
A BILL FOR AN ACT

RELATING TO ANATOMICAL GIFTS.

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

1 SECTION 1. Chapter 327, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . REVISED UNIFORM ANATOMICAL GIFT ACT**

5 **§327-A Definitions.** As used in this chapter:

6 "Agent" means an individual:

- 7 (1) Authorized to make health-care decisions on the
8 principal's behalf by a power of attorney for health
9 care; or
- 10 (2) Expressly authorized to make an anatomical gift on the
11 principal's behalf by any other record signed by the
12 principal.

13 "Anatomical gift" means a donation of all or part of a
14 human body to take effect after the donor's death for the
15 purposes of transplantation, therapy, research, or education.

16 "Decedent" means a deceased individual whose body or part
17 is or may be the source of an anatomical gift. The term



1 includes a stillborn infant, and subject to restrictions imposed
2 by law other than this part, a fetus.

3 "Disinterested witness" means a witness other than the
4 spouse, child, parent, sibling, grandchild, grandparent, or
5 guardian of the individual who makes, amends, revokes, or
6 refuses to make an anatomical gift, or another adult who
7 exhibited special care and concern for the individual. The term
8 does not include a person to which an anatomical gift could pass
9 under section 327-J.

10 "Document of gift" means a donor card or other record used
11 to make an anatomical gift. The term includes a statement or
12 symbol on a driver's license, identification card, or donor
13 registry.

14 "Donor" means an individual whose body or part is the
15 subject of an anatomical gift.

16 "Donor registry" means a database that contains records of
17 anatomical gifts and amendments to or revocations of anatomical
18 gifts.

19 "Driver's license" means a license or permit issued by a
20 state or county authority to operate a vehicle whether or not
21 conditions are attached to the license or permit.



1 "Eye bank" means a person that is licensed, accredited, or
2 regulated under federal or state law to engage in the recovery,
3 screening, testing, processing, storage, or distribution of
4 human eyes or portions of human eyes.

5 "Guardian" means a person appointed by a court to make
6 decisions regarding the support, care, education, health, and
7 welfare of an individual. The term does not include a guardian
8 ad litem.

9 "Hospital" means a facility licensed as a hospital under
10 the law of any state or a facility operated as a hospital by the
11 United States, a state, or a subdivision of a state.

12 "Identification card" means an identification card issued
13 by a state or county authority or a state department of motor
14 vehicles.

15 "Know" means to have actual knowledge.

16 "Organ procurement organization" means a person designated
17 by the United States Secretary of Health and Human Services as
18 an organ procurement organization.

19 "Parent" means a parent whose parental rights have not been
20 terminated.

21 "Part" means an organ, an eye, or tissue of a human being.
22 The term does not include the whole body.



1 "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company,
3 association, joint venture, public corporation, government or
4 governmental subdivision, agency, or instrumentality, or any
5 other legal or commercial entity.

6 "Physician" means an individual authorized to practice
7 medicine or osteopathy under the law of any state.

8 "Procurement organization" means an eye bank, organ
9 procurement organization, or tissue bank.

10 "Prospective donor" means an individual who is dead or near
11 death and has been determined by a procurement organization to
12 have a part that could be medically suitable for
13 transplantation, therapy, research, or education. The term does
14 not include an individual who has made a refusal.

15 "Reasonably available" means able to be contacted by a
16 procurement organization without undue effort and willing and
17 able to act in a timely manner consistent with existing medical
18 criteria necessary for the making of an anatomical gift.

19 "Recipient" means an individual into whose body a
20 decedent's part has been or is intended to be transplanted.



1 "Record" means information that is inscribed on a tangible
2 medium or that is stored in an electronic or other medium and is
3 retrievable in perceivable form.

4 "Refusal" means a record created under section 327-F that
5 expressly states an intent to bar other persons from making an
6 anatomical gift of an individual's body or part.

7 "Sign" means, with the present intent to authenticate or
8 adopt a record:

9 (1) To execute or adopt a tangible symbol; or

10 (2) To attach or logically associate with the record an
11 electronic symbol, sound, or process.

12 "State" means a state of the United States, the District of
13 Columbia, Puerto Rico, the United States Virgin Islands, or any
14 territory or insular possession subject to the jurisdiction of
15 the United States; provided that references to "this State"
16 shall mean the State of Hawaii, unless the context clearly
17 indicates otherwise.

