



HOUSE BILL No. 5697

March 19, 1996, Introduced by Reps. Martinez, Brewer, LaForge, Pitoniak, Gubow, Hanley, Cherry, DeMars, Griffin, Baird, Hill and Scott and referred to the Committee on Health Policy.

A bill to amend sections 10102 and 10104 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

being sections 333.10102 and 333.10104 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 10102 and 10104 of Act No. 368 of the
2 Public Acts of 1978, being sections 333.10102 and 333.10104 of
3 the Michigan Compiled Laws, are amended to read as follows:

4 Sec. 10102. (1) An individual of sound mind and 18 years of
5 age or more may ~~give~~ MAKE A GIFT OF all or ~~any~~ A physical
6 part of ~~the individual's~~ HIS OR HER body for ~~any~~ A purpose
7 specified in section 10103, ~~the gift to take effect~~ EFFECTIVE
8 upon THAT INDIVIDUAL'S death.

1 (2) ~~Any of the following persons, in order of priority~~
2 ~~stated, when persons in prior classes are not available at the~~
3 ~~time of death, and in the absence of actual notice of contrary~~
4 ~~indications by the decedent or actual notice of opposition by a~~
5 ~~member of the same or a prior class,~~ UPON OR IMMEDIATELY BEFORE
6 THE DEATH OF AN INDIVIDUAL WHO HAS NOT MADE A GIFT OF ALL OR A
7 PHYSICAL PART OF HIS OR HER BODY UNDER THIS PART, AN INDIVIDUAL
8 HAVING THE FOLLOWING RELATIONSHIP TO THAT INDIVIDUAL may, ~~give~~
9 IN THE FOLLOWING ORDER OF PRIORITY AND SUBJECT TO SUBSECTION (3),
10 MAKE A GIFT OF all or ~~any~~ A physical part of ~~the decedent's~~
11 THE DECEDENT INDIVIDUAL'S body for ~~any~~ A purpose specified in
12 section 10103:

13 (a) The spouse.

14 (b) An adult son or daughter.

15 (c) Either parent.

16 (d) An adult brother or sister.

17 (e) A guardian of the person of the decedent at the time of
18 the death.

19 (f) ~~Any other person~~ AN INDIVIDUAL OTHER THAN AN INDIVID-
20 UAL DESCRIBED IN SUBDIVISIONS (A) TO (E) authorized or under
21 obligation to dispose of the body.

22 (3) AN INDIVIDUAL DESCRIBED IN SUBSECTION (2) MAY MAKE A
23 GIFT OF ALL OR A PHYSICAL PART OF A DECEDENT'S BODY PURSUANT TO
24 THIS PART IF EACH OF THE FOLLOWING CIRCUMSTANCES EXISTS:

25 (A) NO OTHER PERSON HAVING GREATER PRIORITY TO MAKE THE GIFT
26 IS AVAILABLE OR CAPABLE OF MAKING THE DECISION AT THE TIME OF THE
27 DECEDENT'S DEATH.

1 (B) THE PERSON MAKING THE GIFT HAS NOT RECEIVED ACTUAL
2 NOTICE THAT THE DECEDENT HAD EXPRESSED AN UNWILLINGNESS TO MAKE
3 THE GIFT.

4 (C) THE PERSON MAKING THE GIFT HAS NOT RECEIVED ACTUAL
5 NOTICE THAT AN INDIVIDUAL HAVING EQUAL OR GREATER PRIORITY UNDER
6 SUBSECTION (2) OPPOSES THE MAKING OF THE GIFT.

7 (4) ~~(3)~~ If the donee has actual notice ~~of contrary indi-~~
8 ~~cations by~~ THAT the decedent HAD EXPRESSED AN UNWILLINGNESS TO
9 MAKE THE GIFT, or that ~~a gift by a member of a class is opposed~~
10 ~~by a member of the same or a prior class, the donee~~ AN INDIVID-
11 UAL HAVING PRIORITY EQUAL TO OR GREATER THAN THAT OF THE INDIVID-
12 UAL MAKING THE GIFT UNDER SUBSECTION (2) OPPOSES THE MAKING OF
13 THE GIFT, THE DONEE shall not accept the gift. ~~The persons~~
14 ~~authorized by subsection (2) may make the gift after or immedi-~~
15 ~~ately before death.~~

16 (5) ~~(4)~~ A gift of all or a physical part of a body autho-
17 rizes any examination necessary to assure medical acceptability
18 of the gift for the purposes intended.

