Reprinted
March 20, 2007

ENGROSSED
SENATE BILL No. 550

DIGEST OF SB 550 (Updated March 19, 2007 3:03 pm - DI 69)

Citations Affected: IC 6-3; IC 9-24; IC 16-19; IC 16-41; IC 20-12; IC 29-2; IC 34-30; IC 35-46; IC 36-2; noncode.

Synopsis: Anatomical gifts. Provides a $10,000 income tax deduction for human organ donation by an individual or an individual's dependent. Provides that the law concerning the anatomical gift promotion fund expires July 1, 2012, instead of July 1, 2007. Adds references to Donate Life Indiana in the anatomical gift promotion fund law. Repeals the Uniform Anatomical Gift Act (current act) and replaces it with the Revised Uniform Anatomical Gift Act. Keeps language from the current act concerning: (1) anatomical gifts to specified donees and the amendment or revocation of these gifts; (2) individuals or entities that may petition a probate court to determine whether an individual has made an anatomical gift or revoked an anatomical gift; (3) hospitals inquiring whether patients are, or would

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Effective: June 30, 2007; July 1, 2007.

Becker, Miller, Sipes, Simpson
(HOUSE SPONSORS — WELCH, GRUBB, CROUCH, DODGE)

January 23, 2007, read first time and referred to Committee on Judiciary.
January 25, 2007, pursuant to Senate Rule 65(b), reassigned to Committee on Health and Provider Services.
February 15, 2007, amended, reported favorably — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 22, 2007, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 27, 2007, read first time and referred to Committee on Courts and Criminal Code.
March 12, 2007, amended, reported — Do Pass.
March 19, 2007, read second time, amended, ordered engrossed.

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Digest Continued

like to be organ donors; and (4) certain immunities regarding anatomical gifts. Provides that if a prospective organ donor has a declaration or an advance health care directive, hospitals must use measures necessary to allow a procurement agency to determine the medical suitability of an organ by insuring that life support is not withdrawn before consultation with the procurement agency. Requires a coroner to cooperate with a procurement organization to maximize the opportunity to recover anatomical gifts. Requires a coroner to document why a postmortem examination occurred outside of a compatible period. Provides that if a coroner or designee of a coroner must be present at certain removal procedures or perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery, at the request of the coroner or designee, the procurement organization that requested the recovery of a part of a body shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee. Makes it a Class A misdemeanor if an individual, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document that expresses, makes an amendment to, or refuses a gift of organs, tissues, eyes, or body part intended to be used in research or in transplants. Makes conforming amendments.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 550

A BILL FOR AN ACT to amend the Indiana Code concerning anatomical gifts.

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

SECTION 1. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) As used in this section, "deductible expenses" means unreimbursed travel, housing, lost wages, and other expenses incurred by an individual in connection with the donation of a human organ.**

(b) As used in this section, "human organ" means all or a part of the kidney, liver, lung, bone marrow, pancreas, or intestine of a human body.

(c) As used in this chapter, "individual" means the following:

(1) An individual who donates a human organ for use in human organ transplantation.

(2) An individual whose dependent donates, of the dependent's own volition, a human organ for use in human organ transplantation.

(d) An individual is entitled to a deduction from the individual's adjusted gross income for the taxable year in which the human

organ is donated in an amount that does not exceed the lesser of:

(1) the individual's deductible expenses; or

(2) ten thousand dollars ($10,000).

(e) To obtain the deduction provided by this section, the individual must file with the department proof of the individual's deductible expenses.

(f) An individual may claim only one (1) deduction under this section during the individual's lifetime.

SECTION 2. IC 9-24-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The application form for a driver's license and an identification card issued under IC 9-24-16 must allow an applicant to acknowledge the making of an anatomical gift under ~~IC 29-2-16.~~ **IC 29-2-16.1.**

SECTION 3. IC 9-24-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The form described in section 1 of this chapter must allow the person making the gift to make an election under ~~IC 29-2-16-11.~~ **IC 29-2-16.1-4.**

SECTION 4. IC 16-19-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2007]: Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation **and Donate Life Indiana** for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation.

(e) The Indiana Donation Alliance Foundation **and Donate Life Indiana** shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.

