. 601, §2 (NEW).]

5. Amendment or revocation of gift in will. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection 1.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2947. Refusal to make anatomical gift and effect of refusal

1. Refusal of individual. An individual may refuse to make an anatomical gift of the individual's body or part by:

A. A record signed by:

(1) The individual; or

(2) Subject to subsection 2, another individual acting at the direction of the individual if the individual is physically unable to sign; [PL 2007, c. 601, §2 (NEW).]

B. The individual's will whether or not the will is admitted to probate or invalidated after the individual's death; or [PL 2007, c. 601, §2 (NEW).]

C. Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Individual acting at direction of individual. A record signed pursuant to subsection 1, paragraph A, subparagraph (2) must:

A. Be witnessed by at least 2 other individuals who are at least 18 years of age, one of whom is a disinterested witness, who have signed at the request of the individual; and [PL 2007, c. 601, §2 (NEW).]

B. State that it has been signed and witnessed as provided in paragraph A. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

3. Amendment or revocation by individual. An individual may amend or revoke a refusal:

A. In the manner provided in subsection 1 for making a refusal; [PL 2007, c. 601, §2 (NEW).]

B. By subsequently making an anatomical gift pursuant to section 2945 that is inconsistent with the refusal; or [PL 2007, c. 601, §2 (NEW).]

C. By the destruction or cancellation of the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

4. Effect of unrevoked refusal. Except as otherwise provided in section 2948, subsection 7, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or a part bars all other persons from making an anatomical gift of the individual's body or the part.

[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2948. Preclusive effect of anatomical gift, amendment or revocation

1. Person other than donor barred. Except as otherwise provided in subsection 7, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or a part if the donor made an anatomical

gift of the donor's body or the part under section 2945 or an amendment to an anatomical gift of the donor's body or the part under section 2946.
[PL 2007, c. 601, §2 (NEW).]

2. Revocation not refusal. A donor's revocation of an anatomical gift of the donor's body or a part under section 2946 is not a refusal and does not bar another person specified in section 2944 or 2949 from making an anatomical gift of the donor's body or a part under section 2945 or 2950.
[PL 2007, c. 601, §2 (NEW).]

3. Effect of gift or amendment by person other than donor. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or a part under section 2945 or an amendment to an anatomical gift of the donor's body or a part under section 2946, another person may not make, amend or revoke the gift of the donor's body or part under section 2950.
[PL 2007, c. 601, §2 (NEW).]

4. Effect of revocation by person other than donor. A revocation of an anatomical gift of the donor's body or a part under section 2946 by a person other than the donor does not bar another person from making an anatomical gift of the body or a part under section 2945 or 2950.
[PL 2007, c. 601, §2 (NEW).]

5. Effect of gift of a part or for a purpose. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 2944:

A. An anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person under section 2945 or 2950; and [PL 2007, c. 601, §2 (NEW).]

B. An anatomical gift of a part for one or more of the purposes set forth in section 2944 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 2945 or 2950. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

6. Donor unemancipated minor. If a donor who is an unemancipated minor dies under 18 years of age, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.
[PL 2007, c. 601, §2 (NEW).]

7. Parent's revocation of unemancipated minor's refusal. If an unemancipated minor who signed a refusal dies under 18 years of age, a parent of the individual who is reasonably available may revoke the individual's refusal.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2949. Who may make anatomical gift of decedent's body or part

1. Gift by members of class; priority. Subject to subsections 2 and 3 and unless barred by subsection 4, an anatomical gift of a decedent's body or part for purposes of transplantation, therapy, research or education may be made, in the order of priority listed, by any member of the following classes of persons who is reasonably available:

A. An agent of the decedent at the time of death who could have made an anatomical gift under section 2944, subsection 2 immediately before the decedent's death; [PL 2007, c. 601, §2 (NEW).]