19 (6) ~~(5)~~ The rights of the donee created by the gift are
20 paramount to the rights of others except as provided by section
21 10108(4).

22 Sec. 10104. (1) A gift of all or a physical part of the
23 body under section 10102(1) may be made by will. The gift
24 becomes effective upon the death of the testator without waiting
25 for probate. If the will is not probated, or if it is declared
26 invalid for testamentary purposes, the gift, to the extent that

1 it has been acted upon in good faith, is nevertheless valid and
2 effective.

3 (2) A gift of all or a physical part of the body under sec-
4 tion 10102(1) may also be made by document other than a will.
5 The gift becomes effective upon the death of the donor. ~~The~~
6 SUBJECT TO SUBSECTIONS (3) AND (4), THE document ~~, which may be~~
7 ~~a card designed to be carried on the person, shall be signed by~~
8 ~~the donor in the presence of 2 witnesses who shall sign the docu-~~
9 ~~ment in the donor's presence. If the donor cannot sign, the doc-~~
10 ~~ument may be signed for the donor at his or her direction and in~~
11 ~~his or her presence in the presence of 2 witnesses who shall sign~~
12 ~~the document in the donor's presence. Delivery of the document~~
13 ~~of gift during the donor's lifetime is not necessary to make the~~
14 ~~gift valid.~~ MAY BE 1 OR MORE OF THE FOLLOWING:

15 (A) A PERSONAL IDENTIFICATION CARD ISSUED TO THE DONOR BY
16 THE SECRETARY OF STATE PURSUANT TO ACT NO. 222 OF THE PUBLIC ACTS
17 OF 1972, BEING SECTIONS 28.291 TO 28.295 OF THE MICHIGAN COMPILED
18 LAWS, THAT BEARS ON ITS FACE EACH OF THE FOLLOWING, SUBJECT TO
19 LIMITATIONS, CONDITIONS, OR ADDITIONAL TERMS, IF ANY, SET FORTH
20 ON THE REVERSE SIDE:

21 (i) A DESIGNATION THAT THE PERSON INTENDS TO DONATE ORGANS
22 OR TISSUE IN THE EVENT OF DEATH.

23 (ii) THE DONOR'S SIGNATURE.

24 (B) A MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED
25 TO THE DONOR BY THE SECRETARY OF STATE PURSUANT TO THE MICHIGAN
26 VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING
27 SECTIONS 257.1 TO 257.923 OF THE MICHIGAN COMPILED LAWS, THAT

1 BEARS ON ITS FACE EACH OF THE FOLLOWING, SUBJECT TO LIMITATIONS,
 2 CONDITIONS, OR ADDITIONAL TERMS, IF ANY, SET FORTH ON THE REVERSE
 3 SIDE:

4 (i) A DESIGNATION THAT THE LICENSEE INTENDS TO DONATE ORGANS
 5 OR TISSUE IN THE EVENT OF DEATH.

6 (ii) THE DONOR'S SIGNATURE.

7 (C) A document ~~which~~ THAT conforms substantially TO
 8 SUBDIVISION (A) OR (B) OR to the following form: ~~is sufficient~~
 9 ~~for the purposes of this subsection.~~

10 Uniform Donor Card

11 of.....

12 Print or type name of donor

13 In the hope that I may help others, I hereby make this anatomical
 14 gift if medically acceptable, to take effect upon my death. The
 15 words and marks below indicate my desires.

16 I give: (a) any needed organs or physical parts

17 (b) only the following organs or physical parts

18
 19 Specify the organ(s) or physical part(s)

20 For the purposes of transplantation, therapy, medical research or
 21 education;

22 (c) my body for anatomical study if needed.

