

No. 119. An act relating to the Revised Uniform Anatomical Gift Act.

(S.205)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. chapter 151 is added to read:

CHAPTER 151. REVISED UNIFORM ANATOMICAL GIFT ACT

§ 6001. SHORT TITLE

This chapter may be cited as the “Revised Uniform Anatomical Gift Act.”

§ 6002. DEFINITIONS

As used in this chapter:

(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 an advance directive executed pursuant to chapter 231 of this title or by a

health care power of attorney executed pursuant to the laws of this or another

state; 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) “Decedent” means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(5) “Disinterested witness” means a witness other than the spouse, reciprocal beneficiary, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under section 6011 of this title.

(6) “Document of gift” means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver’s license or nondriver identification card or an inclusion in a donor registry.

(7) “Donor” means an individual whose body or part is the subject of an anatomical gift.

(8) “Donor registry” means a database that identifies donors and complies with the provisions of section 6020 of this title.

(9) “Driver’s license” means a license or permit issued by the Vermont department of motor vehicles to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) “Emancipated” with respect to a minor shall have the same meaning as in 12 V.S.A. § 7151.

(11) “Eye bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(12) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(13) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(14) “Know” means to have actual knowledge.

(15) “Minor” means an individual who is under 18 years of age.

(16) “Nondriver identification card” means a nondriver identification card issued by the Vermont department of motor vehicles pursuant to 23 V.S.A. § 115.

(17) “Organ procurement organization” means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(18) “Parent” means a parent whose parental rights have not been terminated.

(19) “Part” means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(20) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(21) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.

(22) “Procurement organization” means an eye bank, an organ procurement organization, or a tissue bank.

(23) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(24) “Reasonably available” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) “Recipient” means an individual into whose body a decedent’s part has been or is intended to be transplanted.

(26) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) “Refusal” means a record created under section 6007 of this title that expressly states an intent to bar other persons from making an anatomical gift of an individual’s body or part.

(28) “Sign” means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(29) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) “Tissue bank” means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

§ 6003. APPLICABILITY

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

§ 6004. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR’S

DEATH

Subject to section 6008 of this title, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 6005 of this title by:

(1) the donor, if the donor is an adult or if the donor is a minor and is either:

(A) emancipated; or

(B) authorized under state law to apply for a driver’s license or nondriver identification card and is at least 16 years of age;

(2) an agent of the donor, unless the advance directive or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor’s guardian.

§ 6005. MANNER OF MAKING ANATOMICAL GIFT BEFORE
DONOR'S DEATH

(a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or nondriver identification card;

(2) in an advance directive executed pursuant to chapter 231 of this title;

(3) in a will;

(4) 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

(5) as provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under section 6004 of this title 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) of this subsection.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or nondriver 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.

§ 6006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE
DONOR'S DEATH

(a) Subject to section 6008 of this title, a donor or other person authorized to make an anatomical gift under section 6004 of this title may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to subdivision (a)(1)(C) of this section 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) of this subsection.

(c) Subject to section 6008 of this title, a donor or other person authorized to make an anatomical gift under section 6004 of this title may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

§ 6007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) an advance directive executed pursuant to chapter 231 of this title;

(2) a record signed by:

(A) the individual; or

(B) subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(3) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(4) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to subdivision (a)(2)(B) of this section 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 individual; and

(2) state that it has been signed and witnessed as provided in subdivision (1) of this subsection.

(c) An individual who has made a refusal may amend or revoke the refusal:

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

(2) by subsequently making an anatomical gift pursuant to section 6005 of this title that is inconsistent with the refusal; or

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

(d) Except as otherwise provided in subsection 6008(h) of this title, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

§ 6008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT,

OR REVOCATION

(a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor

made an anatomical gift of the donor's body or part under section 6005 of this title or an amendment to an anatomical gift of the donor's body or part under section 6006 of this title.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 6006 of this title is not a refusal and does not bar another person specified in section 6004 or 6009 of this title from making an anatomical gift of the donor's body or part under section 6005 or 6010 of this title.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 6005 of this title or an amendment to an anatomical gift of the donor's body or part under section 6006 of this title, another person may not make, amend, or revoke the gift of the donor's body or part under section 6010 of this title.