B. The spouse of the decedent; [PL 2007, c. 601, §2 (NEW).]

C. The registered domestic partner of the decedent; [PL 2007, c. 601, §2 (NEW).]

D. Adult children of the decedent; [PL 2007, c. 601, §2 (NEW).]

E. Parents of the decedent; [PL 2007, c. 601, §2 (NEW).]

F. Adult siblings of the decedent; [PL 2007, c. 601, §2 (NEW).]

G. Adult grandchildren of the decedent; [PL 2007, c. 601, §2 (NEW).]

H. Grandparents of the decedent; [PL 2007, c. 601, §2 (NEW).]

I. An adult who exhibited special care and concern for the decedent who is familiar with the decedent's personal values; [PL 2007, c. 601, §2 (NEW).]

J. The person or persons acting as the guardian of the person of the decedent at the time of death; and [PL 2007, c. 601, §2 (NEW).]

K. Any other person having the authority to dispose of the decedent's body. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Anatomical gift by member of class unless object. If there is more than one member of a class listed in subsection 1, paragraph A, D, E, F, G, H or J entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift can pass under section 2951 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

[PL 2007, c. 601, §2 (NEW).]

3. Member of prior class reasonably available. No person may make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.

[PL 2007, c. 601, §2 (NEW).]

4. Gift barred. An anatomical gift may not be made if doing so is barred by section 2947 or 2948.

[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2950. Manner of making, amending or revoking anatomical gift of decedent's body or part

1. Authorized person: document; oral communication. A person authorized to make an anatomical gift under section 2949 may make an anatomical gift by a document of gift signed by the person making the gift or that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

[PL 2007, c. 601, §2 (NEW).]

2. Amendment or revocation by prior class member. Subject to subsection 3, an anatomical gift by a person authorized under section 2949 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift may be amended or revoked only if a majority of the reasonably available members object to the amending or revoking of the gift or they are equally divided as to whether to amend or revoke an anatomical gift.

[PL 2007, c. 601, §2 (NEW).]

3. Revocation effective if known. A revocation under subsection 2 is effective only if the procurement organization or transplant hospital or the physician or technician knows of the revocation before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient.

[PL 2007, c. 601, §2 (NEW).]

4. Requesting consent. Consent for an anatomical gift by a recovery agency under section 2949 must be documented in writing or, if secured in a telephone conversation, in a suitable recording, must disclose in plain language the specific tissue, organ or body part being donated and the purpose for which the anatomical gift will be used and must comply in all respects with rules regarding consent requirements for anatomical gifting adopted by the department pursuant to subsection 5.
[PL 2007, c. 601, §2 (NEW).]

5. Rulemaking. The department, after consultation with the Office of the Attorney General, shall adopt rules to implement this section. The rules must provide specific requirements for all recovery agencies, require federally recognized recovery agencies to demonstrate compliance with applicable federal standards governing consent to anatomical gifts and require all other recovery agencies that do not operate under federal regulation to demonstrate adherence to the consent requirements of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2951. Persons that may receive anatomical gift; purpose of anatomical gift

1. Named recipient. An anatomical gift of a body or part may be made to the following persons:

A. A named hospital, accredited medical school, dental school, college, university or organ procurement organization or other appropriate person for research or education; [PL 2007, c. 601, §2 (NEW).]

B. A named individual designated by the person making the anatomical gift if the individual is the recipient of the part; or, if the part for any reason cannot be transplanted into the individual, the part passes in accordance with subsection 6 in the absence of an express, contrary indication by the person making the anatomical gift; or [PL 2007, c. 601, §2 (NEW).]

C. A named eye bank or tissue bank. [PL 2007, c. 601, §2 (NEW).]
[PL 2007, c. 601, §2 (NEW).]

2. Named purpose. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply.

A. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank. [PL 2007, c. 601, §2 (NEW).]

B. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank. [PL 2007, c. 601, §2 (NEW).]

C. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ. [PL 2007, c. 601, §2 (NEW).]

D. If the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization. [PL 2007, c. 601, §2 (NEW).]
[PL 2007, c. 601, §2 (NEW).]

