

# House Research Act Summary

**CHAPTER:** 120

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**TOPIC:** Darlene Luther Revised Uniform Anatomical Gift Act

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## Overview

This act establishes the Darlene Luther Revised Uniform Anatomical Gift Act and replaces the current Uniform Anatomical Gift Act. The act specifies who may make anatomical gifts, how to make such a gift, and who may receive an anatomical gift. It describes the respective roles of the hospital, procurement organization and the medical examiner.

### Article 1

#### Anatomical Gifts Act

- 1 **Short title.** Adds § 525A.01. Titles this chapter the "Darlene Luther Revised Uniform Anatomical Gift Act."
- 2 **Definitions.** Adds § 525A.02. Defines key terms used in this chapter, including, but not limited to, the following: "anatomical gift," "document of gift," "eye bank," "organ procurement organization," "reasonably available," "tissue bank," and "transplant hospital."
- 3 **Applicability.** Adds § 525A.03. States that this chapter applies to anatomical gifts, amendments, revocations and refusals to make anatomical gifts.
- 4 **Who may make an anatomical gift before donor's death.** Adds § 525A.04. Allows an adult to make an anatomical gift during the person's life. Allows a minor to make an anatomical gift if the minor is emancipated or at least 16 years old. Allows the agent of the donor, a parent of a minor donor or a guardian to make an anatomical gift.
- 5 **Manner of making an anatomical gift before donor's death.** Adds § 525A.05. States the

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ways in which a donor may make an anatomical gift, including:

(1) indicating the choice on the donor's driver's license;

(2) in a will;

(3) communicating the choice to at least two adults, during a terminal illness or injury; and

(4) indicating the choice by signing a donor card or similar record

- 6 Amending or revoking anatomical gift before donor's death.** Adds § 525A.06. Allows persons authorized to make an anatomical gift to amend or revoke the gift. Provides that a person can amend or revoke a gift by a signed record, a later-executed document of gift, or by destroying or canceling the document of gift with intent to revoke. Allows a donor to amend or revoke an anatomical gift by communication if the gift was not made in a will.
- 7 Refusal to make anatomical gift; effect of refusal.** Adds § 525A.07. Provides for an individual to refuse to make an anatomical gift by a signed record, a will, or a communication during a terminal illness to two or more adults. States that an individual's refusal bars all other persons from making a gift of that individual's body.
- 8 Preclusive effect of anatomical gift, amendment, or revocation.** Adds § 525A.08. Describes situations in which persons are and are not barred from making, amending or revoking an anatomical gift due to prior actions of others, including, but not limited to the following:
- States that if a donor makes an anatomical gift, then persons other than the donor may not make, amend or revoke an anatomical gift of that donor's body or part.
  - States that a donor's revocation of a gift is not a refusal and does not bar others from making a gift of that donor's body or part.
  - Provides that a revocation of an anatomical gift by a person other than the donor does not bar another person from making a gift of that donor's body or part.
  - Provides that when an unemancipated minor who signs a refusal dies, then the parent of the minor may revoke the minor's refusal.
- 9 Who may make anatomical gift of decedent's body or part.** Adds § 525A.09. States classes of persons, in order of authority, permitted to make an anatomical gift of a decedent's body or part. Provides that if there is more than one member of a class entitled to make a gift, then the gift may only be made by the majority of the members who are reasonably available.
- 10 Manner of making, amending, or revoking anatomical gift of decedent's body or part.** Adds § 525A.10. Provides that a person may make, amend or revoke an anatomical gift of a decedent's body by a document of gift. Allows a member of a prior class to amend or revoke a gift by a person with lower priority, according to section 525A.09.
- 11 Persons that may receive anatomical gift: purpose of anatomical gift.** Adds § 525A.11. States persons entitled to receive anatomical gifts and regulations regarding use of gifts,

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including, but not limited to, the following:

- Provides that an anatomical gift may be made to a hospital, an eye or tissue bank or to the designated transplant recipient.
- States that for gifts that specify more than one purpose without specifying priority, the gift must be used for transplantation or therapy, if suitable.
- States that a gift that specifies a general intent may be used only for transplantation or therapy.
- Requires that no person accept an anatomical gift if the person knows the gift was not effectively made or that the decedent made a refusal.

