

HOUSE BILL 242

By Hale

AN ACT to amend Tennessee Code Annotated, Title 32;
Title 63 and Title 68, relative to anatomical gifts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-30-107, is amended by deleting the section and substituting:

(a)

(1) An individual may refuse to make an anatomical gift of the individual's body or part by a writing signed in the same manner as a document of gift or any other writing used to identify the individual as refusing to make an anatomical gift. A terminal patient may refuse to make an anatomical gift by oral statement or other form of communication.

(2) If an individual or terminal patient has refused to make an anatomical gift of the individual or terminal patient's body or part in accordance with subdivision (a)(1), then the signed writing by the individual or attestation to the terminal patient's oral statement or other form of communication bars another person from making or amending an anatomical gift of the individual or terminal patient's body or part.

(b)

(1) If a person specified under § 68-30-109 is not barred from making or amending an anatomical gift of a decedent's body or part, then the physician, coroner, or medical examiner who signs the death certificate of the decedent, or an agent of the physician, coroner, or medical examiner who signs the death certificate, including a registered nurse or advanced practice registered nurse,

shall ask the person if the person wants to make an anatomical gift of the decedent's body or part.

(2) If the person refuses to make an anatomical gift of the decedent's body or part, then the physician, coroner, or medical examiner, or an agent of the physician, coroner, or medical examiner who signs the death certificate, including a registered nurse or advanced practice registered nurse, shall:

(A) Make a written note of the refusal, which must be available to the hospital or facility to which the decedent was taken and serves as notice to the hospital or facility that the hospital or facility is prohibited from referring the decedent to a procurement organization; and

(B) Not delay release of a decedent's body to allow a procurement organization time to contact the person who refused to make an anatomical gift of the decedent's body or part, or another person specified under § 68-30-109.

(3) A procurement organization shall not contact:

(A) A person who refused to make an anatomical gift of a decedent's body or part;

(B) A person otherwise specified under § 68-30-109 in relation to a decedent for whom there is a documented refusal to make an anatomical gift of the decedent's body or part; or

(C) A person specified under § 68-30-109, if the decedent refused to make an anatomical gift of the decedent's body or part and there is a signed writing or attestation to an oral statement or other form of communication by the decedent made in accordance with subsection (a).

(4) A person contacted in violation of subdivision (b)(3) may file a complaint with the department of health. If the department of health finds that the procurement organization or physician, coroner, medical examiner, or agent of the physician, coroner, or medical examiner violated this subsection (b), then the department shall assess each party that violated subsection (b) a civil penalty of five hundred dollars (\$500).

SECTION 2. Tennessee Code Annotated, Section 68-30-109(a), is amended by deleting "subsections (b) and (c)," and substituting "subsections (b)-(d),".

SECTION 3. Tennessee Code Annotated, Section 68-30-109, is amended by adding the following as a new subsection:

(d) A person listed under subsection (a) shall not make an anatomical gift of the body or a part of the decedent if the decedent refused to make an anatomical gift of the decedent's body or part and there is a signed writing or attestation to an oral statement or other form of communication by the decedent made in accordance with § 68-30-107(a).

SECTION 4. This act takes effect July 1, 2023, the public welfare requiring it.