(d) A revocation of an anatomical gift of a donor's body or part under section 6006 of this title by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 6005 or 6010 of this title.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 6004 of this title, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 6004 of this title, an anatomical gift of a part for one or more of the purposes set forth in that section is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 6005 or 6010 of this title.

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

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

§ 6009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S

BODY OR PART

(a) Subject to subsections (b) and (c) of this section and unless barred by section 6007 or 6008 of this title, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under subdivision 6004(2) of this title immediately before the decedent's death;

(2) the spouse of the decedent;

(3) the decedent's reciprocal beneficiary, as defined in 15 V.S.A.

§ 1302;

(4) adult children of the decedent;

(5) parents of the decedent;

(6) adult siblings of the decedent;

(7) adult grandchildren of the decedent;

(8) grandparents of the decedent;

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

(10) the persons who were acting as the guardians of the person of the decedent at the time of death; and

(11) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in subdivision (a)(1), (4), (5), (6), (7), (8), or (10) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 6011 of this title knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

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

§ 6010. MANNER OF MAKING, AMENDING, OR REVOKING

ANATOMICAL GIFT OF DECEDENT'S BODY OR PART

(a) A person authorized to make an anatomical gift under section 6009 of this title may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under section 6009 of this title may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 6009 of this title may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

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

§ 6011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;

PURPOSE OF ANATOMICAL GIFT

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

(1) a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(3) an eye bank or tissue bank.

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

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

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

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

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift shall pass in accordance with subsection (g) of this section, and the parts shall be used for transplantation or therapy, if suitable for those purposes; if not suitable for transplantation or therapy, the gift may be used for research or education.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor,” “organ donor,” or “body donor,” or by a symbol or statement of similar import, the gift shall pass in accordance with subsection (g) of this section, and the parts shall be used for transplantation or therapy, if suitable for those purposes; if not suitable for transplantation or therapy, the gift may be used for research or education.

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

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

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

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

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

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

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 6005 or 6010 of this title or if the person knows that the decedent made a refusal under section 6007 of this title that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

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

§ 6012. SEARCH AND NOTIFICATION

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

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

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

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

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

§ 6013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE

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

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 6011 of this title.

§ 6014. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION
AND OTHERS

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Vermont donor registry and any other donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to the Vermont donor registry established pursuant to section 6020 of this title to ascertain whether an individual at or near death is a donor.

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

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 6011 of this title

may conduct any reasonable examination necessary to assess the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under subsection (c) or (d) of this section may include serological and blood and tissue compatibility testing, as well as an examination of all medical and dental records of the donor or prospective donor.

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

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in section 6009 of this title having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to subsection 6011(i) and section 6023 of this title, the rights of the person to which a part passes under section 6011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of

gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 6011 of this title, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent. As used in this section, "procedures" include actual physical removal and transplantation of a part but do not include the consent, process, disposal, preservation, quality measures, storage, transportation, or research involving a part.

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

§ 6015. COORDINATION OF PROCUREMENT AND USE

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

§ 6016. SALE OR PURCHASE OF PARTS PROHIBITED

(a) Except as otherwise provided in subsection (b) of this section, no person shall, for valuable consideration, knowingly purchase or sell a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death.

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

(c) A person who violates subsection (a) of this section shall be imprisoned not more than five years or fined not more than \$50,000.00 or both.

§ 6017. OTHER PROHIBITED ACTS

(a) No person shall, in order to obtain a financial gain, intentionally falsify, forge, conceal, deface, or obliterate a document of gift, an amendment or revocation of a document of gift, or a refusal.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than five years or fined not more than \$50,000.00 or both.