3. Priority of purposes. For the purpose of subsection 2, 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 must be used for transplantation or therapy if suitable for those purposes and, if the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

[PL 2007, c. 601, §2 (NEW).]

4. No named recipient or purpose. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift passes in accordance with subsection 6 and the decedent's parts must be used for transplantation or therapy, if suitable, and, if not suitable, the gift may be used for research or education.
[PL 2007, c. 601, §2 (NEW).]

5. General intent. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor" or "body donor" or by a symbol or statement of similar import, the gift passes in accordance with subsection 6 and the decedent's parts must be used for transplantation or therapy, if suitable, and, if not suitable, the gift may be used for research or education.
[PL 2007, c. 601, §2 (NEW).]

6. Rules of passing anatomical gifts. For purposes of subsection 1, paragraph B and subsections 3, 4 and 5, the following rules apply.

A. If the part is an eye, the gift passes to the appropriate eye bank. [PL 2007, c. 601, §2 (NEW).]

B. If the part is tissue, the gift passes to the appropriate tissue bank. [PL 2007, c. 601, §2 (NEW).]

C. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ. [PL 2007, c. 601, §2 (NEW).]
[PL 2007, c. 601, §2 (NEW).]

7. Passing of organ for transplantation or therapy. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection 1, paragraph B, passes to the organ procurement organization as custodian of the organ.
[PL 2007, c. 601, §2 (NEW).]

8. Custody of body or part if not passed or used. If an anatomical gift does not pass pursuant to subsections 1 to 7 or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
[PL 2007, c. 601, §2 (NEW).]

9. Acceptance of gift prohibited. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 2945 or 2950 or if the person knows that the decedent made a refusal under section 2947 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
[PL 2007, c. 601, §2 (NEW).]

10. Allocation of organs for transplant or therapy. Except as otherwise provided in subsection 1, paragraph B, nothing in this chapter affects the allocation of organs for transplantation or therapy.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2952. Search and notification

1. Persons to conduct reasonable search. The following persons shall make a reasonable search of an individual who the searcher 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. A law enforcement officer, firefighter, paramedic or other emergency rescuer finding the individual; and [PL 2007, c. 601, §2 (NEW).]

B. If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Document of gift or refusal found. If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection 1, paragraph A and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

[PL 2007, c. 601, §2 (NEW).]

3. Immunity. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2953. Delivery of document of gift not required; right to examine

1. Delivery during lifetime not required. A document of gift need not be delivered during the donor's lifetime to be effective.

[PL 2007, c. 601, §2 (NEW).]

2. Examination and copying. Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 2951.

[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2954. Rights and duties of procurement organization and others

1. Reasonable search of registry and records. When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of any donor registry and records of the Secretary of State that it knows exist for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

[PL 2007, c. 601, §2 (NEW).]

2. Reasonable access to records of donor registry. A procurement organization must be allowed reasonable access to information in the records of the donor registry to ascertain whether an individual at or near death is a donor.

[PL 2007, c. 601, §2 (NEW).]

3. Reasonable examination to determine medical suitability. When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to assess the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to maintain the potential medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

[PL 2007, c. 601, §2 (NEW).]

4. Reasonable examination after death. Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 2951 may conduct any reasonable examination necessary to assess the medical suitability of the body or part for its intended purpose.
[PL 2007, c. 601, §2 (NEW).]

5. Examination of medical records. Unless prohibited by law other than this chapter, an examination under subsection 3 or 4 may include an examination of all medical records of the donor or prospective donor.
[PL 2007, c. 601, §2 (NEW).]

6. Reasonable search for parents of minor. If a donor, at the time of death, is under 18 years of age, a procurement organization shall conduct a reasonable search for the parents of the donor and, unless the procurement organization knows the donor is an emancipated minor, provide the parents with an opportunity to revoke or amend the anatomical gift or revoke a refusal.
[PL 2007, c. 601, §2 (NEW).]