23 Limitations or special wishes, if any:

24 Signed by the donor and the following 2 witnesses in the presence
 25 of each other:

26
 27 Signature of donor Date of birth of donor

28
 29 Date signed City and state

30
 31 Witness Witness

32 (3) A TERM OR STATEMENT SIGNED BY A PERSON AND ATTACHED TO
 33 THE REVERSE SIDE OF A PERSONAL IDENTIFICATION CARD OR MOTOR VEHI-
 34 CLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED TO THAT PERSON AS
 35 DESCRIBED IN SUBSECTION (2)(A) OR (B) SUPERSEDES AN INCONSISTENT
 36 TERM OR STATEMENT APPEARING ON THE FACE OF THE PERSONAL

1 IDENTIFICATION CARD OR MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S
2 LICENSE.

3 (4) IF A PERSON DOES NOT SPECIFY A GIFT OF HIS OR HER ENTIRE
4 BODY ON THE REVERSE SIDE OF A PERSONAL IDENTIFICATION CARD OR
5 MOTOR VEHICLE OPERATOR'S OR CHAUFFEUR'S LICENSE ISSUED TO THAT
6 PERSON AS DESCRIBED IN SUBSECTION (2)(A) OR (B), THE GIFT IS
7 LIMITED TO PHYSICAL PARTS OF THE BODY, AND DOES NOT INCLUDE THAT
8 PERSON'S ENTIRE BODY.

9 (5) ~~-(3)-~~ The gift may be made to a specified OR UNSPECIFIED
10 donee. ~~or without specifying a donee.~~ If the ~~latter~~ DONEE IS
11 NOT SPECIFIED, ~~the gift may be accepted by~~ the attending physi-
12 cian MAY ACCEPT THE GIFT as donee upon or following death. If
13 the gift is made to a specified donee who is not available at the
14 time and place of death, the attending physician MAY, upon or
15 following death, AND in the absence of any expressed indication
16 that the donor desired otherwise, ~~may~~ accept the gift as
17 donee. ~~The~~ AN ATTENDING physician who becomes a donee under
18 this subsection shall not participate in the procedures for
19 removing or transplanting a physical part.

20 (6) ~~-(4)-~~ Notwithstanding section 10108(4), the donor may
21 designate in his or her will, card, or other document of gift the
22 surgeon or physician to carry out ~~the appropriate~~ procedures
23 NECESSARY TO EFFECTUATE THE GIFT. In the absence of a designa-
24 tion or if the designee is not available, the donee or other
25 person authorized to accept the gift may employ or authorize any
26 surgeon or physician for the purpose OF EFFECTUATING THE GIFT.

1 (7) A DONOR WHO IS UNABLE TO SIGN A GIFT DOCUMENT MAY DIRECT
 2 ANOTHER PERSON TO SIGN THAT DOCUMENT ON HIS OR HER BEHALF, IN HIS
 3 OR HER PRESENCE, AND IN THE PRESENCE OF 2 WITNESSES. THE 2 WIT-
 4 NESSES SHALL ALSO SIGN THE DOCUMENT IN THE DONOR'S PRESENCE.

5 (8) ~~-(5) Any~~ A gift by a person designated in section
 6 10102(2) shall be made by a document signed by the person or made
 7 by the person's telegraphic, recorded telephonic, or other
 8 recorded message.

9 (9) ~~-(6)~~ A document of gift executed in another state or
 10 foreign country and in accord with the laws of that state or
 11 country is valid as a document of gift in this state, ~~although~~
 12 EVEN IF the document does not conform substantially to the form
 13 set forth in subsection ~~-(2)~~ (2)(C).

14 Section 2. This amendatory act shall not take effect unless
 15 all of the following bills of the 88th Legislature are enacted
 16 into law:

17 (a) Senate Bill No. _____ or House Bill No. 5696 (request
 18 no. 06240'95 a).

19 (b) Senate Bill No. _____ or House Bill No. 5698 (request
 20 no. 06240'95 b).