§ 6018. IMMUNITY

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

donor registry, a signed statement by a donor in an advance directive, or a donor card shall be presumed to be in good faith.

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

(c) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in subdivision 6009(a)(2), (3), (4), (5), (6), (7), (8), or (9) of this title relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

§ 6019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO
EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF
VALIDITY

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

(1) this chapter;

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

(3) the laws of the state or country where the person making the

anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

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

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

§ 6020. DONOR REGISTRY

(a) The department of health shall ensure that a registry is developed and maintained to identify people who have authorized a document of gift.

(b) The department of motor vehicles is authorized to enter into a data use agreement with an organ procurement organization for the purpose of transmitting information identifying persons who have authorized a document of gift at the time of issuance of a driver's license or driver's license renewal and incorporating such information into a donor registry maintained by the organ procurement organization. Such information shall constitute the Vermont donor registry. The department of motor vehicles may secure grants from public and private sources, and receive and disburse funds that are assigned, donated, or bequeathed to the department to cover the costs of receiving and transmitting the document of gift data. As funds become available, documents of gift may be accepted and data forwarded from persons 16 and 17 years of age and persons being issued nondriver identification cards.

(c) The Vermont donor registry shall:

(1) contain a database that includes donors who have authorized an anatomical gift and provide a mechanism for an anatomical gift to be removed from the database;

(2) be accessible to other organ procurement organizations to allow them to obtain relevant information from the donor registry to determine, at or near the time of the death of the donor or a prospective donor, whether the donor or prospective donor has authorized an anatomical gift; and

(3) be accessible 24 hours per day, seven days per week for the purposes specified in subdivisions (1) and (2) of this subsection.

(d) No later than January 15, 2011, the department of motor vehicles shall submit a report on its implementation of a data use agreement with a qualified organ procurement organization to the house and senate committees on government operations, the house committee on human services, and the senate committee on health and welfare.

(e) Personally identifiable information contained in a donor registry about a donor or prospective donor may not be used or disclosed by any organ procurement organization except with the express consent of the donor, prospective donor, or other person making the anatomical gift for any purpose other than to determine, at or near the time of the death of the donor or

prospective donor, whether such donor or prospective donor has made, amended, or revoked an anatomical gift.

(f) Nothing in this section shall be construed to prohibit any person from creating or maintaining a donor registry that is not established under this section, provided that any such registry shall comply with the provisions of subsections (c) and (e) of this section.

§ 6021. [Reserved.]

§ 6022. COOPERATION BETWEEN MEDICAL EXAMINER AND
PROCUREMENT ORGANIZATION

The chief medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education, except when the chief medical examiner believes such cooperation would be inconsistent with death investigation procedures or would negatively affect a death investigation.

§ 6023. [Reserved.]

§ 6024. HONORING DONOR INTENT

A person's decision to make a donation of that person's own organ or tissue after death shall be honored. In the absence of a revocation or amendment of an anatomical gift, health care providers and procurement organizations shall act in accordance with the donor's decision and may take appropriate actions to effect the anatomical gift.

§ 6025. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 6026. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

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

Sec. 2. 15 V.S.A. § 1204(e) is amended to read:

(e) The following is a nonexclusive list of legal benefits, protections, and responsibilities of spouses, which shall apply in like manner to parties to a civil union:

* * *

(19) laws relating to the making, revoking and objecting to anatomical gifts by others under ~~18 V.S.A. § 5240~~ 18 V.S.A. § 6009;

* * *

Sec. 3. 15 V.S.A. § 1301(a) is amended to read:

(a) The purpose of this chapter is to provide two persons who are blood-relatives or related by adoption the opportunity to establish a consensual reciprocal beneficiaries relationship so they may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in the following specific areas:

(1) Hospital visitation and medical decision-making under 18 V.S.A. § 1853;

(2) Decision-making relating to anatomical gifts under ~~18 V.S.A. § 5240~~ 18 V.S.A. § 6009;

* * *

Sec. 4. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(3) “Anatomical gift” shall have the same meaning as provided in subdivision ~~5238(4)~~ 6002(3) of this title.

