

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1372  
Committee Substitute Favorable 5/2/07

Short Title: Organ & Tissue Donation/the Heart Prevails.

(Public)

Sponsors:

Referred to:

April 10, 2007

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REVISED UNIFORM ANATOMICAL GIFT ACT; TO PROVIDE THAT THE DECISION TO HAVE THE HEART SYMBOL ON ONE'S DRIVERS LICENSE IS LEGALLY SUFFICIENT CONSENT TO ORGAN AND TISSUE DONATION UNLESS REVOKED BY THE DONOR; TO IMPROVE DONOR OR PROSPECTIVE DONOR ONLINE ACCESS TO INDICATE OR REVOKE ORGAN AND TISSUE DONATION; AND TO MAKE CONFORMING CHANGES TO OTHER AFFECTED GENERAL STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 16 of Chapter 130A of the General Statutes is amended by adding the following new Part to read:

"Part 3A. Revised Uniform Anatomical Gift Act.

**"§ 130A-412.3. Short title.**

This Part may be cited as the Revised Uniform Anatomical Gift Act.

**"§ 130A-412.4. Definitions.**

The following definitions apply in this Part.

- (1) "Adult" means an individual who is at least 18 years of age.
- (2) "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
  - b. Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
- (3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.
- (4) "Body part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.
- (5) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift. The term includes a stillborn

- 1                    infant and, subject to restrictions imposed by law other than this  
2                    Article, a fetus.
- 3                    (6)                "Disinterested witness" means a witness other than the spouse, child,  
4                    parent, sibling, grandchild, grandparent, or guardian of the individual  
5                    who makes, amends, revokes, or refuses to make an anatomical gift, or  
6                    another adult who exhibited special care and concern for the  
7                    individual. The term does not include a person to whom an anatomical  
8                    gift could pass under G.S. 130A-412.13.
- 9                    (7)                "Document of gift" means a donor card or other record used to make  
10                    an anatomical gift. The term includes a statement or symbol on a  
11                    drivers license, identification card, or donor registry.
- 12                    (8)                "Donor" means an individual whose body or body part is the subject of  
13                    an anatomical gift.
- 14                    (9)                "Donor registry" means a database that contains records of anatomical  
15                    gifts and amendments to or revocations of anatomical gifts.
- 16                    (10)              "Drivers license" means a license or permit issued by the North  
17                    Carolina Department of Transportation, Division of Motor Vehicles, to  
18                    operate a vehicle, whether or not conditions are attached to the license  
19                    or permit.
- 20                    (11)              "Eye bank" means an entity that is licensed, accredited, or regulated  
21                    under federal or state law to engage in the recovery, screening, testing,  
22                    processing, storage, or distribution of human eyes or portions of  
23                    human eyes.
- 24                    (12)              "Guardian" means a person appointed by a court to make decisions  
25                    regarding the support, care, education, health, or welfare of an  
26                    individual. The term does not include a guardian ad litem.
- 27                    (13)              "Hospital" means a facility licensed as a hospital under the law of any  
28                    state or a facility operated as a hospital by the United States, a state, or  
29                    a subdivision of a state.
- 30                    (14)              "Identification card" means an identification card issued by the North  
31                    Carolina Department of Transportation, Division of Motor Vehicles.
- 32                    (15)              "Know" means to have actual knowledge.
- 33                    (16)              "Minor" means an individual who is under 18 years of age.
- 34                    (17)              "Organ procurement organization" means a person designated by the  
35                    Secretary of the United States Department of Health and Human  
36                    Services as an organ procurement organization.
- 37                    (18)              "Parent" means a parent whose parental rights have not been  
38                    terminated.
- 39                    (19)              "Person" means an individual, corporation, business trust, estate, trust,  
40                    partnership, limited liability company, association, joint venture,  
41                    public corporation, government or governmental subdivision, agency,  
42                    or instrumentality, or any other legal or commercial entity.
- 43                    (20)              "Physician" means an individual authorized to practice medicine or  
44                    osteopathy under the law of any state.