(f) The Indiana Donation Alliance Foundation **and Donate Life Indiana** shall submit an annual report, including a list of all expenditures, to the chairperson of the:

(1) legislative council;

(2) senate health committee; and

(3) house public health committee;

before ~~January~~ **March** 15. The report must be in an electronic format

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under IC 5-14-6.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) This subsection applies if the Indiana Donation Alliance Foundation **or Donate Life Indiana**

~~(1)~~ loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. ~~or~~

~~(2) ceases its affiliation with at least three (3) of the following organizations:~~

~~(A) American Red Cross Tissue Service.~~

~~(B) Children's Organ Transplant Association.~~

~~(C) Community Tissue Services.~~

~~(D) Indiana Lions Eye & Tissue Transplant Bank.~~

~~(E) Indiana Organ Procurement Organization.~~

~~(F) St. Joseph Hospital Tissue Bank and Indiana Cardiac Retrieval.~~

The Indiana Donation Alliance Foundation **and Donate Life Indiana** shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the speaker of the house of representatives, that have subject matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

(i) This section expires July 1, ~~2007.~~ **2012.**

SECTION 5. IC 16-19-3-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 29. The state department shall compile and make available for public inspection records of a coroner or designee denying recovery of an anatomical gift as described in IC 36-2-14-22(f) and IC 36-2-14-22(g).**

SECTION 6. IC 16-41-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "bank" has the meaning set forth in ~~IC 29-2-16-1.~~ **IC 29-2-16.1-1.**

SECTION 7. IC 16-41-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. As used in this chapter, "hospital" has the meaning set forth in ~~IC 29-2-16-1.~~ **IC 29-2-16.1-1.**

SECTION 8. IC 16-41-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. As used in this chapter, "physician" has the meaning set forth in ~~IC 29-2-16-1.~~

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IC 29-2-16.1-1.

SECTION 9. IC 16-41-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. As used in this chapter, "storage facility" has the meaning set forth in ~~IC 29-2-16-1.~~ **IC 29-2-16.1-1.**

SECTION 10. IC 16-41-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. As used in this chapter, "surgeon" has the meaning set forth in ~~IC 29-2-16-1.~~ **IC 29-2-16.1-1.**

SECTION 11. IC 20-12-29.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "cadaver" means a whole human postmortem body that:

(1) has been donated under ~~IC 29-2-16,~~ **IC 29-2-16.1;**

(2) is unclaimed by a relative or other legal representative and that would otherwise be required to be buried at public expense; or

(3) is otherwise legally procured by the Indiana University School of Medicine.

SECTION 12. IC 20-12-29.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The dean of the Indiana University School of Medicine or the dean's designee shall administer the anatomical education program in accordance with policies adopted by the dean or the dean's designee under section 6(1) of this chapter.

(b) In administering the anatomical education program, the dean or the dean's designee shall:

(1) administer body bequests made to institutions of higher learning under ~~IC 29-2-16,~~ **IC 29-2-16.1;** and

(2) maintain written records of all transactions undertaken under the anatomical education program.

(c) In administering the anatomical education program, the dean or the dean's designee may through the trustees of Indiana University:

(1) enter into contracts; and

(2) employ qualified staff either on a full-time or part-time basis, including a licensed funeral director to assist in the operation and coordination of the anatomical education program.

SECTION 13. IC 29-2-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 16.1. Revised Uniform Anatomical Gift Act

Sec. 1. The following definitions apply throughout this chapter:

(1) "Adult" means an individual at least eighteen (18) years of

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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.

(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 driver's license, identification, or 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 under IC 9-24-17-9; 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.

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(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

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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.

Sec. 2. This chapter applies to:

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(1) an anatomical gift;
(2) an amendment to an anatomical gift;
(3) a revocation of an anatomical gift; or
(4) a refusal to make an anatomical gift.

Sec. 3. Subject to section 7 of this chapter, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 4 of this chapter by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:
(A) emancipated; or
(B) authorized under state law to apply for a driver's license because the donor is at least sixteen (16) years of age;
(2) an agent of the donor, unless the health care power of attorney or other record prohibits the agent from making an anatomical gift;
(3) a parent of the donor, if the donor is not emancipated; or
(4) the donor's guardian.