* * *

(26) “Procurement organization” shall have the same meaning as in subdivision ~~5238(10)~~ 6002(21) of this title.

* * *

Sec. 5. 18 V.S.A. § 9702 is amended to read:

§ 9702. ADVANCE DIRECTIVE

(a) An adult may do any or all of the following in an advance directive:

* * *

(15) make, limit, or refuse to make an anatomical gift pursuant to chapter ~~409~~ 151 of this title;

* * *

Sec. 6. 18 V.S.A. § 9715(b) is amended to read:

(b) Nothing in this chapter shall be construed to limit or abrogate an individual's ability to create a document of anatomical gift pursuant to chapter ~~409~~ 151 of this title.

Sec. 7. 23 V.S.A. § 618a is amended to read:

§ 618a. ANATOMICAL GIFT ACT; DONOR; FORM

The commissioner shall provide a form which, upon the licensee's execution, shall serve as a document of an anatomical gift under chapter ~~409~~ 151 of Title 18. An indicator shall be placed on the license of any person who has executed an anatomical gift form in accordance with this section.

Sec. 8. 33 V.S.A. § 2302(a) is amended to read:

(a) When requested in writing by a practicing physician, licensed and resident in this state, the officer having charge of the burial shall deliver the body of a deceased person to be buried under section 2301 of this title to the

physician to be used by him or her for the advancement of anatomical science, unless:

* * *

(6) The deceased person is known to have executed an anatomical gift document in accordance with the provisions of the Revised Uniform Anatomical Gift Act.

Sec. 9. REPEAL

Chapter 109 of Title 18 (Uniform Anatomical Gift Act) is repealed.

Sec. 10. FUNDING FOR ADULT PROTECTIVE SERVICES

EVALUATION

(a) In the event that an interested party identifies sources of funding for the adult protective services evaluation authorized by Sec. 11 of this act and prepares the documents necessary to obtain the funds, the agency of human services shall cooperate with the interested party to take such steps as are needed to secure the funds.

(b) In the event that the agency of human services receives federal funds for the purposes of protecting vulnerable adults, such funds shall be used to conduct the evaluation authorized by Sec. 11 of this act, up to the full cost of the evaluation.

(c) No later than March 15 of each year, the agency of human services shall provide an update to the house committee on human services and the senate

committee on health and welfare regarding the status of efforts to secure funding for the evaluation authorized by Sec. 11 of this act and the issuance of a request for proposals to conduct the evaluation.

Sec. 11. ADULT PROTECTIVE SERVICES EVALUATION

(a) Upon securing appropriate funding as provided in Sec. 10 of this act, the agency of human services shall issue a request for proposals to conduct an independent evaluation of the adult protective services provided by the department of disabilities, aging, and independent living's division of licensing and protection.

(b) The evaluation shall examine:

(1) the effectiveness of the adult protective services provided;

(2) the division's responsiveness to complaints;

(3) the appropriateness of the level of investigation into complaints;

(4) the adequacy of training for adult protective services staff;

(5) the ability of vulnerable adults to access adult protective services;

(6) the division's rules, protocols, and practices for prioritizing,

responding to, and investigating complaints;

(7) the sufficiency of adult protective services staffing levels in the

division;

(8) the number of reports, substantiations, and reversals by the

commissioner or the human services board;

(9) the role that the division does or should play in assessing and providing emergency protective services to vulnerable adults;

(10) best practices from other states that would improve the division's ability to protect vulnerable adults from abuse and exploitation;

(11) the scope and effectiveness of current adult protective services public education efforts;

(12) public perception of and satisfaction with adult protective services;

(13) the relationship between the units of survey and certification and adult protective services in the division of licensing and protection in the department of disabilities, aging, and independent living with respect to investigations of abuse, exploitation, and neglect; and

(14) such other areas as the entity conducting the evaluation deems appropriate.