18 "Technician" means an individual determined to be qualified
19 to remove or process parts by an appropriate organization that
20 is licensed, accredited, or regulated under federal or state
21 law. The term includes an enucleator.



1 "Tissue" means a portion of the human body other than an
2 organ or an eye. The term does not include blood unless the
3 blood is donated for purposes of research or education.

4 "Tissue bank" means a person that is licensed, accredited,
5 or regulated under federal or state law to engage in the
6 recovery, screening, testing, processing, storage, or
7 distribution of tissue.

8 "Transplant hospital" means a hospital that furnishes organ
9 transplants and other medical and surgical specialty services
10 required for the care of transplant patients.

11 **§327-B Applicability.** This part applies to an anatomical
12 gift or amendment to, revocation of, or refusal to make an
13 anatomical gift, whenever made.

14 **§327-C Who may make an anatomical gift before donor's**
15 **death.** Subject to section 327-G, an anatomical gift of a
16 donor's body or part may be made during the life of the donor
17 for the purpose of transplantation, therapy, research, or
18 education in the manner provided in section 327-D by:

19 (1) The donor, if the donor is at least eighteen years of
20 age or is under eighteen years of age and is:

21 (A) An emancipated minor; or



1 (B) Authorized under a state law to apply for a
2 driver's license under part VI of chapter 286;

3 (2) An agent of the donor, unless the power of attorney
4 for health care or other record prohibits the agent
5 from making an anatomical gift;

6 (3) A parent of the donor, if the donor is under eighteen
7 years of age and not emancipated; or

8 (4) The donor's guardian.

9 **§327-D Manner of making an anatomical gift before donor's**

10 **death.** (a) A donor may make an anatomical gift:

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

15 (2) In a will; or

16 (3) During a terminal illness or injury of the donor, by
17 any form of communication addressed to at least two
18 other individuals who are at least eighteen years of
19 age, one of whom is a disinterested witness.

20 (b) A donor or other person authorized to make an
21 anatomical gift under section 327-C may make a gift by a donor
22 card or other record signed by the donor or other person making



1 the gift or by authorizing that a statement or symbol indicating
 2 that the donor has made an anatomical gift be included on a
 3 donor registry. If the donor or other person is physically
 4 unable to sign a record, the record may be signed by another
 5 individual at the direction of the donor or the other person and
 6 shall:

7 (1) Be witnessed by at least two other individuals who are
 8 at least eighteen years of age, one of whom is a
 9 disinterested witness who have signed at the request
 10 of the donor or the other person; and

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

13 (c) Revocation, suspension, expiration, or cancellation of
 14 the driver's license or identification card issued to a donor
 15 does not invalidate an anatomical gift.

16 (d) An anatomical gift made by will takes effect upon the
 17 donor's death whether or not the will is probated. Invalidation
 18 of the will after the donor's death does not invalidate the
 19 gift.

20 **§327-E Amending or revoking an anatomical gift before**

21 **donor's death.** (a) Subject to section 327-G, a donor or other



1 person authorized to make an anatomical gift under section 327-C
2 may amend or revoke an anatomical gift by:

3 (1) A record signed by:

4 (A) The donor;

5 (B) The other person; or

6 (C) Subject to subsection (b), another individual
7 acting at the direction of the donor or the other
8 person if the donor or other person is physically
9 unable to sign; or

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

13 (b) A record signed pursuant to subsection (a)(1)(C)

14 shall:

15 (1) Be witnessed by at least two other individuals who are
16 at least eighteen years of age, one of whom is a
17 disinterested witness who have signed at the request
18 of the donor or the other person; and

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

21 (c) Subject to section 327-G, a donor or other person
22 authorized to make an anatomical gift under section 327-C may



1 revoke the gift by the destruction or cancellation of the
2 document of gift, or a portion of the document of gift used to
3 make the gift, with the intent to revoke the gift.

4 (d) A donor may amend or revoke an anatomical gift that
5 was not made in a will by any form of communication during a
6 terminal illness or injury addressed to at least two other
7 individuals who are at least eighteen years of age, one of whom
8 is a disinterested witness.

