

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 1999 General Assembly.

HOUSE ENROLLED ACT No. 1034

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-18-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) The bureau may:

- (1) prescribe forms; and
- (2) adopt rules;

to implement this chapter.

~~(b) The bureau shall place an identifying symbol on the face of the license or permit to indicate that an executed anatomical gift form is located on the back of the document.~~

~~(c)~~ (b) A form prescribed under this section must include the information described in IC 9-18-2-16(b)(3).

SECTION 2. IC 9-24-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. A ~~nonprobationary~~ driver's license **and an identification card issued under IC 9-24-16** must contain a form by which the applicant may make an anatomical gift under IC 29-2-16.

SECTION 3. IC 9-24-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) The bureau shall verbally ask every individual who applies for a ~~nonprobationary~~ driver's license **or an identification card issued under IC 9-24-16** whether the individual desires to make an anatomical gift.

(b) If the individual does **desire to make an anatomical gift**, the bureau shall assist the individual in completing the form by which the

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individual makes the gift.

SECTION 4. IC 9-24-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) ~~Upon request the bureau shall make available to an individual who is less than eighteen (18) years of age an anatomical gift card that identifies the individual as an organ donor. Before issuing an individual who is less than eighteen (18) years of age may make an anatomical gift, card;~~ the bureau must obtain and document the consent required under section 8 of this chapter and the consent of the individual's parent or guardian.

(b) The bureau may charge a fee to an individual ~~obtaining making an anatomical gift card under subsection (a)~~ **section 1 of this chapter.** The fee must equal an amount necessary to cover the cost of making available ~~the anatomical a document that acknowledges the making of the gift. card:~~

SECTION 5. IC 9-24-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 8. (a) Each anatomical gift made under this chapter must be signed by the donor. If the donor cannot sign, the document may be signed for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's and each other's presence.

(b) The card must state that the document was signed in accordance with this section.

(c) **The bureau shall place an identifying symbol on the face of the license or identification card to indicate that an executed document acknowledging the making of an anatomical gift is located on the back of the license or identification card.**

~~(c)~~ (d) If a document of gift is attached to or imprinted on a donor's motor vehicle ~~operator's or chauffeur's~~ **driver's license or identification card issued under IC 9-24-16**, the document of gift must comply with this section. Revocation, suspension, ~~expiration,~~ or cancellation of the license **or expiration of the license or identification card** does not invalidate the anatomical gift.

SECTION 6. IC 29-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Any individual:

- (1) of sound mind and eighteen (18) years of age or more; or
- (2) less than eighteen (18) years of age who obtains **an anatomical gift card the consent of the individual's parent or guardian as required** under IC 9-24-17-7;

may give all or any part of the individual's body for any purpose



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specified in section 3 of this chapter, the gift to take effect upon death. An individual may limit a gift made under this chapter or IC 9-24-17 to one (1) of the purposes specified in section 3 of this chapter. An individual may refuse to make a gift of all or part of the individual's body.

(b) Any of the following individuals, in order of priority stated when individuals in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3 of this chapter:

- (1) the spouse;
- (2) a son or daughter, at least eighteen (18) years of age;
- (3) either parent;
- (4) a grandparent;
- (5) a brother or sister, at least eighteen (18) years of age; or
- (6) a guardian of the person of the decedent at the time of his death.

A gift made by an individual under this subsection may be revoked by an individual in the same or prior class as the individual making the gift, if the individual doing the removal of an organ receives notice of the revocation before the organ is removed. A failure to make a gift under this subsection is not an objection to the making of a gift, and an individual in a subsequent class may make a gift under this subsection.

(c) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The individuals authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d) of this chapter.

SECTION 7. IC 29-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. (a) A gift of all or part of the body under section 2(a) of this chapter may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) of this chapter



may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. If the donor cannot sign, the document may be signed by another for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's presence and each other's presence.