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 the donor's driver's license or identification card;
(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 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

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subdivision (1).

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

(1) a driver's license; or

(2) an identification card;

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.

Sec. 5. (a) Subject to section 7 of this chapter, a donor or other person authorized to make an anatomical gift under section 3 of this chapter may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to subsection (b), another individual acting at the direction of the donor or the other person authorized to make an anatomical gift if the donor or other person is physically unable to sign; or

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

(b) A record signed under subsection (a)(1)(C) must:

(1) be witnessed by two (2) adults, at least one (1) of whom is a disinterested witness, who are witnesses at the request of the donor or the other person authorized to make an anatomical gift; and

(2) state that the record has been signed and witnessed as described in subdivision (1).

(c) Subject to section 7 of this chapter, a donor or other person authorized to make an anatomical gift under section 3 of this chapter may revoke an anatomical gift by the destruction or cancellation of the:

(1) document of gift; or

(2) portion of the document of gift used to make the gift;

with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift as described in subsection (a).

Sec. 6. (a) An individual may refuse to make an anatomical gift

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of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

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

(2) the individual's will, including if the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury to at least two (2) adults and one (1) of the adults must be a disinterested witness.

(b) A record signed under subsection (a)(1)(B) must:

(1) be witnessed by two (2) adults, at least one (1) of whom is a disinterested witness, who are witnesses at the request of the donor or the other person acting at the direction of the donor; and

(2) state that the record has been signed and witnessed as described in subdivision (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner described in subsection (a);

(2) by subsequently making an anatomical gift under section 4 of this chapter that is inconsistent with the refusal; or

(3) by destroying or cancelling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as provided in section 7(h) of this chapter, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars another person from making an anatomical gift of the individual's body or part.

Sec. 7. (a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter.

(b) A donor's revocation of an anatomical gift of the donor's

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body or part under section 5 of this chapter is not a refusal and does not bar the person specified in section 3 of this chapter or section 8 of this chapter from making an anatomical gift of the donor's body or part under section 4 or 9 of this chapter.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter, another person may not make, amend, or revoke the gift of the donor's body or part under section 9 of this chapter.

(d) A revocation of an anatomical gift of a donor's body or part under section 5 of this chapter by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 4 or 9 of this chapter.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part for one (1) or more of the purposes set forth in section 3 of this chapter is not a limitation on the making of an anatomical gift of the part for any of the other purposes of the donor or any other person under section 4 or 9 of this chapter.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 8. (a) Subject to subsections (b) and (c), unless barred by section 6 or 7 of this chapter, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who are reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under section 3(2) of this chapter immediately before the decedent's death.

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

(b) If there is more than one (1) member of a class listed in subsection (a)(1), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to whom the gift may pass under section 10 of this chapter knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 9. (a) A person authorized to make an anatomical gift under section 8 of this chapter may make an anatomical gift by a document or may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c), an anatomical gift by a person authorized under section 8 of this chapter may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under section 8 of this chapter may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or
(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

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(c) A revocation under subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 10. (a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital.

(2) An accredited medical school, dental school, college, or university.

(3) An organ procurement organization.

(4) An appropriate person for research or education.

(5) Subject to subsection (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part.

(6) An eye bank.

(7) A tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(5) cannot be transplanted into the individual, the part passes in accordance with subsection (g) in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of:

(A) transplantation;

(B) therapy;

(C) education; or

(D) research;

the gift passes to the appropriate eye bank that has an agreement to recover donated eyes from patients who die within the hospital. The eye bank is considered to be the custodian of the donated eye.

(2) If the part is tissue and the gift is for the purpose of:

(A) transplantation; or

(B) therapy;

the gift passes to the appropriate tissue bank that has an agreement to recover donated tissue from patients that die within the hospital. The tissue bank is considered to be the custodian of the donated tissue.

(3) If the part is an organ and the gift is for the purpose of:

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(A) transplantation; or

(B) therapy;

the gift passes to the appropriate organ procurement organization that has an agreement to recover donated organs from patients who die within the hospital. The procurement organization is considered to be the custodian of the donated organs.

(4) If the part is an organ, an eye, or tissue from a patient who dies within a hospital and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization that has an agreement to recover donated organs, tissue, or eyes from patients who die within the hospital.