(c) Upon completion of the evaluation authorized by this section but in no event later than January 15, 2015, the entity conducting the evaluation shall report its findings and recommendations to the house committee on human services and the senate committee on health and welfare.

Sec. 12. 13 V.S.A. § 4815(g) is amended to read:

(g)(1) Inpatient examination at the state hospital or a designated hospital.

The court shall not order an inpatient examination unless the designated mental

health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

(2) Before ordering the inpatient examination, the court shall ~~also~~ determine what terms, if any, shall govern the defendant's release from custody under sections 7553-7554 of this title ~~once the examination has been completed.~~

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont state hospital or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont state hospital or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont state hospital or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer

to a designated hospital is subject to acceptance of the patient for admission by that hospital.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(C) The defendant shall be returned to court for further appearance within two business days after the commissioner notifies the court that the examination has been completed, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(4) ~~If a return to court is not ordered and~~ the defendant is to be released pursuant to subdivisions (3)(A), (3)(B)(ii), or (3)(C) of this subsection and is not in the custody of the commissioner of corrections, the defendant shall be returned to the defendant's residence or such other appropriate place within the state of Vermont by the department of mental health at the expense of the court.

(5) If it appears that an inpatient examination cannot reasonably be completed within 30 days, the court issuing the original order, on request of the commissioner and upon good cause shown may order placement at the hospital

extended for additional periods of 15 days in order to complete the examination, and the defendant on the expiration of the period provided for in such order shall be returned in accordance with this subsection.

(6) For the purposes of this subsection, “in need of inpatient hospitalization” means an individual has been determined under clinical standards of care to require inpatient treatment.

Sec. 13. WORK GROUP ON FORENSIC EXAMINATIONS OF MENTAL
HEALTH PATIENTS

(a) The commissioner of mental health shall convene a work group to address issues relating to forensic examinations of mental health patients and defendants. The work group shall consist of the same members identified to participate in the study committee established in Sec. 113d of No. 71 of the Acts of 2005, as well as the commissioner of corrections or designee and any additional members whose participation the commissioner of mental health finds to be necessary and appropriate.

(b) The department of mental health shall provide administrative support to the work group.

(c) The commissioner of mental health shall report to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary no later than January 31, 2012 and shall make recommendations regarding the following issues:

(1) disposition of defendants if it is determined at or after the time of admission that they do not meet the standards for hospitalization, including how subacute treatment needs can be met, consistent with the work of the agency of human services on interagency collaboration and the Vermont chief justice task force on criminal justice and mental health collaboration;

(2) any statutory revisions necessary to enable designated hospitals to accept referrals of defendants for inpatient forensic examinations;

(3) means to enable forensic examinations to occur during a voluntary inpatient hospitalization when that is the least restrictive setting, consistent with the requirements of 13 V.S.A. § 4815;

(4) appropriate discharge plan requirements; and

(5) the capacities that may be required to address the treatment needs of persons who were previously served with secure, subacute care at the Vermont state hospital following a forensic examination.

(d) The work group may discuss relationships between programs within the continuum of care in the department of mental health, including replacement services for the Vermont state hospital and inmates under the department of corrections who were or may have been in need of such services, within the context of the goals of interagency collaboration and best planning models. Such discussions shall be for the purposes of providing input to the agency of human services.

(e) The department of mental health shall collect data on the outcomes of patients referred for inpatient examinations at the Vermont state hospital and designated hospitals during the period from the effective date of this act through December 31, 2011 and report such information to the committees of jurisdiction no later than January 31, 2012.

Sec. 14. EFFECTIVE DATE

This act shall take effect July 1, 2010.

Approved: May 24, 2010