

JAN 24 2007

A BILL FOR AN ACT

RELATING TO ANATOMICAL GIFTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to prohibit a
2 hospital, physician, surgeon, or procurement organization from
3 rejecting an anatomical gift solely on the lack of consent of
4 the donor's next of kin and to require a hospital, physician,
5 surgeon, or procurement organization to report any rejection of
6 an anatomical gift to the department of health.

7 SECTION 2. Section 327-2, Hawaii Revised Statutes, is
8 amended by amending subsection (h) to read as follows:

9 "(h) An anatomical gift that is not revoked by the donor
10 before death is irrevocable and does not require the consent or
11 concurrence of any person after the donor's death.

12 Any person, hospital, or organization that relies on the
13 document of gift and acts in good faith in accordance with this
14 chapter shall not be subject to criminal or civil liability from
15 any action taken under this chapter[-], except as provided in
16 section 327-8. The immunity provided by this subsection shall
17 not extend to the person, hospital, or organization if damages



1 result from the gross negligence, recklessness, or intentional
2 misconduct to the donor."

3 SECTION 3. Section 327-8, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Rights of a donee created by an anatomical gift are
6 superior to rights of others except with respect to autopsies
7 under section 327-11. A donee may accept or reject an
8 anatomical gift[-]; provided that a hospital, physician,
9 surgeon, or procurement organization shall not reject an
10 anatomical gift, where the donor has made a gift by signing a
11 document of gift, regardless of whether the donor's spouse,
12 reciprocal beneficiary, or parent has signed or consented to the
13 document of gift. Rejection of an anatomical gift by a
14 hospital, physician, surgeon, or procurement organization in
15 violation of this subsection shall subject the hospital,
16 physician, surgeon, or procurement organization to a civil fine
17 of \$ _____ per incident. All rejections of an anatomical
18 gift by a hospital, physician, surgeon, or procurement
19 organization, shall be reported to the department of health by
20 the hospital, physician, surgeon, or procurement organization
21 rejecting the anatomical gift. Any hospital, physician,
22 surgeon, or procurement organization that fails to report a



1 rejection under this subsection shall be subject to a civil fine
2 of \$ _____ per incident. Notwithstanding any law to the
3 contrary, reports of rejections of anatomical gifts that are
4 made to the department of health shall be open for public
5 inspection. If a donee accepts an anatomical gift of an entire
6 body, the donee, subject to the terms of the gift, may allow
7 embalming and use of the body in funeral services. If the gift
8 is of a part of a body, the donee, upon the death of the donor
9 and before embalming, shall cause the part to be removed without
10 unnecessary mutilation. After removal of the part, custody of
11 the remainder of the body vests in the person under obligation
12 to dispose of the body."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2007.

16

INTRODUCED BY:

Ramirez
By Request



Report Title:

Uniform Anatomical Gift Act

Description:

Prohibits a hospital, physician, surgeon, or procurement organization from rejecting an anatomical gift based solely upon the lack of consent of the donor's next of kin and requires a hospital, physician, surgeon, or procurement organization to report all rejections of an anatomical gift to the department of health.