(d) For the purpose of subsection (c), if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation, research, or therapy, and the gift passes in accordance with subsection (g).

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation, research, or therapy, and the gift passes in accordance with subsection (g).

(g) For purposes of subsections (b), (e), and (f), the following rules apply:

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

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

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

(h) An anatomical gift of an organ for transplantation, therapy, or research, other than an anatomical gift under subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a)

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through (h) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the:

(1) gift was not effectively made under section 4 or 9 of this chapter; or

(2) decedent made a refusal under section 6 of this chapter that was not revoked.

(k) For purposes of subsection (j), if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(l) If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

(m) If the will, card, or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) the execution and delivery to the donee of a signed statement;

(2) an oral statement made in the presence of two (2) persons and communicated to the donee;

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or

(4) a signed card or document found on the decedent's person or in the decedent's effects.

(n) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (m) or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(o) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as

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provided in subsection (m).

(p) Except as otherwise provided in subsection (a)(2), this chapter does not affect the allocation of organs for transplantation or therapy.

Sec. 11. (a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death in a hospital for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) An organ procurement organization.

(2) A tissue bank.

(3) An eye bank.

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

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

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

Sec. 12. (a) The individual's attending physician, or, if none, the:

(1) physician that certifies the individual's death;

(2) hospital where the individual is admitted;

(3) hospital where the individual's remains are being kept; or

(4) individual identified in section 8(a) of this chapter;

may petition a court with probate jurisdiction in the county where the remains of the individual who is the subject of the petition are located, or the county in which the individual died, for the information referred to in subsection (b).

(b) A person identified in subsection (a) may petition the court with probate jurisdiction specified in subsection (a) to determine whether the individual:

(1) made a written anatomical gift under section 4 of this chapter or IC 9-24-17; or

(2) made a written revocation of an anatomical gift under section 5 of this chapter or under IC 9-24-17.

(c) If the court with probate jurisdiction determines under subsection (b) that the individual made a written anatomical gift that was not subsequently revoked in writing by the individual, the

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court shall order that the anatomical gift of an organ, tissue, or an eye be recovered.

(d) The court with probate jurisdiction may modify or waive notice and a hearing if the court determines that a delay would have a serious adverse effect on:

(1) the medical viability of the individual; or

(2) the viability of the individual's anatomical gift of an organ, tissue, or an eye.

Sec. 13. (a) As used in this section:

(1) "Administrator" means a hospital administrator or a hospital administrator's designee.

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

(3) "Representative" means a person who is:

(1) authorized under section 8 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 8 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 4 of this chapter; and

(3) a procurement organization 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 in a hospital;

the person in possession of the individual's driver's license or identification card shall immediately produce the driver's license

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or identification card for examination upon request, as provided in section 10(l) of this chapter.

(f) A gift made in response to information provided under this section must be signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(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 civil liability but may be subject to criminal liability or administrative sanctions.

Sec. 14. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 10 of this chapter.

Sec. 15. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of:

(1) the bureau of motor vehicles;

(2) the equivalent agency to the bureau of motor vehicles in another state;

(3) the Indiana donor registry; and

(4) any other registry that the organization knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the bureau of motor vehicles to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows

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that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to whom a part passes under section 10 of this chapter may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a), a procurement organization shall make a reasonable search for any person listed in section 8 of this chapter having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to section 10(i) of this chapter, IC 36-2-14-21, and IC 36-2-14-22, the rights of the person to whom a part passes under section 10 of this chapter are superior to the rights of all others with respect to the part, including a part from a person whose death within a hospital is under investigation by a coroner. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 10 of this chapter, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

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

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to

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remove.

Sec. 16. Each hospital in Indiana shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Sec. 17. (a) A person who acts in accordance with this chapter is not liable for the act in a civil action or administrative proceeding.

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

(c) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 8(a)(2), 8(a)(3), 8(a)(4), 8(a)(5), 8(a)(6), 8(a)(7), or 8(a)(8) of this chapter relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

(d) A health care provider is immune from civil liability for following a donor's unrevoked anatomical gift directive under this chapter or IC 9-24-17.