- 1           (21) "Procurement organization" means an eye bank, organ procurement  
2           organization, or tissue bank.
- 3           (22) "Prospective donor" means an individual who is dead or near death  
4           and has been determined by a procurement organization to have a body  
5           part that could be medically suitable for transplantation, therapy,  
6           research, or education. The term does not include an individual who  
7           has made a refusal.
- 8           (23) "Reasonably available" means able to be contacted by a procurement  
9           organization without undue effort and willing and able to act in a  
10           timely manner consistent with existing medical criteria necessary for  
11           the making of an anatomical gift.
- 12           (24) "Recipient" means an individual into whose body a decedent's body  
13           part has been or is intended to be transplanted.
- 14           (25) "Record" means information that is inscribed on a tangible medium or  
15           that is stored in an electronic or other medium and is retrievable in  
16           perceivable form.
- 17           (26) "Refusal" means a record created under G.S. 130A-412.9 that  
18           expressly states an intent to bar other persons from making an  
19           anatomical gift of an individual's body or body part.
- 20           (27) "Sign" means, with the present intent to authenticate or adopt a record:  
21           a. To execute or adopt a tangible symbol; or  
22           b. To attach to or logically associate with the record an electronic  
23           symbol, sound, or process.
- 24           (28) "State" means a state of the United States, the District of Columbia,  
25           Puerto Rico, the United States Virgin Islands, or any territory or  
26           insular possession subject to the jurisdiction of the United States.
- 27           (29) "Technician" means an individual determined to be qualified to  
28           remove or process body parts by an appropriate organization that is  
29           licensed, accredited, or regulated under federal or state law. The term  
30           includes an enucleator.
- 31           (30) "Tissue" means a portion of the human body other than an organ or an  
32           eye. The term does not include blood unless the blood is donated for  
33           the purpose of research or education.
- 34           (31) "Tissue bank" means a person that is licensed, accredited, or regulated  
35           under federal or state law to engage in the recovery, screening, testing,  
36           processing, storage, or distribution of tissue.
- 37           (32) "Transplant hospital" means a hospital that furnishes organ transplants  
38           and other medical and surgical specialty services required for the care  
39           of transplant patients.

40 **"§ 130A-412.5. Applicability.**

41       This act applies to an anatomical gift or amendment to, revocation of, or refusal to  
42       make an anatomical gift, whenever made.

43 **"§ 130A-412.6. Who may make an anatomical gift before donor's death.**

1        Subject to G.S. 130A-412.10, an anatomical gift of a donor's body or body part may  
2 be made during the life of the donor for the purpose of transplantation, therapy,  
3 research, or education in the manner provided in G.S. 130A-412.7 by:

- 4        (1) The donor, if the donor is an adult or if the donor is a minor and is:
  - 5            a. Emancipated; or
  - 6            b. Authorized under State law to apply for a drivers license  
7                because the donor is at least 16 years of age;
- 8        (2) An agent of the donor, unless the power of attorney for health care or  
9        other record prohibits the agent from making an anatomical gift;
- 10       (3) A parent of the donor, if the donor is an unemancipated minor; or
- 11       (4) The donor's guardian.

12 **"§ 130A-412.7. Manner of making anatomical gift before donor's death.**

13       (a) A donor may make an anatomical gift:

- 14       (1) By authorizing a statement or symbol indicating that the donor has  
15       made an anatomical gift to be imprinted on the donor's drivers license  
16       or identification card;
- 17       (2) In a will;
- 18       (3) During a terminal illness or injury of the donor, by any form of  
19       communication addressed to at least two adults, at least one of whom  
20       is a disinterested witness; or
- 21       (4) As provided in subsection (b) of this section.

22       (b) A donor or other person authorized to make an anatomical gift under  
23 G.S. 130A-412.6 may make a gift by a donor card or other record signed by the donor  
24 or other person making the gift or by authorizing that a statement or symbol indicating  
25 that the donor has made an anatomical gift be included on a donor registry. If the donor  
26 or other person is physically unable to sign a record, the record may be signed by  
27 another individual at the direction of the donor or other person and must:

- 28       (1) Be witnessed by at least two adults, at least one of whom is a  
29       disinterested witness, who have signed at the request of the donor or  
30       the other person; and
- 31       (2) State that it has been signed and witnessed as provided in subdivision  
32       (1) of this subsection.

33       (c) Revocation, suspension, expiration, or cancellation of a drivers license or  
34 identification card upon which an anatomical gift is indicated does not invalidate the  
35 gift.

36       (d) An anatomical gift made by will takes effect upon the donor's death whether  
37 or not the will is probated. Invalidation of the will after the donor's death does not  
38 invalidate the gift.

39 **"§ 130A-412.8. Amending or revoking anatomical gift before donor's death.**

40       (a) Subject to G.S. 130A-412.10, a donor or other person authorized to make an  
41 anatomical gift under G.S. 130A-412.6 may amend or revoke an anatomical gift by:

- 42       (1) A record signed by:
  - 43            a. The donor;
  - 44            b. The other person; or