7. Reasonable search for person to make gift on behalf of donor. A procurement organization shall make a reasonable search for any person listed in section 2949 having priority to make an anatomical gift on behalf of a prospective donor.
[PL 2007, c. 601, §2 (NEW).]

8. Advise of relevant information. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.
[PL 2007, c. 601, §2 (NEW).]

9. Superior rights. Subject to section 2951, subsection 8 and section 2961, the rights of the person to which a part passes under section 2951 are superior to rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming or cremation and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 2951, upon the death of the donor and before embalming or cremation, shall cause the part to be removed without unnecessary mutilation.
[PL 2007, c. 601, §2 (NEW).]

10. Removal or transplantation procedure. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
[PL 2007, c. 601, §2 (NEW).]

11. Physician or technician qualified. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2955. Coordination of procurement and use

Each hospital in this State, after consultation with procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts. [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2956. Immunity

1. In accordance with chapter. A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state or attempts in good faith to do so is not liable for the act in a civil action, criminal prosecution or administrative proceeding.
[PL 2007, c. 601, §2 (NEW).]

2. No liability for injury or damage. 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.
[PL 2007, c. 601, §2 (NEW).]

3. Reliance on representations. A person who documents the making, amending or revoking of an anatomical gift under this chapter may rely upon representations of the individuals listed in section 2949, subsection 1, paragraphs B, C, D, E, F, G, H and I relating to their relationship to the donor or prospective donor unless the person knows that the representation is untrue.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2957. Law governing validity; choice of law as to execution of document of gift; presumption of validity

1. Validity of document. A document of gift is valid if executed in accordance with:

A. This chapter; [PL 2007, c. 601, §2 (NEW).]

B. The laws of the state or country where it was executed; or [PL 2007, c. 601, §2 (NEW).]

C. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Law of State governs. If a document of gift is valid under this section, the law of this State governs the interpretation of the document of gift.
[PL 2007, c. 601, §2 (NEW).]

3. Presumption. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2958. Donor registry

1. Elements of donor registry. A donor registry must:

A. Provide a database that allows an individual who has made an anatomical gift to be included on the donor registry. The Maine Organ Donor Registry maintained under Title 29-A, section 1402-A must comply with this paragraph beginning January 1, 2010; [PL 2007, c. 601, §2 (NEW).]

B. Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made an anatomical gift; and [PL 2007, c. 601, §2 (NEW).]

C. Be accessible for purposes of paragraph B 7 days a week on a 24-hour basis. [PL 2007, c. 601, §2 (NEW).]

[PL 2007, c. 601, §2 (NEW).]

2. Nondisclosure of personally identifiable information. Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or the person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made an anatomical gift.
[PL 2007, c. 601, §2 (NEW).]

3. Other registries. This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the State. A registry under this subsection must comply with this chapter.
[PL 2007, c. 601, §2 (NEW).]

4. Certification of donor registries. Prior to the establishment of a nongovernmental donor registry, the donor registry must be certified by the department to ensure the registry operates in accordance with the standards and requirements of this chapter except that a donor registry established by an organ procurement organization designated by and in good standing with the United States Department of Health and Human Services is exempt from the certification requirement.
[PL 2007, c. 601, §2 (NEW).]

5. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2959. Honoring decision of donors

A person's decision to make a donation of that person's own body, organ or tissue after death must be honored. In the absence of a revocation or amendment under section 2946, health care providers and procurement organizations shall act in accordance with the donor's decision and may take appropriate actions to effect the gift. [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2960. Cooperation between Chief Medical Examiner and procurement organization

1. Cooperation to maximize opportunity. The Chief Medical Examiner shall, consistent with the requirements of chapter 711, cooperate with a procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.
[PL 2007, c. 601, §2 (NEW).]

2. Examination within compatible time period. If the Chief Medical Examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the Chief Medical Examiner and a postmortem examination may be performed, unless the Chief Medical Examiner denies recovery in accordance with section 2961, the Chief Medical Examiner or designee shall undertake reasonable efforts to conduct a postmortem examination of the body or the part in a manner and within a time period compatible with its preservation for the purposes of the gift.
[PL 2007, c. 601, §2 (NEW).]