(e) A hospital or a recovery agency is immune from civil liability for determining in good faith and in compliance with this section that:

(1) an individual made a written anatomical gift; or

(2) an individual subsequently made a written revocation of an anatomical gift.

(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.

Sec. 18. (a) A document of gift is valid if executed in accordance with:

(1) this chapter;

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

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

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was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this chapter, the law of this state governs the interpretation of the document of gift.

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

Sec. 19. (a) The bureau of motor vehicles 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).

Sec. 20. (a) As used in this section:

(1) "Advance health care directive" means a power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support

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system may be withheld or withdrawn from the prospective donor.

(3) "Health care decision" means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health care directive, unless the directive expressly states the contrary, hospitals must use measures necessary to allow a procurement agency to determine the medical suitability of an organ for transplantation or therapy by insuring that life support is not withdrawn from the prospective donor before consultation with the appropriate procurement agency to determine medical potential for donation. Every effort will be made by the procurement agency to determine donor potential within approximately two (2) hours from the time the procurement agency is contacted by the hospital. A hospital may, in accordance with a donor's declaration or advance health care directive, withdraw life support from the prospective donor if the procurement agency has not made a determination of donor potential within six (6) hours from the time the procurement agency is contacted by the hospital.

Sec. 21. (a) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, education, or training.

(b) If a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a postmortem examination is going to be performed, unless the coroner denies recovery in accordance with IC 36-2-14-22(f), the coroner or designee shall, when practicable, conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift. If a coroner conducts a postmortem examination outside of a compatible period, the coroner must document why examination occurred outside of a compatible period. It is considered sufficient documentation if the coroner documents that additional time was necessary to conduct an adequate medicolegal examination.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or

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education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or pathologist from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner or from using the body or parts of a decedent under the jurisdiction of the coroner for the purposes of research, education, or training required by the coroner or pathologist.

SECTION 14. IC 34-30-2-123.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 123.5. ~~IC 29-2-16-2.5 (Concerning health care provider immunity and anatomical gifts).~~ **IC 29-2-16.1-17(a) (Concerning a person acting under anatomical gift laws).**

SECTION 15. IC 34-30-2-123.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 123.7. ~~IC 29-2-16-3.5 (Concerning hospital and recovery agency immunity and anatomical gifts).~~ **IC 29-2-16.1-17(b) (Concerning a person or an estate in connection with the making of an anatomical gift).**

SECTION 16. IC 34-30-2-124 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 124. ~~IC 29-2-16-4 (Concerning a person for taking a decedent's body or removing organs, tissues, or other parts in reliance on a will, card, or other document of gift).~~ **IC 29-2-16.1-17(d) (Concerning health care provider immunity and anatomical gifts).**

SECTION 17. IC 34-30-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 125. ~~IC 29-2-16-7 (Concerning a person acting under anatomical gift laws).~~ **IC 29-2-16.1-17(e) (Concerning hospital and recovery agency immunity and anatomical gifts).**

SECTION 18. IC 34-30-2-125.3, AS ADDED BY P.L.53-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 125.3. ~~IC 29-2-16-17 (Concerning a person or an estate in connection with the making of an anatomical gift).~~ **IC 29-2-16.1-17(f) (Concerning a person for taking a decedent's body or removing organs, tissues, or other parts in reliance on a will, card, or other document of gift).**

SECTION 19. IC 35-46-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.

(b) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

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(c) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; ~~or~~

(2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ; **or**

(3) an income tax deduction under IC 6-3-2-21.

(d) A person who intentionally acquires, receives, sells, or transfers in exchange for an item of value:

(1) a human organ for use in human organ transplantation; or

(2) fetal tissue;

commits unlawful transfer of human tissue, a Class C felony.

SECTION 20. IC 35-46-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. An individual who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document that:**

(1) expresses;

(2) makes an amendment or revocation of; or

(3) refuses;

a gift of organs, tissues, eyes, or other body parts intended to be used in research or in transplants, commits a Class A misdemeanor.

SECTION 21. IC 36-2-14-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) As used in this section, "cornea" includes corneal tissue.

(b) As used in this section, "decedent" means a person described in section 6(a)(1) through 6(a)(5) of this chapter.