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

12 **§327-F Refusal to make an anatomical gift and effect of**
13 **refusal.** (a) An individual may refuse to make an anatomical
14 gift of the individual's body or part by:

15 (1) A record signed by:

16 (A) The individual; or

17 (B) Subject to subsection (b), another individual
18 acting at the direction of the individual if the
19 individual is physically unable to sign;

20 (2) The individual's will whether or not the will is
21 admitted to probate or invalidated after the
22 individual's death; or



- 1 (3) Any form of communication made by the individual
2 during the individual's terminal illness or injury
3 addressed to at least two other individuals who are at
4 least eighteen years of age, one of whom is a
5 disinterested witness.
- 6 (b) A record signed pursuant to subsection (a)(1)(B)
7 shall:
- 8 (1) Be witnessed by at least two other individuals who are
9 at least eighteen years of age, one of whom is a
10 disinterested witness who have signed at the request
11 of the individual; and
- 12 (2) State that it has been signed and witnessed as
13 provided in paragraph (1).
- 14 (c) An individual may amend or revoke a refusal:
- 15 (1) In the manner provided in subsection (a) for making a
16 refusal;
- 17 (2) By subsequently making an anatomical gift pursuant to
18 section 327-D that is inconsistent with the refusal;
19 or
- 20 (3) By the destruction or cancellation of the record
21 evidencing the refusal, or the portion of the record



1 used to make the refusal, with the intent to revoke
2 the refusal.

3 (d) Except as otherwise provided in section 327-G(h), in
4 the absence of an express, contrary indication by the individual
5 set forth in the refusal, an individual's unrevoked refusal to
6 make an anatomical gift of the individual's body or a part bars
7 all other persons from making an anatomical gift of the
8 individual's body or the part.

9 **§327-G Preclusive effect of an anatomical gift, amendment,**
10 **or revocation.** (a) Except as otherwise provided in subsection
11 (g), in the absence of an express, contrary indication by the
12 donor, a person other than the donor is barred from making,
13 amending, or revoking an anatomical gift of a donor's body or a
14 part if the donor made an anatomical gift of the donor's body or
15 the part under section 327-D or an amendment to an anatomical
16 gift of the donor's body or the part under section 327-E.

17 (b) A donor's revocation of an anatomical gift of the
18 donor's body or a part under section 327-E is not a refusal and
19 does not bar another person specified in section 327-C or 327-H
20 from making an anatomical gift of the donor's body or a part
21 under section 327-D or 327-I.



1 (c) If a person other than the donor makes an unrevoked
2 anatomical gift of the donor's body or a part under section
3 327-D or an amendment to an anatomical gift of the donor's body
4 or a part under section 327-E, another person may not make,
5 amend, or revoke the gift of the donor's body or part under
6 section 327-I.

7 (d) A revocation of an anatomical gift of the donor's body
8 or a part under section 327-E by a person other than the donor
9 does not bar another person from making an anatomical gift of
10 the body or a part under section 327-D or 327-I.

11 (e) In the absence of an express, contrary indication by
12 the donor or other person authorized to make an anatomical gift
13 under section 327-C, an anatomical gift of a part is neither a
14 refusal to give another part nor a limitation on the making of
15 an anatomical gift of another part at a later time by the donor
16 or another person.

17 (f) In the absence of an express, contrary indication by
18 the donor or other person authorized to make an anatomical gift
19 under section 327-C, an anatomical gift of a part for one or
20 more of the purposes set forth in section 327-C is not a
21 limitation on the making of an anatomical gift of the part for



1 any of the other purposes by the donor or any other person under
2 section 327-D or 327-I.

3 (g) If a donor who is an unemancipated minor dies under
4 eighteen years of age, a parent of the donor who is reasonably
5 available may revoke or amend an anatomical gift of the donor's
6 body or part.

7 (h) If an unemancipated minor who signed a refusal dies
8 under eighteen years of age, a parent of the individual who is
9 reasonably available may revoke the individual's refusal.

