

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2223*

Short Title: Anatomical Gifts.

(Public)

Sponsors: Representatives Ross; Faison and Folwell.

Referred to: Judiciary I.

May 20, 2008

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REVISED ANATOMICAL GIFT ACT AND OTHER
SECTIONS OF THE GENERAL STATUTES FOR CONSISTENCY, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-602 reads as rewritten:

"§ 90-602. Routine search for donor ~~information.~~ information; notification of hospital; definitions as provided in the Revised Uniform Anatomical Gift Act.

(a) ~~The following persons may make a reasonable search for a document of gift or other information identifying the bearer as an organ donor or as an individual who has refused to make an anatomical gift:~~

- ~~(1) A law enforcement officer, firefighter, paramedic, or other official emergency rescuer finding an individual who the searcher believes is near death; and~~
- ~~(2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.~~

For the purposes of this section, the terms "anatomical gift," "document of gift," "donor," and "refusal" have the same meaning as in G.S. 130A-412.4.

(a1) The following persons may 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:

- (1) A law enforcement officer,
- (2) A firefighter,
- (3) A paramedic, or
- (4) Another official emergency rescuer finding the individual.

1 If a document of gift or a refusal is located by a search under this subsection and the
2 individual or deceased individual to whom it relates is taken to a hospital, the person
3 conducting the search shall send the document of gift or refusal to the hospital or cause
4 it to be sent.

5 (a2) If a hospital has not been advised that an individual who the hospital
6 reasonably believes is dead or near death is a donor or an individual who made a
7 refusal, the hospital shall make a reasonable search for this information as soon as
8 practical after the individual arrives at the hospital.

9 (b) Any law enforcement officer or other person listed in subsection ~~(a)~~ (a1) or
10 (a2) of this section may conduct an administrative search of the accident-trauma victim's
11 Division of Motor Vehicles driver record to ~~determine the individual's authorization for~~
12 ~~organ donation or refusal of organ donation.~~ ascertain whether the individual is a donor.
13 If a document of gift or a refusal is located by a search under this subsection and the
14 individual or deceased individual to whom it relates is taken to a hospital, the person
15 conducting the search shall notify the hospital of the results or cause the hospital to be
16 notified.

17 (c) A physical search pursuant to subsection ~~(a)~~(a1) or (a2) of this section may be
18 conducted at or near the time of death or arrival at the hospital admission and shall be
19 limited to those personal effects of the individual where a drivers license reasonably
20 may be stored. Any information, document, tangible objects, or other items discovered
21 during the search shall be used solely for the purpose of ascertaining the individual's
22 identity, notifying the individual's next of kin, and determining whether the individual
23 intends to make an anatomical gift, and in no event shall any such discovered material
24 be admissible in any subsequent criminal or civil proceeding, unless obtained pursuant
25 to a lawful search on other grounds.

26 (d) A hospital or other person with duties under this section is not subject to
27 criminal or civil liability for failing to discharge those duties but may be subject to
28 administrative sanctions.

29 (e) A person that acts under this section with due care, or attempts in good faith
30 to do so, is not liable for the act in a civil action, criminal prosecution, or administrative
31 proceeding."

32 **SECTION 2.** G.S. 130A-412.14 reads as rewritten:

33 **"§ 130A-412.14. Search and notification.**

34 (a) The following persons shall make a reasonable search of an individual who
35 the person reasonably believes is dead or near death for a document of gift or other
36 information identifying the individual as a donor or as an individual who made a
37 refusal:

- 38 (1) A law enforcement officer, firefighter, paramedic, or other emergency
39 rescuer finding the individual; and
- 40 (2) If no other source of the information is immediately available, a
41 hospital, as soon as practical after the individual's arrival at the
42 hospital.

43 (b) If a document of gift or a refusal to make an anatomical gift is located by the
44 search required by subdivision (a)(1) of this section and the individual or deceased

1 individual to whom it relates is taken to a hospital, the person responsible for
2 conducting the search shall send the document of gift or refusal to the hospital.

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

5 A search of an individual who is reasonably believed to be dead or near death for a
6 document of gift or other information identifying the individual as a donor or as an
7 individual who made a refusal, and, if applicable, notification of the hospital to which
8 the individual is taken, shall be made as provided in G.S. 90-602."

9 **SECTION 3.** G.S. 130A-391 is repealed.

10 **SECTION 4.** G.S. 32A-15(d) reads as rewritten:

11 "(d) This Article is intended and shall be construed to be consistent with the
12 provisions of ~~Part 3~~ Part 3A of Article 16 of Chapter 130A of the General Statutes. In
13 the event of a conflict between the provisions of this Article and ~~Part 3~~ Part 3A of
14 Article 16 of Chapter 130A, the provisions of ~~Part 3~~ Part 3A of Article 16 of Chapter
15 130A control."

16 **SECTION 5.** G.S. 90-210.124(d) reads as rewritten:

17 "(d) This section does not apply to the disposition of dead human bodies as
18 anatomical gifts under ~~Part 3~~ Part 3A of Article 16 of Chapter 130A of the General
19 Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of
20 the General Statutes."

21 **SECTION 6.** G.S. 90-210.129(q) reads as rewritten:

22 "(q) Before the cremation of amputated body parts, the crematory licensee shall
23 receive a written statement, on a form prescribed by the Board and signed by the
24 attending physician, acknowledging the circumstances of the amputation. If after
25 reasonable efforts no physician can be identified with knowledge and information
26 sufficient to complete the written statement required by this subsection, the crematory
27 licensee shall notify the local medical examiner pursuant to G.S. 130A-383(b). This
28 section does not apply to the disposition of body parts cremated pursuant to ~~Part 3~~ Part
29 3A of Article 16 of Chapter 130A of the General Statutes."

30 **SECTION 7.** G.S. 130A-415(f) reads as rewritten:

31 "(f) Notwithstanding anything contained in this section, an unclaimed body shall
32 not mean a dead body for which the deceased has made a gift pursuant to ~~Part 3~~ Part 3A
33 of this Article."

34 **SECTION 8.** G.S. 130A-420(d) reads as rewritten:

35 "(d) This section does not apply to the disposition of dead human bodies as
36 anatomical gifts under ~~Part 3~~ Part 3A of Article 16 of Chapter 130A of the General
37 Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of
38 the General Statutes."

39 **SECTION 9.** This act is effective when it becomes law.