- 1           c.     Subject to subsection (b) of this section, another individual  
2                 acting at the direction of the donor or the other person if the  
3                 donor or other person is physically unable to sign; or  
4           (2)   A later-executed document of gift that amends or revokes a previous  
5                 anatomical gift or portion of an anatomical gift, either expressly or by  
6                 inconsistency.
- 7           (b)   A record signed pursuant to sub-subdivision c. of subdivision (1) of  
8           subsection (a) of this section must:
- 9                 (1)   Be witnessed by at least two adults, at least one of whom is a  
10                 disinterested witness, who have signed at the request of the donor or  
11                 the other person; and
- 12                 (2)   State that it has been signed and witnessed as provided in subdivision  
13                 (1) of this subsection.
- 14           (c)   Subject to G.S. 130A-412.10, a donor or other person authorized to make an  
15                 anatomical gift under G.S. 130A-412.6 may revoke an anatomical gift by the  
16                 destruction or cancellation of the document of gift, or the portion of the document of  
17                 gift used to make the gift, with the intent to revoke the gift.
- 18           (d)   A donor may amend or revoke an anatomical gift that was not made in a will  
19                 by any form of communication during a terminal illness or injury addressed to at least  
20                 two adults, at least one of whom is a disinterested witness.
- 21           (e)   A donor who makes an anatomical gift in a will may amend or revoke the gift  
22                 in the manner provided for amendment or revocation of wills or as provided in  
23                 subsection (a) of this section.
- 24    **"§ 130A-412.9. Refusal to make anatomical gift; effect of refusal.**
- 25           (a)   An individual may refuse to make an anatomical gift of the individual's body  
26                 or body part by:
- 27                 (1)   A record signed by:
- 28                         a.     The individual; or
- 29                         b.     Subject to subsection (b) of this section, another individual  
30                         acting at the direction of the individual if the individual is  
31                         physically unable to sign;
- 32                 (2)   The individual's will, whether or not the will is admitted to probate or  
33                 invalidated after the individual's death; or
- 34                 (3)   Any form of communication made by the individual during the  
35                 individual's terminal illness or injury addressed to at least two adults,  
36                 at least one of whom is a disinterested witness.
- 37           (b)   A record signed pursuant to sub-subdivision b. of subdivision (1) of  
38           subsection (a) of this section must:
- 39                 (1)   Be witnessed by at least two adults, at least one of whom is a  
40                 disinterested witness, who have signed at the request of the individual;  
41                 and
- 42                 (2)   State that it has been signed and witnessed as provided in subdivision  
43                 (1) of this subsection.
- 44           (c)   An individual who has made a refusal may amend or revoke the refusal:

1           (1) In the manner provided in subsection (a) of this section for making a  
2 refusal;

3           (2) By subsequently making an anatomical gift pursuant to  
4 G.S. 130A-412.7 that is inconsistent with the refusal; or

5           (3) By destroying or canceling the record evidencing the refusal, or the  
6 portion of the record used to make the refusal, with the intent to revoke  
7 the refusal.

8           (d) Except as otherwise provided in G.S. 130A-412.10(h), in the absence of an  
9 express, contrary indication by the individual set forth in the refusal, an individual's  
10 unrevoked refusal to make an anatomical gift of the individual's body or body part bars  
11 all other persons from making an anatomical gift of the individual's body or body part.

12 **"§ 130A-412.10. Preclusive effect of an anatomical gift, amendment, or revocation.**

13           (a) Except as otherwise provided in subsection (g) of this section and subject to  
14 subsection (f) of this section, in the absence of an express, contrary indication by the  
15 donor, a person other than the donor is barred from making, amending, or revoking an  
16 anatomical gift of a donor's body or body part if the donor made an anatomical gift of  
17 the donor's body or body part under G.S. 130A-412.7 or an amendment to an anatomical  
18 gift of the donor's body or body part under G.S. 130A-412.8.

19           (b) A donor's revocation of an anatomical gift of the donor's body or body part  
20 under G.S. 130A-412.8 is not a refusal and does not bar another person specified in  
21 G.S. 130A-412.6 or G.S. 130A-412.11 from making an anatomical gift of the donor's  
22 body or body part under G.S. 130A-412.7 or G.S. 130A-412.12.

23           (c) If a person other than the donor makes an unrevoked anatomical gift of the  
24 donor's body or body part under G.S. 130A-412.7 or an amendment to an anatomical  
25 gift of the donor's body or body part under G.S. 130A-412.8, another person may not  
26 make, amend, or revoke the gift of the donor's body or body part under  
27 G.S. 130A-412.12.

28           (d) A revocation of an anatomical gift of a donor's body or body part under  
29 G.S. 130A-412.8 by a person other than the donor does not bar another person from  
30 making an anatomical gift of the body or body part under G.S. 130A-412.7 or  
31 G.S. 130A-412.12.

32           (e) In the absence of an express, contrary indication by the donor or other person  
33 authorized to make an anatomical gift under G.S. 130A-412.6, an anatomical gift of a  
34 body part is neither a refusal to give another body part nor a limitation on the making of  
35 an anatomical gift of another body part at a later time by the donor or another person.