10 **§327-H Who may make an anatomical gift of decedent's body**
11 **or part.** (a) Subject to subsections (b) and (c) and unless
12 barred by subsection (d), an anatomical gift of a decedent's
13 body or part for purposes of transplantation, therapy, research,
14 or education may be made, in the order of priority listed, by
15 any member of the following classes of persons who is reasonably
16 available:

17 (1) An agent of the decedent at the time of death who
18 could have made an anatomical gift under section
19 327-C(2) immediately before the decedent's death;

20 (2) The spouse of the decedent;

21 (3) Adult children of the decedent;

22 (4) Parents of the decedent;



- 1 (5) Adult siblings of the decedent;
- 2 (6) Adult grandchildren of the decedent;
- 3 (7) Grandparents of the decedent;
- 4 (8) An adult who exhibited special care and concern for
5 the decedent;
- 6 (9) The persons who were acting as the guardian of the
7 person of the decedent at the time of death; and
- 8 (10) Any other person having the authority to dispose of
9 the decedent's body.

10 (b) If there is more than one member of a class listed in
11 subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to
12 make an anatomical gift, an anatomical gift may be made by a
13 member of the class unless that member or a person to which the
14 gift can pass under section 327-J knows of an objection by
15 another member of the class. If an objection is known, the gift
16 may be made only by a majority of the members of the class who
17 are reasonably available.

18 (c) No person may make an anatomical gift if, at the time
19 of the decedent's death, a person in a prior class under
20 subsection (a) is reasonably available to make or to object to
21 the making of an anatomical gift.



1 (d) An anatomical gift may not be made if doing so is
2 barred by section 327-F or 327-G.

3 **§327-I Manner of making, amending, or revoking an**
4 **anatomical gift of decedent's body or part.** (a) A person
5 authorized to make an anatomical gift under section 327-H may
6 make an anatomical gift by a document of gift signed by the
7 person making the gift or that person's oral communication that
8 is electronically recorded or is contemporaneously reduced to a
9 record and signed by the individual receiving the oral
10 communication.

11 (b) Subject to subsection (c), an anatomical gift by a
12 person authorized under section 327-H may be amended or revoked
13 orally or in a record by any member of a prior class who is
14 reasonably available. If more than one member of the prior
15 class is reasonably available, the gift made by person
16 authorized under section 327-H may be amended or revoked only if
17 a majority of the reasonably available members agree to the
18 amending or revoking of the gift or they are equally divided as
19 to whether to amend or revoke an anatomical gift.

20 (c) A revocation under subsection (b) is effective only if
21 the procurement organization or transplant hospital or the
22 physician or technician knows of the revocation before an



1 incision has been made to remove a part from the donor's body or
2 before invasive procedures have begun to prepare the recipient.

3 **§327-J Persons that may receive an anatomical gift;**
4 **purpose of an anatomical gift.** (a) An anatomical gift of a
5 body or part may be made to the following persons:

6 (1) A named hospital, accredited medical school, dental
7 school, college, university, or organ procurement
8 organization, or other appropriate person for research
9 or education;

10 (2) A named individual designated by the person making the
11 anatomical gift if the individual is the recipient of
12 the part; or, if the part for any reason cannot be
13 transplanted into the individual, the part passes in
14 accordance with subsection (f) in the absence of an
15 express, contrary indication by the person making the
16 anatomical gift;

17 (3) A named eye bank or tissue bank.

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



- 1 (1) If the part is an eye and the gift is for the purpose
2 of transplantation or therapy, the gift passes to the
3 appropriate eye bank.
- 4 (2) If the part is tissue and the gift is for the purpose
5 of transplantation or therapy, the gift passes to the
6 appropriate tissue bank.
- 7 (3) If the part is an organ and the gift is for the
8 purpose of transplantation or therapy, the gift passes
9 to the appropriate organ procurement organization as
10 custodian of the organ.
- 11 (4) If the part is an organ, an eye, or tissue and the
12 gift is for the purpose of research or education, the
13 gift passes to the appropriate procurement
14 organization.
- 15 (c) For the purpose of subsection (h), if there is more
16 than one purpose of an anatomical gift set forth in the document
17 of gift but the purposes are not set forth in any priority, the
18 gift shall be used for transplantation or therapy if suitable
19 for those purposes and, if the gift cannot be used for
20 transplantation or therapy, the gift may be used for research or
21 education.



1 (d) If an anatomical gift of one or more specific parts is
2 made in a document of gift that does not name a person described
3 in subsection (a) and does not identify the purpose of the gift,
4 the decedent's parts may be used only for transplantation or
5 therapy, and the gift passes in accordance with subsection (f).

6 (e) If a document of gift specifies only a general intent
7 to make an anatomical gift by words such as "donor", "organ
8 donor", or "body donor", or by a symbol or statement of similar
9 import, the decedent's parts may be used only for
10 transplantation or therapy, and the gift passes in accordance
11 with subsection (f).

