

UTAH ANATOMICAL GIFT ACT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Revised Uniform Anatomical Gift Act.

Highlighted Provisions:

This bill:

- ▶ expands the list of persons who may make an anatomical gift of a decedent's body or part; and
- ▶ changes provisions providing limited immunity to a person who acts in accordance with the Revised Uniform Anatomical Gift Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-28-109, as enacted by Laws of Utah 2007, Chapter 60

26-28-118, as enacted by Laws of Utah 2007, Chapter 60

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-28-109** is amended to read:

26-28-109. Who may make anatomical gift of decedent's body or part.



28 (1) Subject to Subsections (2) and (3) and unless barred by Section 26-28-107 or
29 26-28-108, an anatomical gift of a decedent's body or part for purpose of transplantation,
30 therapy, research, or education may be made by any member of the following classes of
31 persons who is reasonably available, in the order of priority listed:

32 (a) an agent of the decedent at the time of death who could have made an anatomical
33 gift under Subsection 26-28-104(2) immediately before the decedent's death;

34 (b) the spouse of the decedent;

35 (c) adult children of the decedent;

36 (d) parents of the decedent;

37 (e) adult siblings of the decedent;

38 (f) adult grandchildren of the decedent;

39 (g) grandparents of the decedent;

40 (h) an adult who exhibited special care and concern for the decedent;

41 ~~[(h)]~~ (i) the persons who were acting as the guardians of the person of the decedent at
42 the time of death; and

43 ~~[(i)]~~ (j) any other person having the authority to dispose of the decedent's body.

44 (2) If there is more than one member of a class listed in Subsection (1)(a), (c), (d), (e),
45 (f), (g), or ~~[(i)]~~ (j) entitled to make an anatomical gift, an anatomical gift may be made by a
46 member of the class unless that member or a person to which the gift may pass under Section
47 26-28-111 knows of an objection by another member of the class. If an objection is known, the
48 gift may be made only by a majority of the members of the class who are reasonably available.

49 (3) A person may not make an anatomical gift if, at the time of the decedent's death, a
50 person in a prior class under Subsection (1) is reasonably available to make or to object to the
51 making of an anatomical gift.

52 Section 2. Section 26-28-118 is amended to read:

53 **26-28-118. Immunity.**

54 (1) A person that acts in accordance with this chapter or with the applicable anatomical
55 gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil
56 action, criminal prosecution, or administrative proceeding.

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

59 (3) In determining whether an anatomical gift has been made, amended, or revoked
60 under this chapter, a person may rely upon representations of an individual listed in Subsection
61 [26-28-109\(1\)\(b\)](#), (c), (d), (e), (f), (g), [~~(i)~~] (h), or (j) relating to the individual's relationship
62 to the donor or prospective donor unless the person knows that the representation is untrue.

Legislative Review Note
Office of Legislative Research and General Counsel