36           (f) In the absence of an express, contrary indication by the donor or other person  
37 authorized to make an anatomical gift under G.S. 130A-412.6, an anatomical gift of a  
38 body part for one or more of the purposes set forth in G.S. 130A-412.6 is not a  
39 limitation on the making of an anatomical gift of the body part for any of the other  
40 purposes by the donor or any other person under G.S. 130A-412.7 or G.S. 130A-412.12.

41           (g) If a donor who is an unemancipated minor dies, a parent of the donor who is  
42 reasonably available may revoke or amend an anatomical gift of the donor's body or  
43 body part.

1       (h) If an unemancipated minor who signed a refusal dies, a parent of the minor  
2 who is reasonably available may revoke the minor's refusal.

3 **"§ 130A-412.11. Who may make an anatomical gift of decedent's body or body**  
4 **part.**

5       (a) Subject to subsections (b) and (c) of this section, and unless barred by  
6 G.S. 130A-412.9 or G.S. 130A-412.10, an anatomical gift of a decedent's body or body  
7 part for purpose of transplantation, therapy, research, or education may be made by any  
8 member of the following classes of persons who is reasonably available, in the order of  
9 priority listed:

- 10           (1) An agent of the decedent at the time of death who could have made an  
11 anatomical gift under G.S. 130A-412.6(2) immediately before the  
12 decedent's death;  
13           (2) The spouse of the decedent;  
14           (3) Adult children of the decedent;  
15           (4) Parents of the decedent;  
16           (5) Adult siblings of the decedent;  
17           (6) Adult grandchildren of the decedent;  
18           (7) Grandparents of the decedent;  
19           (8) An adult who exhibited special care and concern for the decedent;  
20           (9) The persons who were acting as the guardians of the person of the  
21 decedent at the time of death; and  
22           (10) Any other person having the authority to dispose of the decedent's  
23 body.

24       (b) If there is more than one member of a class listed in subsection (a)(1), (3),  
25 (4), (5), (6), (7), or (9) of this section entitled to make an anatomical gift, an anatomical  
26 gift may be made by a member of the class unless that member or a person to which the  
27 gift may pass under G.S. 130A-412.13 knows of an objection by another member of the  
28 class. If an objection is known, the gift may be made only by a majority of the members  
29 of the class who are reasonably available.

30       (c) A person may not make an anatomical gift if, at the time of the decedent's  
31 death, a person in a prior class under subsection (a) of this section is reasonably  
32 available to make or to object to the making of an anatomical gift.

33 **"§ 130A-412.12. Manner of making, amending, or revoking anatomical gift of**  
34 **decedent's body or body part.**

35       (a) A person authorized to make an anatomical gift under G.S. 130A-412.11 may  
36 make an anatomical gift by a document of gift signed by the person making the gift or  
37 by that person's oral communication that is electronically recorded or is  
38 contemporaneously reduced to a record and signed by the individual receiving the oral  
39 communication.

40       (b) Subject to subsection (c) of this section, an anatomical gift by a person  
41 authorized under G.S. 130A-412.11 may be amended or revoked orally or in a record by  
42 any member of a prior class who is reasonably available. If more than one member of  
43 the prior class is reasonably available, the gift made by a person authorized under  
44 G.S. 130A-412.11 may be:

- 1           (1) Amended only if a majority of the reasonably available members  
2           agrees to the amending of the gift; or  
3           (2) Revoked only if a majority of the reasonably available members agrees  
4           to the revoking of the gift or if they are equally divided as to whether  
5           to revoke the gift.

6           (c) A revocation under subsection (b) of this section is effective only if, before an  
7           incision has been made to remove a body part from the donor's body or before invasive  
8           procedures have begun to prepare the recipient, the procurement organization, transplant  
9           hospital, or physician or technician knows of the revocation.

10 **"§ 130A-412.13. Persons that may receive anatomical gift; purpose of anatomical**  
11 **gift.**

12           (a) An anatomical gift may be made to the following persons named in the  
13 document of gift:

- 14           (1) A hospital; accredited medical school, dental school, college, or  
15           university; organ procurement organization; or other appropriate  
16           person, for research or education;  
17           (2) Subject to subsection (b) of this section, an individual designated by  
18           the person making the anatomical gift if the individual is the recipient  
19           of the body part;  
20           (3) An eye bank or tissue bank.

21           (b) If an anatomical gift to an individual under subsection (a)(2) of this section  
22 cannot be transplanted into the individual, the body part passes in accordance with  
23 subsection (g) of this section in the absence of an express, contrary indication by the  
24 person making the anatomical gift.