**12 Search and notification.** Adds § 525A.12. Requires certain emergency personnel to search an individual who is dead or near death for a document of gift or for a refusal; if nothing is found, then the hospital is required to make a search.

**13 Delivery of document of gift not required; right to examine.** Adds § 525A.13. States that delivery of a document of gift is not necessary to make the gift effective. Provides that the person in possession of a document of gift, upon the donor's death, must make the document available for examination and copying.

**14 Rights and duties of procurement organization and others.** Adds § 525A.14. Describes regulations relating to procurement organizations, including:

- Requires a procurement organization to search records to determine whether an individual made an anatomical gift and is a donor.
- Allows a procurement organization to conduct an examination of an individual, at or near death, to ensure medical stability of the part that may be the anatomical gift.
- Prohibits a physician who attends a decedent at death and a physician who determines the time of death from participating in the removal or transplantation of parts.
- States other related regulations.

**15 Coordination of procurement and use.** Adds § 525A.15. Requires every hospital to make arrangements with procurement organizations to coordinate procurement and use of anatomical gifts.

**16 Sale or purchase of parts prohibited; felony.** Adds § 525A.16. Makes it a felony for a person to purchase or sell a part that is intended to be removed after death for transplantation or therapy. Allows a person to charge a reasonable amount for services related to transplantation.

**17 Prohibited acts; felony.** Adds § 525A.17. Makes it a felony to intentionally, for financial gain, falsify, forge, conceal, deface or obliterate a document of gift or a refusal.

**18 Immunity.** Adds § 525A.18. Provides certain legal protections for persons who act in

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- accordance with this chapter and for persons who make an anatomical gift.
- 19 Law governing validity; choice of law as to execution of document of gift; presumption of validity.** Adds § 525A.19. Provides that a document of gift is valid if it is executed in accordance with this chapter, the laws of the state where it was executed, or the laws of the state where the person making the gift was domiciled, has a residence or was a national at the time of the gift.
- 20 Donor registry.** Adds § 525A.20. Requires the Department of Public Safety to provide donor information to procurement organizations that administer a donor registry that the state establishes. Provides accessibility and donor consent requirements for an established donor registry.
- 21 Effect of anatomical gift on health care directive.** Adds § 525A.21. Defines "health care directive." States that measures to ensure medical suitability of an organ may not be withheld from a donor, if that donor has a health care directive, unless the directive expressly provides otherwise.
- 22 Cooperation between medical examiner and procurement organization.** Adds § 525A.22. Requires a medical examiner to cooperate with procurement organizations in order to maximize opportunities to receive anatomical gifts, and specifies procedures.
- 23 Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.** Adds § 525A.23. Specifies requirements and procedures relating to an anatomical gift of a decedent for situations in which a medical examiner has jurisdiction.
- 24 Relation to electronic signature in global and national commerce act.** Adds § 525A.24. States that this chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act of the United States Code, except for specified sections.
- 25 Anatomical gift; relation to uniform commercial code.** Adds § 525A.25. States that the uses of any part of a human body, including blood, is health care service and is not the sale of goods or sale of a product.
- 26 Repealer.** Repeals the current Uniform Anatomical Gift Act, Minnesota Statutes, sections 525.921 to 525.9224.

**Article 2****Conforming Changes**

- 1 Liability for cost of final disposition.** Amends § 149A.80, subd. 8. Removes an obsolete statutory reference and refers to bodies delivered for dissection "by the medical examiner."
- 2 Generally.** Amends § 149A.94, subd. 1. Removes an obsolete statutory reference and clarifies the language.
- 3 Miscellaneous volunteer and charitable activities.** Amends § 604A.13. Provides that persons who act in accordance with anatomical gift law, or try to do so in good faith, are immune from liability under section 525A.18. (Currently, this section states that an individual and the individual's estate are not liable for an anatomical gift.)
- 4 Revisor's instruction.** Updates statutory references.
- 5 Effective date.** States that this act is effective April 1, 2008.