The document must state that it has been signed in accordance with this subsection. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The gift of an eye or part of an eye made without specifying a donee, or made to a donee who is not available at the time and place of death and without an expression of a contrary desire, may be accepted by the attending physician as donee on behalf of an eye bank in Indiana. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b) of this chapter, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) After proper certification of death by a physician and compliance with the intent of the gift as determined by reference to this chapter:

- (1) with respect to a gift of an eye or part of an eye, including the cornea or corneal tissue, the eye or part of the eye may be removed for the gift by:
 - (A) a physician licensed under IC 25-22.5; or
 - (B) an individual who is registered with the medical licensing board as a corneal excision technician; or
- (2) with respect to a gift of a whole eye, the eye may be removed for the gift by:
 - (A) a physician licensed under IC 25-22.5;
 - (B) an individual who is registered with the medical licensing

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board as a corneal excision technician;

(C) an embalmer or a funeral director who, before September 1, 1983, completed a course in eye enucleation and was certified as competent to enucleate eyes by an accredited school of medicine; or

(D) an individual who is registered with the medical licensing board as an eye enucleator.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

(1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or

(2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

(g) Any gift by a person designated in section 2(b) of this chapter shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(h) An individual may refuse to make a gift under this chapter or IC 9-24-17 of all or part of the individual's body by any of the following methods:

(1) A writing signed in the same manner as a document under subsection (b).

(2) A written statement attached to or imprinted on a person's anatomical gift card received from the bureau of motor vehicles under IC 9-24-17 and signed in the same manner as a gift under IC 9-24-17-8.

(3) Any writing used to identify the individual as refusing to make an anatomical gift under this chapter.

During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(i) In the absence of a contrary indication by an individual, a gift under this chapter of a part of the individual's body is neither a refusal to give other parts of the body nor a limitation to give only part of the body under this chapter or IC 9-24-17.

(j) In the absence of a contrary indication by an individual, a revocation or an amendment under section 6 of this chapter is not a refusal to make another gift under this chapter. If an individual intends a revocation to be a refusal to make a gift under this chapter, the individual must make the refusal in accordance with subsection (h).

(k) A gift under this chapter or IC 9-24-17 that is not revoked before

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the donor dies is irrevocable.

(l) If a document of gift is attached to or imprinted on a donor's motor vehicle ~~operator's or chauffeur's~~ **driver's license or identification card issued under IC 9-24-16**, the document of gift must comply with this section. Revocation, suspension, ~~expiration~~, or cancellation of the license **or expiration of the license or identification card** does not invalidate the anatomical gift.

SECTION 8. IC 29-2-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10. (a) As used in this section:

"Administrator" means a hospital administrator or a hospital administrator's designee.

"Gift" means a gift of all or any part of the human body made under this chapter.

"Representative" means a person who is:

- (1) authorized under section 2(b) of this chapter to make a gift on behalf of a decedent; and
- (2) available at the time of the decedent's death when members of a prior class under section 2(b) of this chapter are unavailable.

(b) An administrator of each hospital or the administrator's designee may ask each patient who is at least eighteen (18) years of age if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(c) The governing board of each hospital shall adopt procedures to determine under what circumstances an administrator or an administrator's designee may ask a patient if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(d) The administrator shall inform the representative of the procedures available under this chapter for making a gift whenever:

- (1) an individual dies in a hospital;
- (2) the hospital has not been notified that a gift has been authorized under section 2 of this chapter; and
- (3) a physician determines that the individual's body may be suitable of yielding a gift.

(e) If:

- (1) an individual makes an anatomical gift on the individual driver's license **or identification card** under IC 9-24-17; and
- (2) the individual dies;

the person in possession of the individual driver's license **or identification card** shall immediately produce the driver's license **or identification card** for examination upon request, as provided in

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section 5 of this chapter.

(f) A gift made in response to information provided under this section must be documented as described under section 4(g) of this chapter.

(g) When a representative is informed under this section about the procedures available for making a gift, the fact that the representative was so informed must be noted in the decedent's medical record.

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

SECTION 9. IC 9-24-17-11 IS REPEALED [EFFECTIVE JULY 1, 2000].

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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