

AN ACT

ENTITLED, An Act to revise and expand certain provisions related to organ and tissue donation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-26-21.1 be amended to read as follows:

34-26-21.1. The Department of Public Safety shall provide each person renewing or applying for a driver license or nondriver identification card an opportunity to review information about organ donation, such as information available from the organ procurement organization designated by the federal government for this state.

The department shall distribute this information:

- (1) On the Department of Public Safety website;
- (2) Through information mailed with each driver license and identification card renewal notice;
- (3) On posters and brochures made available at each driver license exam station;
- (4) Through each driver license manual published after July 1, 2013; and
- (5) Through any other means the Department of Public Safety deems appropriate.

Section 2. That § 34-26-52 be amended to read as follows:

34-26-52. (a) A donor may make an anatomical gift:

- (1) By checking a box on the driver license or identification card application authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card. The issuance of a driver license or identification card with a donor designation completes the donation process and is effective unless the donor requests removal of the donor designation;
- (2) In a will;
- (3) During a terminal illness or injury of the donor, by any form of communication addressed

to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in paragraph (b).

(b) A donor or other person authorized to make an anatomical gift under § 34-26-51 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a 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 other person and must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in subdivision (1).

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

(d) 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.

Section 3. That chapter 34-26 be amended by adding thereto a NEW SECTION to read as follows:

The department shall maintain a computer record of donors and shall place the designation on each driver license or identification card subsequently issued to the donor. The department is not required to maintain the physical record of the donor card or application after issuing the driver license or identification card for the donation to be valid.

Upon receipt of a written notice to remove the donor designation the department shall remove the designation from all department computer records and shall give written notice to the holder of the driver license or identification card that the donor designation has been removed from all department computer records.

Section 4. That § 34-26-67 be amended to read as follows:

34-26-67. (a) The Department of Public Safety shall establish or contract for the establishment of a donor registry.

(b) The department, in partnership with the federally-designated organ procurement organization and any nonprofit tissue or eye donation agency which holds agreements with hospitals in South Dakota, shall compile, operate, maintain, and modify the registry as necessary. The registry shall include pertinent information on all South Dakotans who have registered to donate organs, tissues, and eyes and all relevant information regarding a donor's making amendment to, or revocation of, an anatomical gift in accordance with the Revised Uniform Anatomical Gift Act (§§ 34-26-48 to 34-26-72, inclusive, and this Act).

(c) A donor registry must:

- (1) Allow a donor or other person authorized under § 34-26-51 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;
- (2) Allow a donor or other person online access to register as a donor, to amend an existing donor status, or remove an existing donor registration seven days a week on a twenty-four hour basis;
- (3) Be accessible electronically to the federally designated organ procurement organization and any nonprofit tissue or eye donation agency which holds agreements with hospitals in South Dakota to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and
- (4) Be accessible for purposes of subdivision (2) seven days a week on a twenty-four hour

basis.

(d) 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 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, amended, or revoked an anatomical gift.

(e) 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. Any such registry must comply with subsections (c) and (d).

(f) The department shall collect data from the registry that is not restricted by subsection (d) and share the data with the federally-designated organ procurement organization and any nonprofit tissue or eye donation agency which holds agreements with hospitals in South Dakota to be used for the purpose of evaluating the effectiveness or educational initiatives to promote organ, tissue, and eye donation that are conducted or coordinated by organ procurement organizations, hospitals, and state agencies operating in the state.

An Act to revise and expand certain provisions related to organ and tissue donation.

=====

I certify that the attached Act
originated in the

HOUSE as Bill No. 1217

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1217

File No. _____

Chapter No. _____

=====

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State