12 (f) For purposes of subsections (a)(2), (c), and (d), the
13 following rules apply:

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

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

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

21 (g) An anatomical gift of an organ for transplantation or
22 therapy, other than an anatomical gift under subsection (a)(2),



1 passes to the organ procurement organization as custodian of the
2 organ.

3 (h) If an anatomical gift does not pass pursuant to
4 subsections (a) through (g) or the decedent's body or part is
5 not used for transplantation, therapy, research, or education,
6 custody of the body or part passes to the person under
7 obligation to dispose of the body or part.

8 (i) A person may not accept an anatomical gift if the
9 person knows that the gift was not effectively made under
10 section 327-D or 327-I or if the person knows that the decedent
11 made a refusal under section 327-F that was not revoked. For
12 purposes of this subsection, if a person knows that an
13 anatomical gift was made on a document of gift, the person is
14 deemed to know of any amendment or revocation of the gift or any
15 refusal to make an anatomical gift on the same document of gift.

16 (j) Except as otherwise provided in subsection (a)(2),
17 nothing in this part affects the allocation of organs for
18 transplantation or therapy.

19 **§327-K Search and notification.** (a) The following
20 persons shall make a reasonable search of an individual who the
21 searcher reasonably believes is dead or near death for a



1 document of gift or other information identifying the individual
2 as a donor or as an individual who made a refusal:

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

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

8 (b) If a document of gift or a refusal to make an
9 anatomical gift is located by the search required by subsection
10 (a)(1) and the individual or deceased individual to whom it
11 relates is taken to a hospital, the person responsible for
12 conducting the search shall send the document of gift or refusal
13 to the hospital.

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

17 **§327-L Delivery of document of gift not required; right to**
18 **examine.** (a) A document of gift need not be delivered during
19 the donor's lifetime to be effective.

20 (b) Upon or after an individual's death, a person in
21 possession of a document of gift or a refusal to make an
22 anatomical gift with respect to the individual shall allow



1 examination and copying of the document of gift or refusal by a
2 person authorized to make or object to the making of an
3 anatomical gift with respect to the individual or by a person to
4 which the gift could pass under section 327-J.

5 **§327-M Rights and duties of procurement organization and**
6 **others.** (a) When a hospital refers an individual at or near
7 death to a procurement organization, the organization shall make
8 a reasonable search of any donor registry and records of the
9 state or county department of motor vehicles that it knows exist
10 for the geographical area in which the individual resides to
11 ascertain whether the individual has made an anatomical gift.

12 (b) A procurement organization shall be allowed reasonable
13 access to information in the records of the state or county
14 department of motor vehicles to ascertain whether an individual
15 at or near death is a donor.

16 (c) When a hospital refers an individual at or near death
17 to a procurement organization, the organization may conduct any
18 reasonable examination necessary to ensure the medical
19 suitability of a part that is or could be the subject of an
20 anatomical gift for transplantation, therapy, research, or
21 education from a donor or a prospective donor. During the
22 examination period, measures necessary to ensure the medical



1 suitability of the part may not be withdrawn unless the hospital
2 or procurement organization knows that the individual expressed
3 a contrary intent.

4 (d) Unless prohibited by law other than this part, at any
5 time after a donor's death, the person to which a part passes
6 under section 327-J may conduct any reasonable examination
7 necessary to ensure the medical suitability of the body or part
8 for its intended purpose.

9 (e) Unless prohibited by law other than this part, an
10 examination under subsection (c) or (d) may include an
11 examination of all medical records of the donor or prospective
12 donor.

13 (f) If a donor, at the time of death, is under eighteen
14 years of age, a procurement organization shall conduct a
15 reasonable search for the parents of the donor and, unless the
16 procurement organization knows the donor is an emancipated
17 minor, provide the parents with an opportunity to revoke or
18 amend the anatomical gift or revoke a refusal.

19 (g) A procurement organization shall make a reasonable
20 search for any person listed in section 327-H having priority to
21 make an anatomical gift on behalf of a prospective donor.



1 (h) If a procurement organization receives information
2 that an anatomical gift to any other person was made, amended,
3 or revoked, it shall promptly advise the other person of all
4 relevant information.