25           (c) If an anatomical gift of one or more specific body parts or of all body parts is  
26 made in a document of gift that does not name a person described in subsection (a) of  
27 this section but identifies the purpose for which an anatomical gift may be used, the  
28 following rules apply:

- 29           (1) If the body part is an eye and the gift is for the purpose of  
30           transplantation or therapy, the gift passes to the appropriate eye bank.  
31           (2) If the body part is tissue and the gift is for the purpose of  
32           transplantation or therapy, the gift passes to the appropriate tissue  
33           bank.  
34           (3) If the body part is an organ and the gift is for the purpose of  
35           transplantation or therapy, the gift passes to the appropriate organ  
36           procurement organization as custodian of the organ.  
37           (4) If the body part is an organ, an eye, or tissue and the gift is for the  
38           purpose of research or education, the gift passes to the appropriate  
39           procurement organization.

40           (d) For the purpose of subsection (c) of this section, if there is more than one  
41 purpose of an anatomical gift set forth in the document of gift but the purposes are not  
42 set forth in any priority, the gift must be used for transplantation or therapy, if suitable.  
43 If the gift cannot be used for transplantation or therapy, the gift may be used for  
44 research or education.



1       (e) If an anatomical gift of one or more specific body parts is made in a  
2 document of gift that does not name a person described in subsection (a) of this section  
3 and does not identify the purpose of the gift, the gift may be used only for  
4 transplantation or therapy, and the gift passes in accordance with subsection (g) of this  
5 section.

6       (f) If a document of gift specifies only a general intent to make an anatomical  
7 gift by words such as "donor," "organ donor," or "body donor," or by a symbol or  
8 statement of similar import, the gift may be used only for transplantation or therapy, and  
9 the gift passes in accordance with subsection (g) of this section.

10       (g) For purposes of subsections (b), (e), and (f) of this section the following rules  
11 apply:

12           (1) If the body part is an eye, the gift passes to the appropriate eye bank.

13           (2) If the body part is tissue, the gift passes to the appropriate tissue bank.

14           (3) If the body part is an organ, the gift passes to the appropriate organ  
15 procurement organization as custodian of the organ.

16       (h) An anatomical gift of an organ for transplantation or therapy, other than an  
17 anatomical gift under subsection (a)(2) of this section, passes to the organ procurement  
18 organization as custodian of the organ.

19       (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of  
20 this section or the decedent's body or body part is not used for transplantation, therapy,  
21 research, or education, then custody of the body or body part passes to the person under  
22 obligation to dispose of the body or body part.

23       (j) A person may not accept an anatomical gift if the person knows that the gift  
24 was not effectively made under G.S. 130A-412.7 or G.S. 130A-412.12 or if the person  
25 knows that the decedent made a refusal under G.S. 130A-412.9 that was not revoked.  
26 For purposes of the subsection, if a person knows that an anatomical gift was made on a  
27 document of gift, the person is deemed to know of any amendment or revocation of the  
28 gift or any refusal to make an anatomical gift on the same document of gift.

29       (k) Except as otherwise provided in subdivision (a)(2) of this section, nothing in  
30 this act affects the allocation of organs for transplantation or therapy.

31 **"§ 130A-412.14. Search and notification.**

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

36           (1) A law enforcement officer, firefighter, paramedic, or other emergency  
37 rescuer finding the individual; and

38           (2) If no other source of the information is immediately available, a  
39 hospital, as soon as practical after the individual's arrival at the  
40 hospital.

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

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

3 **"§ 130A-412.15. Delivery of document of gift not required; right to examine.**

4 (a) A document of gift need not be delivered during the donor's lifetime to be  
5 effective.

6 (b) Upon or after an individual's death, a person in possession of a document of  
7 gift or a refusal to make an anatomical gift with respect to the individual shall allow  
8 examination and copying of the document of gift or refusal by a person authorized to  
9 make or object to the making of an anatomical gift with respect to the individual or by a  
10 person to which the gift could pass under G.S. 130A-412.13.

11 **"§ 130A-412.16. Rights and duties of procurement organization and others.**

12 (a) When a hospital refers an individual at or near death to a procurement  
13 organization, the organization shall make a reasonable search of the records of the North  
14 Carolina Department of Transportation, Division of Motor Vehicles, and any donor  
15 registry that it knows exists for the geographical area in which the individual resides to  
16 ascertain whether the individual has made an anatomical gift.

17 (b) A procurement organization must be allowed reasonable access to  
18 information in the records of the North Carolina Department of Transportation, Division  
19 of Motor Vehicles, to ascertain whether an individual at or near death is a donor.

20 (c) When a hospital refers an individual at or near death to a procurement  
21 organization, the organization may conduct any reasonable examination necessary to  
22 ensure the medical suitability of a body part that is or could be the subject of an  
23 anatomical gift for transplantation, therapy, research, or education from a donor or a  
24 prospective donor. During the examination period, measures necessary to ensure the  
25 medical suitability of the body part may not be withdrawn unless the hospital or  
26 procurement organization knows that the individual expressed a contrary intent.

