

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 288

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AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 14-22-11-20 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 20. (a) The department shall place an identifying symbol of the individual's intention to make an anatomical gift on the face of the resident license to hunt, fish, or trap that is issued to the individual.**

**(b) The department shall adopt rules under IC 4-22-2 for issuing licenses with an identifying symbol indicating the donation of an anatomical gift that may include the process of purchasing a license in person at a license agent or an online transaction.**

SECTION 2. IC 29-2-16.1-1, AS AMENDED BY P.L.198-2016, SECTION 659, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. The following definitions apply throughout this chapter:

- (1) "Adult" means an individual at least eighteen (18) years of age.
- (2) "Agent" means an individual who is:
  - (A) authorized to make health care decisions on behalf of another person by a health care power of attorney; or
  - (B) expressly authorized to make an anatomical gift on behalf of another person by a document signed by the person.

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- (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) "Bank" or "storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts of human bodies.
- (5) "Decedent":
- (A) means a deceased individual whose body or body part is or may be the source of an anatomical gift; and
  - (B) includes:
    - (i) a stillborn infant; and
    - (ii) except as restricted by any other law, a fetus.
- (6) "Disinterested witness" means an individual other than a spouse, child, 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. This term does not include a person to whom an anatomical gift could pass under section 10 of this chapter.
- (7) "Document of gift" means a donor card or other record used to make an anatomical gift, including a statement or symbol on:
- (A) a driver's license;
  - (B) **an identification card;**
  - (C) **a resident license to hunt, fish, or trap;** or
  - (D) a donor registry.
- (8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.
- (9) "Donor registry" means:
- (A) a data base maintained by:
    - (i) the bureau of motor vehicles; or
    - (ii) the equivalent agency in another state;
  - (B) the Donate Life Indiana Registry maintained by the Indiana Donation Alliance Foundation; or
  - (C) a donor registry maintained in another state;
- that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (10) "Driver's license" means a license or permit issued by the bureau of motor vehicles to operate a vehicle.
- (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 an individual 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 laws of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.
- (14) "Identification card" means an identification card issued by the bureau of motor vehicles.
- (15) "Minor" means an individual under eighteen (18) years of age.
- (16) "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.
- (17) "Parent" means an individual whose parental rights have not been terminated.
- (18) "Part" means an organ, an eye, or tissue of a human being. The term does not mean a whole body.
- (19) "Pathologist" means a physician:
- (A) certified by the American Board of Pathology; or
  - (B) holding an unlimited license to practice medicine in Indiana and acting under the direction of a physician certified by the American Board of Pathology.
- (20) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.
- (21) "Physician" or "surgeon" means an individual authorized to practice medicine or osteopathy under the laws of any state.
- (22) "Procurement organization" means an eye bank, organ procurement organization, or 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 an appropriate refusal.
- (24) "Reasonably available" means:
- (A) able to be contacted by a procurement organization without undue effort; and
  - (B) 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 6 of this chapter that expressly states the intent to bar another person 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 eye enucleator.

(31) "Tissue" means a part of the human body other than an organ or an eye. The term does not include blood or other bodily fluids unless the blood or bodily fluids are 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 organ transplant patients.

SECTION 3. IC 29-2-16.1-4, AS ADDED BY P.L.147-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (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:

(A) the donor's driver's license or identification card **under IC 9-24-17; or**

(B) **the donor's resident hunting, fishing, or trapping license under IC 14-22-12-1;**



- (2) in a will;
- (3) during a terminal illness or injury of the donor, by any form of communication directed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or
- (4) as provided in subsection (b).

(b) A donor or other person authorized to make an anatomical gift under section 3 of this chapter may make a gift by:

- (1) a donor card or other record signed by the donor or other person making the gift; or
- (2) authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry.

(c) 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 (2) adults, at least one (1) 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).

(d) Revocation, suspension, expiration, or cancellation of:

- (1) a driver's license; **or**
- (2) an identification card; **or**

**(3) the donor's resident hunting, fishing, or trapping license;** that indicates an anatomical gift does not invalidate the gift.

(e) 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.

**(f) Neither the state nor any organ recovery health care provider (as defined by IC 34-18-2-14) is civilly liable as a result of an individual making an unrevoked anatomical gift under this chapter.**

SECTION 4. IC 29-2-16.1-19, AS ADDED BY P.L.147-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 19. (a) The bureau of motor vehicles **and the department of natural resources** shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(b) A donor registry must:

- (1) allow a donor or other person authorized under section 4 of



this chapter to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift; (2) be accessible to a procurement organization and to coroners to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) be accessible for purposes of subdivisions (1) and (2) seven (7) days a week on a twenty-four (24) hour basis.

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

(d) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (b) and (c).

SECTION 5. IC 34-30-2-123.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 123.2. IC 29-2-16.1-4(f) (Concerning anatomical gifts made through an application for a resident hunting, fishing, or trapping license).**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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