(c) As used in this section, "eye bank" means a nonprofit corporation:

(1) organized under Indiana law;

(2) exempt from federal income taxation under Section 501 of the Internal Revenue Code; and

(3) whose purposes include obtaining, storing, and distributing corneas that are to be used for corneal transplants or for other medical or medical research purposes.

(d) If under section 6(d) of this chapter the coroner requires an autopsy to be performed upon a decedent, the coroner may authorize the removal of one (1) or both of the decedent's corneas for donation to

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an eye bank for transplantation, if the following conditions exist:

(1) The decedent's corneas are not necessary for successful completion of the autopsy.

(2) The decedent's corneas are not necessary for use as evidence.

(3) Removal of the decedent's corneas will not alter the postmortem facial appearance of the decedent.

(4) A representative of the eye bank, authorized by the trustees of the eye bank to make requests for corneas, has done the following:

(A) Within six (6) hours after the time of death, made a reasonable attempt to:

(i) contact any of the persons listed in the order of priority specified in ~~IC 29-2-16-2(b),~~ **IC 29-2-16.1-8;** and

(ii) inform the person of the effect of the removal of the decedent's corneas on the physical appearance of the decedent.

(B) Submitted to the coroner:

(i) a written request for the donation by the coroner of corneas of the decedent subject to autopsy under section 6(d) of this chapter; and

(ii) a written certification that corneas donated under this section are intended to be used only for cornea transplant.

(5) The removal of the corneas and their donation to the eye bank will not alter a gift made by:

(A) the decedent when alive; or

(B) any of the persons listed in the order of priority specified in ~~IC 29-2-16-2(b),~~ **IC 29-2-16.1-8;**

to an agency or organization other than the eye bank making the request for the donation.

(6) The coroner, at the time the removal and donation of a decedent's corneas is authorized, does not know of any objection to the removal and donation of the decedent's corneas made by:

(A) the decedent, as evidenced in a written document executed by the decedent when alive; or

(B) any of the persons listed in the order of priority specified in ~~IC 29-2-16-2(b),~~ **IC 29-2-16.1-8.**

(e) A person, including a coroner and an eye bank and the eye bank's representatives, who exercises reasonable care in complying with subsection (d)(6) is immune from civil liability arising from cornea removal and donation allowed under this section.

(f) A person who authorizes the donation of a decedent's corneas may not be charged for the costs related to the donation. The recipient

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of the donation is responsible for the costs related to the donation.

SECTION 22. IC 36-2-14-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the coroner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the coroner only if relevant to transplantation or therapy.**

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

(c) A person that has any information requested by a coroner under subsection (b) shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner and a postmortem examination is not required, or the coroner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner, in consultation with a pathologist, initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death or interfere with the preservation or collection of evidence, the coroner and pathologist shall consult with the procurement

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organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner may allow the recovery, delay the recovery, or deny the recovery.

(f) Before the removal procedure, the coroner or designee may allow recovery by the procurement organization to proceed, or, if the coroner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death or, in tissue procurement cases, if the coroner or designee determines that, for evidentiary purposes, the body must remain undisturbed prior to autopsy, deny recovery by the procurement organization. The coroner or designee must be present at the scene before denying the recovery of a part. When practicable, the coroner and pathologist shall work with the procurement organization to facilitate removal of a part following any postmortem examination of the decedent.

(g) If the coroner or designee denies recovery under subsection (e) or (f), the coroner or designee shall:

(1) explain in a record the specific reasons for not allowing recovery of the part;

(2) include the specific reasons in the records of the coroner and forensic pathologist;

(3) provide a record with the specific reasons to the procurement organization and the state department of health.

(h) If the coroner or designee allows recovery of a part under subsection (d), (e), or (f), the procurement organization shall do the following:

(1) At the request of the coroner or designee and when practicable, perform diagnostic studies that would aid in documenting the presence or absence of injuries.

(2) Cause the physician or technician who removes the part to explain in a signed record the condition of the part, including the presence or absence of any injuries to the part or any surrounding tissue or organs.

(3) Provide a copy of the record described in subdivision (2) to the coroner and the investigating law enforcement agency.

(4) Cause the physician or technician who removes the part to photograph, collect, preserve, and maintain the appropriate chain of custody of any evidence that is found during procurement.