27 (d) Unless prohibited by law other than this Part, at any time after a donor's  
28 death, the person to which a body part passes under G.S. 130A-412.13 may conduct any  
29 reasonable examination necessary to ensure the medical suitability of the body or body  
30 part for its intended purpose.

31 (e) Unless otherwise prohibited by law, an examination under subsection (c) or  
32 (d) of this section may include an examination of all medical and dental records of the  
33 donor or prospective donor.

34 (f) Upon the death of a minor who was a donor or had signed a refusal, unless a  
35 procurement organization knows the minor is emancipated, the procurement  
36 organization shall conduct a reasonable search for the parents of the minor and provide  
37 the parents with an opportunity to revoke or amend the anatomical gift or revoke the  
38 refusal.

39 (g) Upon referral by a hospital under subsection (a) of this section, a procurement  
40 organization shall make a reasonable search for any person listed in G.S. 130A-412.11  
41 having priority to make an anatomical gift on behalf of a prospective donor. If a  
42 procurement organization receives information that an anatomical gift to any other  
43 person was made, amended, or revoked, it shall promptly advise the other person of all  
44 relevant information.

1       (h) Subject to G.S. 130A-412.13(i) and G.S. 130A-412.25, the rights of the  
2 person to which a body part passes under G.S. 130A-412.13 are superior to the rights of  
3 all others with respect to the body part. The person may accept or reject an anatomical  
4 gift in whole or in part. Subject to the terms of the document of gift and this Part, a  
5 person that accepts an anatomical gift of an entire body may allow embalming, burial,  
6 or cremation and use of remains in a funeral service. If the gift is of a body part, the  
7 person to which the body part passes under G.S. 130A-412.13, upon the death of the  
8 donor and before embalming, burial, or cremation, shall cause the body part to be  
9 removed without unnecessary mutilation.

10       (i) Neither the physician who attends the decedent at death nor the physician  
11 who determines the time of the decedent's death may participate in the procedures for  
12 removing or transplanting a part from the decedent.

13       (j) A physician or technician may remove a donated body part from the body of  
14 a donor that the physician or technician is qualified to remove.

15 **"§ 130A-412.17. Coordination of procurement and use.**

16       Each hospital in this State shall enter into agreements or affiliations with  
17 procurement organizations for coordination of procurement and use of anatomical gifts.

18 **"§ 130A-412.18. Sale or purchase of body parts prohibited.**

19       (a) Except as otherwise provided in subsection (b) of this section, a person, that  
20 for valuable consideration, knowingly purchases or sells a body part for transplantation  
21 or therapy if removal of a body part from an individual is intended to occur after the  
22 individual's death commits a Class H felony and upon conviction is subject to a fine not  
23 exceeding fifty thousand dollars (\$50,000) or imprisonment not exceeding five years, or  
24 both.

25       (b) A person may charge a reasonable amount for the removal, processing,  
26 preservation, quality control, storage, transportation, implantation, or disposal of a body  
27 part.

28 **"§ 130A-412.19. Other prohibited acts.**

29       A person that, in order to obtain a financial gain, intentionally falsifies, forges,  
30 conceals, defaces, or obliterates a document of gift, an amendment or revocation of a  
31 document of gift, or a refusal commits a Class H felony and upon conviction is subject  
32 to a fine not exceeding fifty thousand dollars (\$50,000) or imprisonment not exceeding  
33 five years, or both.

34 **"§ 130A-412.20. Immunity.**

35       (a) A person that acts with due care in accordance with this Part or with the  
36 applicable anatomical gift law of another state, or attempts in good faith to do so, is not  
37 liable for the act in a civil action, criminal prosecution, or administrative proceeding.

38       (b) Neither the person making an anatomical gift nor the donor's estate is liable  
39 for any injury or damage that results from the making or use of the gift.

40       (c) In determining whether an anatomical gift has been made, amended, or  
41 revoked under this Part, a person may rely upon representations of an individual listed  
42 in subdivisions (2) through (8) of G.S. 130A-412.11(a) relating to the individual's  
43 relationship to the donor or prospective donor unless the person knows that the  
44 representation is untrue.

1 **"§ 130A-412.21. Law governing validity; choice of law as to execution of document**  
2 **of gift; presumption of validity.**

3 (a) A document of gift is valid if executed in accordance with:

4 (1) This Part;

5 (2) The laws of the state or country where it was executed; or

6 (3) The laws of the state or country where the person making the  
7 anatomical gift was domiciled, has a place of residence, or was a  
8 national at the time the document of gift was executed.

9 (b) If a document of gift is valid under this section, the law of this State governs  
10 the interpretation of the document of gift.

11 (c) A person may presume that a document of gift or amendment of an  
12 anatomical gift is valid unless that person knows that it was not validly executed or was  
13 revoked.

