

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

2

SENATE BILL 1651*
Judiciary II (Criminal) Committee Substitute Adopted 6/16/08

Short Title: Anatomical Gifts.

(Public)

Sponsors:

Referred to:

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, AND TO LOWER THE MINIMUM AGE FOR DONATING BLOOD FROM SEVENTEEN TO SIXTEEN.

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

1 (4) Another official emergency rescuer finding the individual.

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

6 (a2) If no other source of information is immediately available, a hospital shall
7 make a reasonable search of an individual who the hospital reasonably believes is dead
8 or near death, as soon as practical after the individual arrives at the hospital, for a
9 document of gift or other information identifying the individual as a donor or as an
10 individual who made a refusal.

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

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

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

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

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

35 "**§ 130A-412.14. Search and notification.**

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

40 (1) ~~A law enforcement officer, firefighter, paramedic, or other emergency~~
41 ~~rescuer finding the individual; and~~

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

1 ~~(b) If a document of gift or a refusal to make an anatomical gift is located by the~~
2 ~~search required by subdivision (a)(1) of this section and the individual or deceased~~
3 ~~individual to whom it relates is taken to a hospital, the person responsible for~~
4 ~~conducting the search shall send the document of gift or refusal to the hospital.~~

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

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

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

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

13 "(d) This Article is intended and shall be construed to be consistent with the
14 provisions of ~~Part 3~~Part 3A of Article 16 of Chapter 130A of the General Statutes. In
15 the event of a conflict between the provisions of this Article and ~~Part 3~~ Part 3A of
16 Article 16 of Chapter 130A, the provisions of ~~Part 3~~Part 3A of Article 16 of Chapter
17 130A control."

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

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

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

24 "(q) Before the cremation of amputated body parts, the crematory licensee shall
25 receive a written statement, on a form prescribed by the Board and signed by the
26 attending physician, acknowledging the circumstances of the amputation. If after
27 reasonable efforts no physician can be identified with knowledge and information
28 sufficient to complete the written statement required by this subsection, the crematory
29 licensee shall notify the local medical examiner pursuant to G.S. 130A-383(b). This
30 section does not apply to the disposition of body parts cremated pursuant to ~~Part 3~~Part
31 3A of Article 16 of Chapter 130A of the General Statutes."

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

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

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

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

41 **SECTION 9.** G.S. 130A-412.31 reads as rewritten:

42 "**§ 130A-412.31. Giving of blood by persons ~~17~~16 years of age or more.**

43 A person who is ~~17~~16 years of age or more may give or donate blood to an
44 individual, hospital, blood bank or blood collection center without the consent of the

- 1 parent or parents or guardian of the donor. It shall be unlawful for a person under the
2 age of 18 years to sell blood."
3 **SECTION 10.** This act is effective when it becomes law.