5 (i) Subject to sections 327-J(h) and 327-V, the rights of
6 the person to which a part passes under section 327-J are
7 superior to rights of all others with respect to the part. The
8 person may accept or reject an anatomical gift in whole or in
9 part. Subject to the terms of the document of gift and this
10 part, a person that accepts an anatomical gift of an entire body
11 may allow embalming or cremation and use of remains in a funeral
12 service. If the gift is of a part, the person to which the part
13 passes under section 327-J, upon the death of the donor and
14 before embalming or cremation, shall cause the part to be
15 removed without unnecessary mutilation.

16 (j) Neither the physician who attends the decedent at
17 death nor the physician who determines the time of the
18 decedent's death may participate in the procedures for removing
19 or transplanting a part from the decedent.

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



1 **§327-N Coordination of procurement and use.** Each hospital
2 in this State, after consultation with procurement
3 organizations, shall establish agreements or affiliations for
4 coordination of procurement and use of human bodies and parts.

5 **§327-O Sale or purchase of parts prohibited.** (a) Except
6 as otherwise provided in subsection (b), a person that
7 knowingly, for valuable consideration, purchases or sells a part
8 for transplantation or therapy if removal of a part from an
9 individual is intended to occur after the individual's death
10 commits a felony and upon conviction is subject to a fine not
11 exceeding \$50,000 or imprisonment not exceeding five years, or
12 both.

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

16 **§327-P Penalty.** Any person that intentionally falsifies,
17 forges, conceals, defaces, or obliterates a document of gift, an
18 amendment or revocation of a document of gift, or a refusal in
19 order to obtain a financial gain commits a felony and upon
20 conviction is subject to a fine not exceeding \$50,000 or
21 imprisonment not exceeding five years, or both.



1 **§327-Q Immunity.** (a) A person that acts in accordance
2 with this part or with the applicable anatomical gift law of
3 another state or attempts in good faith to do so is not liable
4 for the act in a civil action, criminal prosecution, or
5 administrative proceeding.

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

9 (c) A person who documents the making, amending, or
10 revoking of an anatomical gift under this part may rely upon
11 representations of the individuals listed in section
12 327-H(a)(2), (3), (4), (5), (6), (7), and (8) relating to their
13 relationship to the donor or prospective donor unless the person
14 knows that the representation is untrue.

15 **§327-R Law governing validity; choice of law as to**
16 **execution of document of gift; presumption of validity.** (a) A
17 document of gift is valid if executed in accordance with:

18 (1) This part;

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

21 (3) The laws of the state or country where the person
22 making the anatomical gift was domiciled, has a place



1 of residence, or was a national at the time the
2 document of gift was executed.

3 (b) If a document of gift is valid under this section, the
4 law of this State governs the interpretation of the document of
5 gift.

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

9 **§327-S Donor registry.** (a) The examiner of drivers shall
10 adopt rules pursuant to chapter 91 to allow an organ procurement
11 organization twenty-four-hour telephone access to the driver's
12 license database information, solely for the purpose of
13 determining whether a driver has indicated a willingness to be
14 an organ donor pursuant to section 286-109.5.

15 (b) The examiner of drivers shall cooperate with any donor
16 registry that this State establishes, contracts for, or
17 recognizes for the purpose of transferring to the donor registry
18 all relevant information regarding a donor's making, amendment
19 to, or revocation of an anatomical gift.

20 (c) A donor registry shall:

21 (1) Provide a database that allows a donor or other person
22 authorized under section 327-C to include on the donor



1 registry a statement or symbol that the donor has
2 made, amended, or revoked an anatomical gift;

3 (2) Be accessible to a procurement organization to allow
4 it to obtain relevant information on the donor
5 registry to determine, at or near death of the donor
6 or a prospective donor, whether the donor or
7 prospective donor has made, amended, or revoked an
8 anatomical gift; and

9 (3) Be accessible for purposes of paragraphs (1) and (2)
10 seven days a week on a twenty-four-hour basis.

11 (d) Personally identifiable information on a donor
12 registry about a donor or prospective donor may not be used or
13 disclosed without the express consent of the donor, prospective
14 donor, or the person that made the anatomical gift for any
15 purpose other than to determine, at or near death of the donor
16 or a prospective donor, whether the donor or prospective donor
17 has made, amended, or revoked an anatomical gift.