14 **"§ 130A-412.22. Donor registry.**

15 The online Organ Donor Registry Internet site established pursuant to G.S. 20-43.2  
16 shall be the State donor registry for anatomical gifts made pursuant to this Part.  
17 Requirements for maintenance and use of the State donor registry shall be as provided  
18 under G.S. 20-43.2.

19 **"§ 130A-412.23. Effect of anatomical gift on health care power of attorney.**

20 (a) The following definitions apply in this Part:

21 (1) "Advanced health care directive." – A health care power of attorney  
22 under G.S. 32A-16 or a record signed or authorized by a prospective  
23 donor containing the prospective donor's direction concerning a health  
24 care decision for the prospective donor.

25 (2) "Declaration." – A declaration of a desire for a natural death as  
26 provided under Article 23 of Chapter 90 of the General Statutes.

27 (3) "Health care decision." – Any decision made regarding the health care  
28 of the prospective donor.

29 (b) If a prospective donor has a declaration or advanced health care directive,  
30 measures necessary to ensure the medical suitability of an organ for transplantation or  
31 therapy may not be withheld or withdrawn from the prospective donor unless the  
32 declaration expressly provides to the contrary.

33 **"§ 130A-412.24. Cooperation between a medical examiner and the procurement**  
34 **organization.**

35 (a) The medical examiner shall cooperate with procurement organizations to  
36 maximize the opportunity to recover anatomical gifts for the purpose of transplantation,  
37 therapy, research, or education.

38 (b) If a medical examiner receives notice from a procurement organization that  
39 an anatomical gift might be available or was made with respect to a decedent whose  
40 body is under the jurisdiction of the medical examiner and a postmortem examination is  
41 going to be performed, unless the medical examiner denies recovery in accordance with  
42 G.S. 130A-412.25, the medical examiner or designee shall conduct a postmortem  
43 examination of the body or the body part in a manner and within a period compatible  
44 with its preservation for the purposes of the gift.

1       (c) A body part may not be removed from the body of a decedent under the  
2 jurisdiction of a medical examiner for transplantation, therapy, research, or education  
3 unless the body part is the subject of an anatomical gift. The body of a decedent under  
4 the jurisdiction of the medical examiner may not be delivered to a person for research or  
5 education unless the body is the subject of an anatomical gift. This subsection does not  
6 preclude a medical examiner from performing the medicolegal investigation upon the  
7 body or body parts of a decedent under the jurisdiction of the medical examiner.

8       (d) As used in this section and G.S. 130A-412.25, 'medical examiner' includes  
9 the Chief Medical Examiner, a county medical examiner, or a designee of either.

10 **"§ 130A-412.25. Facilitation of anatomical gift from decedent whose body is under**  
11 **the jurisdiction of a medical examiner.**

12       (a) Upon request of a procurement organization, a medical examiner shall release  
13 to the procurement organization the name, contact information, and available medical  
14 and social history of a decedent whose body is or will come under the jurisdiction of the  
15 medical examiner. If the decedent's body or body part is medically suitable for  
16 transplantation, therapy, research, or education, the medical examiner shall release  
17 postmortem examination results to the procurement organization. The procurement  
18 organization may make a subsequent disclosure of the postmortem examination results  
19 or other information received from the medical examiner only if relevant to  
20 transplantation or therapy.

21       (b) The medical examiner may conduct a medicolegal examination including  
22 physical examination of a donor or prospective donor and review of all medical records,  
23 laboratory test results, X-rays, other diagnostic results, and other information that any  
24 person possesses about a donor or prospective donor whose body is under the  
25 jurisdiction of the medical examiner or whose body would be under the medical  
26 examiner's jurisdiction upon death and that the medical examiner determines may be  
27 relevant to the investigation.

28       (c) A person that has any information requested by a medical examiner pursuant  
29 to subsection (b) of this section shall provide that information as expeditiously as  
30 possible to allow the medical examiner to conduct the medicolegal investigation within  
31 a period compatible with the preservation of body parts for the purpose of  
32 transplantation, therapy, research, or education.

33       (d) If an anatomical gift has been or might be made of a body part of a decedent  
34 whose body is under the jurisdiction of the medical examiner and a postmortem  
35 examination is not required, or the medical examiner determines that a postmortem  
36 examination is required but that the recovery of the body part that is the subject of an  
37 anatomical gift will not interfere with the examination, the medical examiner and  
38 procurement organization shall cooperate in the timely removal of the body part from  
39 the decedent for the purpose of transplantation, therapy, research, or education.

40       (e) If an anatomical gift of a body part from the decedent under the jurisdiction  
41 of the medical examiner has been or might be made, but the medical examiner initially  
42 believes that the recovery of the body part could interfere with the postmortem  
43 investigation into the decedent's cause or manner of death, the collection of evidence, or  
44 the description, documentation, or interpretation of injuries on the body, the medical

1 examiner shall consult with the procurement organization or physician or technician  
2 designated by the procurement organization about the proposed recovery. After  
3 consultation, the medical examiner may deny or allow the recovery.