(5) Cause the physician or technician who removes the part to collect blood and other bodily fluid samples as directed by the

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coroner or designee.

(6) Cause the physician or technician who removes the part to, upon the request of the coroner or designee, photograph, biopsy, or provide any other information and observations concerning the part or body that would assist in the postmortem examination.

(i) If a coroner or designee must:

(1) be present at a removal procedure under subsection (f); or

(2) perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery under IC 29-2-16.1-21(b);

at the request of the coroner or designee, the procurement organization that requested the recovery of the part shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee to comply with subsection (f) or IC 29-2-16.1-21(b).

SECTION 23. IC 29-2-16 IS REPEALED [EFFECTIVE JULY 1, 2007].

SECTION 24. [EFFECTIVE JULY 1, 2007] **IC 6-3-2-21, as added by this act, applies to taxable years beginning after December 31, 2007.**

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Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Senate Bill 550, currently assigned to the Committee on Judiciary, be reassigned to the Committee on Health and Provider Services.

LONG

SENATE MOTION

Madam President: I move that Senator Sipes be added as coauthor of Senate Bill 550.

BECKER

SENATE MOTION

Madam President: I move that Senator Simpson be added as coauthor of Senate Bill 550.

BECKER

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 550, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 13, delete "coroner, pathologist," and insert "**coroner**".

Page 20, line 29, after "hospital." insert "**A hospital may, in accordance with a donor's declaration or advance health care directive, withdraw life support from the prospective donor if the procurement agency has not made a determination of donor potential within six (6) hours from the time the procurement agency is contacted by the hospital.**".

Page 20, line 33, delete "If the medicolegal investigation requires consultation".

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Page 20, delete lines 34 through 37.

Page 24, line 1, delete "coroner, in consultation with a pathologist," and insert "**coroner**".

Page 24, line 8, delete "coroner," and insert "**coroner**".

Page 24, line 9, delete "or a pathologist who is being consulted by a coroner".

Page 24, line 10, delete "(b)," and insert "**(b)**".

Page 24, line 11, delete "or the pathologist".

Page 24, line 33, delete "Following the consultation under subsection (e), in the".

Page 24, delete lines 34 through 39.

Page 24, line 40, delete "organization to recover the part.".

Page 24, line 42, delete "coroner, pathologist," and insert "**coroner**".

Page 25, line 3, after "organization." insert "**The coroner or designee must be present at the scene before making a denial.**".

Page 25, line 4, delete "coroner, pathologist," and insert "**coroner**".

Page 25, line 5, delete "coroner, pathologist," and insert "**coroner**".

Page 25, line 15, delete "pathologist" and insert "designee".

Page 25, delete lines 19 through 23.

and when so amended that said bill do pass.

(Reference is to SB 550 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 550, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning anatomical gifts.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) As used in this section, "deductible expenses"**

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means unreimbursed travel, housing, lost wages, and other expenses incurred by an individual in connection with the donation of a human organ.

(b) As used in this section, "human organ" means all or a part of the kidney, liver, lung, bone marrow, pancreas, or intestine of a human body.

(c) As used in this chapter, "individual" means the following:

(1) An individual who donates a human organ for use in human organ transplantation.

(2) An individual whose dependent donates, of the dependent's own volition, a human organ for use in human organ transplantation.

(d) An individual is entitled to a deduction from the individual's adjusted gross income for the taxable year in which the human organ is donated in an amount that does not exceed the lesser of:

(1) the individual's deductible expenses; or

(2) ten thousand dollars ($10,000).

(e) To obtain the deduction provided by this section, the individual must file with the department proof of the individual's deductible expenses.

(f) An individual may claim only one (1) deduction under this section during the individual's lifetime.".

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 4. IC 16-19-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2007]: Sec. 26. (a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The money in the fund shall be distributed quarterly to the Indiana Donation Alliance Foundation **and Donate Life Indiana** for the purpose of implementing an organ, tissue, and marrow registry and to promote organ, tissue, and marrow donation.

(e) The Indiana Donation Alliance Foundation **and Donate Life Indiana** shall keep information regarding the identity of an individual who has indicated a desire to make an organ or tissue donation confidential.