18 (e) This section does not prohibit any person from
19 creating or maintaining a donor registry that is not established
20 by or under contract with the State. However, the registry
21 shall comply with subsections (c) and (d).



1 **§327-T Effect of an anatomical gift on advance health-care**
2 **directive.** (a) As used in this section:

3 "Advance health-care directive" means a record signed or
4 authorized by a prospective donor containing the prospective
5 donor's direction concerning a health-care decision for the
6 prospective donor or a power of attorney for health care.

7 "Declaration" means a record signed by a prospective donor
8 specifying the circumstances under which a life support system
9 may be withheld or withdrawn.

10 "Health-care decision" means any decision regarding the
11 health care of the prospective donor.

12 (b) If a prospective donor has a declaration or advance
13 health-care directive and the terms of the declaration or
14 directive and the express or implied terms of a potential
15 anatomical gift are in conflict with regard to the
16 administration of measures necessary to ensure the medical
17 suitability of the part for transplantation or therapy the
18 prospective donor's attending physician and prospective donor
19 shall confer to resolve the conflict. If the prospective donor
20 is incapable of resolving the conflict, an agent acting under
21 the prospective donor's declaration or directive, or if none or
22 the agent is not reasonably available, another person authorized



1 by law to make health-care decisions on behalf of the
2 prospective donor shall act for the donor to resolve the
3 conflict. The conflict shall be resolved as expeditiously as
4 possible. Information relevant to the resolution of the
5 conflict may be obtained from the appropriate procurement
6 organization and any other person authorized to make an
7 anatomical gift for the prospective donor under section 327-H.
8 Prior to conflict resolution, measures necessary to ensure the
9 medical suitability of the part may not be withheld or withdrawn
10 from the prospective donor if withholding or withdrawing the
11 measures is not contraindicated by appropriate end-of-life care.

12 **§327-U Cooperation between medical examiner or coroner and**
13 **procurement organization.** (a) A medical examiner or coroner
14 shall cooperate with procurement organizations to maximize the
15 opportunity to recover anatomical gifts for the purpose of
16 transplantation, therapy, research, or education.

17 (b) If a medical examiner or coroner receives notice from
18 a procurement organization that an anatomical gift might be
19 available or was made with respect to a decedent whose body is
20 under the jurisdiction of the medical examiner or coroner and a
21 post-mortem examination is going to be performed, unless the
22 medical examiner or coroner denies recovery in accordance with



1 section 327-V, the medical examiner or coroner or designee shall
2 make a reasonable effort to conduct a post-mortem examination of
3 the body or the part in a manner and within a period compatible
4 with its preservation for the purposes of the gift.

5 (c) A part may not be removed from the body of a decedent
6 under the jurisdiction of a medical examiner or coroner for
7 transplantation, therapy, research, or education unless the part
8 is the subject of an anatomical gift. The body of a decedent
9 under the jurisdiction of the medical examiner or coroner may
10 not be delivered to a person for research or education unless
11 the body is the subject of an anatomical gift. This subsection
12 does not preclude a medical examiner or coroner from performing
13 the medicolegal investigation upon the body or parts of a
14 decedent under the jurisdiction of the medical examiner or
15 coroner.

16 **§327-V Facilitation of anatomical gift from decedent whose**
17 **body is under jurisdiction of medical examiner or coroner. (a)**
18 Upon request of a procurement organization, a medical examiner
19 or coroner shall release to the procurement organization the
20 name, contact information, and available medical and social
21 history of a decedent whose body is under the jurisdiction of
22 the medical examiner or coroner. If the decedent's body or part



1 is medically suitable for transplantation, therapy, research, or
2 education, the medical examiner or coroner shall release post-
3 mortem examination results to the procurement organization. The
4 procurement organization may make a subsequent disclosure of the
5 post-mortem examination results or other information received
6 from the medical examiner or coroner only if relevant to
7 transplantation or therapy.

8 (b) The medical examiner or coroner may conduct a
9 medicolegal examination by reviewing all medical records,
10 laboratory test results, x-rays, other diagnostic results, and
11 other information that any person possesses about a donor or
12 prospective donor whose body is under the jurisdiction of the
13 medical examiner or coroner which the medical examiner or
14 coroner determines may be relevant to the investigation.