4 (f) If the medical examiner or designee allows recovery of a body part under  
5 subsection (d) or (e) of this section, the procurement organization shall provide the  
6 medical examiner or designee with a record describing the condition of the body part  
7 signed by the physician or technician who removes the body part and any other  
8 information and observations that would assist in the postmortem examination."

9 **SECTION 2.** G.S. 20-43.2 reads as rewritten:

10 **"§ 20-43.2. Internet access to organ donation records by organ procurement**  
11 **organizations.**

12 (a) The Department of Transportation, Division of Motor Vehicles, shall  
13 establish and maintain a statewide, online Organ Donor Registry Internet site-site  
14 (hereafter "Donor Registry"). The purpose of the ~~Organ Donor Internet site~~ Donor  
15 Registry is to enable federally designated organ procurement organizations and eye  
16 banks to have ~~timely access to~~ access 24 hours per day, seven days per week to obtain  
17 relevant information on the Donor Registry to determine, at or near death of the donor  
18 or a prospective donor, whether the donor or prospective donor has made, amended, or  
19 revoked an anatomical gift through a symbol on the donor's or prospective donor's  
20 drivers license, special identification card, or other manner. ~~the names of individuals~~  
21 who have stated to the Division the individual's intent to be an organ donor and have an  
22 organ donation symbol on the individual's drivers license or special identification card.  
23 The data available on the ~~Organ Donor Internet site~~ Donor Registry shall be limited to  
24 the individual's first, middle, and last name, date of birth, address, sex, county of  
25 residence, and drivers license number. The Division of Motor Vehicles shall ensure that  
26 only federally designated organ procurement organizations and eye banks operating in  
27 this State have access to the ~~Organ Donor Internet site~~ Donor Registry in read-only  
28 format. The Division of Motor Vehicles shall enable federally designated organ  
29 procurement organizations and eye banks operating in this State to have online access in  
30 read-only format to the ~~Organ Donor Internet site~~ Donor Registry through a unique  
31 identifier and password issued to the organ procurement organization or eye bank by the  
32 Division of Motor Vehicles. ~~The read-only information from the Organ Donor Internet~~  
33 ~~site will be used for the sole purpose of seeking consent from the individual's next of~~  
34 ~~kin for organ, tissue, or eye donation.~~ Employees of the Division who provide access to  
35 or disclosure of information in good-faith compliance with this section are not liable in  
36 damages for access to or disclosure of the information.

37 (b) When accessing and using information obtained from the ~~Organ Donor~~  
38 ~~Internet site,~~ Donor Registry, federally designated organ procurement organizations and  
39 eye banks shall comply with the requirements of Part 33A of Article 16 of Chapter  
40 130A of the General Statutes.

41 (c) Personally identifiable information on a donor registry about a donor or  
42 prospective donor may not be used or disclosed without the express consent of the  
43 donor, prospective donor, or person that made the anatomical gift for any purpose other

1 than to determine, at or near death of the donor or prospective donor, whether the donor  
2 or prospective donor has made, amended, or revoked an anatomical gift.

3 (d) This section does not prohibit any person from creating or maintaining a  
4 donor registry that is not established by or under contract with the State. Any such  
5 registry must comply with subsections (b) and (c) of this section."

6 **SECTION 3.** The North Carolina Department of Transportation, Division of  
7 Motor Vehicles, in cooperation with the License to Give Trust Fund Commission, shall  
8 use available grant-in-aid funds from the State and federal governments and other  
9 sources to enhance online access such that donors and prospective donors may update,  
10 amend, or revoke information on the donor's or prospective donor's drivers license or  
11 donor card.

12 **SECTION 4.** This act modifies, limits, and supersedes the Electronic  
13 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does  
14 not modify, limit, or supersede Section 101(a) of that act, 15 U.S.C. § 7001, or authorize  
15 electronic delivery of any of the notices described in Section 103(b) of that act, 15  
16 U.S.C. § 7003(b).

17 **SECTION 5.(a)** G.S. 130A-410, 130A-411, 130A-412, 130A-412.1, and  
18 130A-412.2 are recodified under Part 3A of Article 16 of Chapter 130A of the General  
19 Statutes, as enacted by this act, as G.S. 130A-412.26, 130A-412.27, 130A-412.28,  
20 130A-412.29, and 130A-412.30 respectively.

21 **SECTION 5.(b)** Except as provided in subsection (a) of this section, Part 3  
22 of Article 16 of Chapter 130A of the General Statutes is repealed.

23 **SECTION 6.** This act is effective when it becomes law.