3. Subject of an anatomical gift. A part may not be removed from the body of a decedent under the jurisdiction of the Chief Medical Examiner for transplantation, therapy, research or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the Chief

Medical Examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude the Chief Medical Examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the Chief Medical Examiner.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2961. Facilitation of anatomical gift from decedent in Chief Medical Examiner cases

1. Release of information. Subject to section 3022, subsections 8 and 13, upon request of a procurement organization, the Chief Medical Examiner shall release to the procurement organization the name, contact information and available medical and social history of a decedent whose body is under the jurisdiction of the Chief Medical Examiner pursuant to chapter 711. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the Chief Medical Examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the Chief Medical Examiner only if relevant to transplantation, therapy or with the express authorization of the Chief Medical Examiner, if relevant to research.
[PL 2007, c. 601, §2 (NEW).]

2. Medicolegal examination. The Chief Medical Examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results and other information that any person possesses about a prospective donor or a donor whose body is under the jurisdiction of the Chief Medical Examiner that the Chief Medical Examiner determines may be relevant to the investigation.
[PL 2007, c. 601, §2 (NEW).]

3. Provision of information. A person that has any information requested by the Chief Medical Examiner pursuant to subsection 2 shall provide that information as expeditiously as possible to allow the Chief Medical Examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for purposes of transplantation, therapy, research or education.
[PL 2007, c. 601, §2 (NEW).]

4. Removal not interfering with examination. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the Chief Medical Examiner and a postmortem examination is not required, or the Chief Medical Examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the Chief Medical Examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for purposes of transplantation, therapy, research or education.
[PL 2007, c. 601, §2 (NEW).]

5. Removal may interfere with examination. If an anatomical gift of a part from a decedent under the jurisdiction of the Chief Medical Examiner has been or might be made, but the Chief Medical Examiner believes that the recovery of the part may interfere with the postmortem investigation as required by chapter 711, the Chief Medical Examiner shall make a reasonable effort to consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery in an effort to facilitate recovery consistent with discharge of the obligations of the Chief Medical Examiner.
[PL 2007, c. 601, §2 (NEW).]

6. If recovery denied. If the Chief Medical Examiner or designee denies recovery, the Chief Medical Examiner or designee shall provide the specific reasons for not allowing recovery of the part to the procurement organization.
[PL 2007, c. 601, §2 (NEW).]

7. Record provided to Chief Medical Examiner. If the Chief Medical Examiner or designee allows recovery of a part under subsection 4 or 5, upon request the procurement organization shall cause the physician or technician who removes the part to provide the Chief Medical Examiner with a record describing the condition of the part, a biopsy, a photograph and any other information and observations that would assist in the postmortem examination.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2962. Registration of recovery agencies

1. Registration. Except as provided under subsection 2, a recovery agency must be registered by the department prior to requesting, receiving or otherwise participating in an anatomical gift under this chapter.
[PL 2007, c. 601, §2 (NEW).]

2. Rulemaking. The department shall adopt rules governing the registration of recovery agencies. The rules must provide for exemptions for organ procurement organizations designated by the United States Department of Health and Human Services and tissue banks registered with the United States Department of Health and Human Services, Food and Drug Administration that are in good standing with their respective federal oversight agencies. The rules may provide for exemptions for other recovery agencies if such agencies operate in full compliance with this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 601, §2 (NEW).]

3. Fees. The department may charge reasonable registration fees to defray administrative costs in administering this section.
[PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2963. Uniformity of application and construction

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2964. Relation to Electronic Signatures in Global and National Commerce Act

This Act modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that Act, 15 United States Code, Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

§2965. Effective date

This chapter takes effect January 1, 2009. [PL 2007, c. 601, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 601, §2 (NEW).

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