15 (c) A person that has any information requested by a
16 medical examiner or coroner pursuant to subsection (b) shall
17 provide that information as expeditiously as possible to allow
18 the medical examiner or coroner to conduct the medicolegal
19 investigation within a period compatible with the preservation
20 of parts for the purpose of transplantation, therapy, research,
21 or education.



1 (d) If an anatomical gift has been or might be made of a
2 part of a decedent whose body is under the jurisdiction of the
3 medical examiner or coroner and a post-mortem examination is not
4 required, or the medical examiner or coroner determines that a
5 post-mortem examination is required but that the recovery of the
6 part that is the subject of an anatomical gift will not
7 interfere with the examination, the medical examiner or coroner
8 and procurement organization shall cooperate in the timely
9 removal of the part from the decedent for the purpose of
10 transplantation, therapy, research, or education.

11 (e) If an anatomical gift of a part from the decedent
12 under the jurisdiction of the medical examiner or coroner has
13 been or might be made, but the medical examiner or coroner
14 initially believes that the recovery of the part could interfere
15 with the post-mortem investigation into the decedent's cause or
16 manner of death, the medical examiner or coroner shall consult
17 with the procurement organization or physician or technician
18 designated by the procurement organization about the proposed
19 recovery. The procurement organization shall provide the
20 medical examiner or coroner with all information it has which
21 could relate to the cause or manner of the decedent's death.



1 After consultation, the medical examiner or coroner may allow
2 the recovery.

3 (f) Following the consultation under subsection (e), in
4 the absence of mutually agreed-upon protocols to resolve
5 conflict between the medical examiner or coroner and the
6 procurement organization, if the medical examiner or coroner
7 intends to deny recovery of the part, the medical examiner or
8 coroner or designee, at the request of the procurement
9 organization, shall make reasonable effort to attend the removal
10 procedure for the part before making a final determination not
11 to allow the procurement organization to recover the part.
12 During the removal procedure, the medical examiner or coroner or
13 designee may allow recovery by the procurement organization to
14 proceed, or, if the medical examiner or coroner or designee
15 reasonably believes that the part may be involved in determining
16 the decedent's cause or manner of death, deny recovery by the
17 procurement organization.

18 (g) If the medical examiner or coroner or designee denies
19 recovery under subsection (f), the medical examiner or coroner
20 or designee shall include the reasons in the records of the
21 medical examiner or coroner; and make those reasons available to
22 the procurement organization upon request.



1 (h) If the medical examiner or coroner or designee allows
2 recovery of a part, the procurement organization will cooperate
3 with the medical examiner or coroner in any documentation of
4 injuries and the preservation and collection of evidence prior
5 to and during the recovery of the part and, upon request, shall
6 cause the physician or technician who removes the part to
7 provide the medical examiner or coroner with a record describing
8 the condition of the part, a biopsy, a photograph, and any other
9 information and observations that would assist in the post-
10 mortem examination.

11 **§327-W Hawaii organ and tissue education special fund.**

12 There is established in the state treasury the Hawaii organ and
13 tissue education special fund. Moneys collected under section
14 286-109.7 shall be deposited into the fund. The fund shall be
15 administered and distributed by the department of health and
16 shall be used exclusively for public education programs and
17 activities on organ, tissue, and eye donation.

18 **§327-X Uniformity of application and construction.** In
19 applying and construing this uniform act, consideration shall be
20 given to the need to promote uniformity of the law with respect
21 to its subject matter among states that enact it.



1 **§327-Y Relation to electronic signatures in global and**
2 **national commerce act.** This part modifies, limits, and
3 supersedes the Electronic Signatures in Global and National
4 Commerce Act, 15 U.S.C. Section 7001 et. seq., but does not
5 modify, limit, or supersede Section 101(a) of that act, 15
6 U.S.C. Section 7001, or authorize electronic delivery of any of
7 the notices described in Section 103(b) of that act, 15 U.S.C.
8 Section 7003(b).

9 **§327-Z Short title.** This part may be cited as the
10 "Revised Uniform Anatomical Gift Act".

11 SECTION 2. Part I, Chapter 327, Hawaii Revised Statutes,
12 is repealed.

13 SECTION 3. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 4. This Act shall take effect on July 1, 2008.



Report Title:
Anatomical Gifts

Description:
Enacts the Revised Uniform Anatomical Gift Act. (SD1)