(f) The Indiana Donation Alliance Foundation **and Donate Life**

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Indiana shall submit an annual report, including a list of all expenditures, to the chairperson of the:

(1) legislative council;

(2) senate health committee; and

(3) house public health committee;

before ~~January~~ **March** 15. The report must be in an electronic format under IC 5-14-6.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(h) This subsection applies if the Indiana Donation Alliance Foundation **or Donate Life Indiana**

~~(1)~~ loses its status as an organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. ~~or (2) ceases its affiliation with at least three (3) of the following organizations:~~

~~(A) American Red Cross Tissue Service.~~

~~(B) Children's Organ Transplant Association.~~

~~(C) Community Tissue Services.~~

~~(D) Indiana Lions Eye & Tissue Transplant Bank.~~

~~(E) Indiana Organ Procurement Organization.~~

~~(F) St. Joseph Hospital Tissue Bank and Indiana Cardiac Retrieval.~~

The Indiana Donation Alliance Foundation **and Donate Life Indiana** shall report in an electronic format under IC 5-14-6 to the chairpersons of the senate standing committee, as determined by the president pro tempore of the senate, and the house standing committee, as determined by the speaker of the house of representatives, that have subject matter jurisdiction over health issues. The chairpersons shall review the report and recommend to the state department whether to continue distributions under subsection (d).

(i) This section expires July 1, ~~2007.~~ **2012.**".

Page 7, line 14, beginning with "that" begin a new line blocked left.

Page 14, line 41, delete "the probate" and insert "**a**".

Page 14, line 41, after "court" insert "**with probate jurisdiction**".

Page 15, line 4, delete "probate".

Page 15, line 4, after "court" insert "**with probate jurisdiction**".

Page 15, line 10, delete "probate".

Page 15, line 10, after "court" insert "**with probate jurisdiction**".

Page 15, line 15, delete "probate".

Page 15, line 15, after "court" insert "**with probate jurisdiction**".

Page 18, delete line 20.

Page 18, line 21, delete "attempts in good faith to do so,".

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Page 18, line 22, delete ", criminal prosecution,".

Page 21, line 7, after "period." insert "**It is considered sufficient documentation if the coroner documents that additional time was necessary to conduct an adequate medicolegal examination.**".

Page 22, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 19. IC 35-46-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.

(b) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

(c) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; ~~or~~

(2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ; **or**

(3) an income tax deduction under IC 6-3-2-21.

(d) A person who intentionally acquires, receives, sells, or transfers in exchange for an item of value:

(1) a human organ for use in human organ transplantation; or

(2) fetal tissue;

commits unlawful transfer of human tissue, a Class C felony.".

Page 25, after line 12, begin a new paragraph and insert:

"SECTION 24. [EFFECTIVE JULY 1, 2007] **IC 6-3-2-21, as added by this act, applies to taxable years beginning after December 31, 2007.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 550 as printed February 16, 2007.)

HOY, Chair

Committee Vote: yeas 8, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 550 be amended to read as follows:

Page 16, line 7, after "death" insert "**in a hospital**".

Page 16, line 21, delete "criminal or".

Page 16, line 23, after "to" insert "**criminal liability or**".

Page 17, line 40, delete ";" and insert "**in a hospital;**".

Page 18, line 11, delete "criminal or".

Page 18, line 12, after "to" insert "**criminal liability or**".

Page 19, line 24, after "chapter" insert "**, IC 36-2-14-21,**".

Page 22, line 22, delete "or".

Page 22, line 23, delete "." and insert "**, or training.**".

Page 22, line 29, after "shall" insert "**, when practicable,**".

Page 23, line 2, after "coroner" insert "**or pathologist**".

Page 23, line 4, delete "." and insert "**or from using the body or parts of a decedent under the jurisdiction of the coroner for the purposes of research, education, or training required by the coroner or pathologist.**".

Page 26, line 37, delete "," and insert "**or interfere with the preservation or collection of evidence,**".

Page 26, line 41, delete "." and insert "**, delay the recovery, or deny the recovery.**".

Page 27, line 3, delete "," and insert "**or, in tissue procurement cases, if the coroner or designee determines that, for evidentiary purposes, the body must remain undisturbed prior to autopsy,**".

Page 27, line 5, delete "making a denial." and insert "**denying the recovery of a part. When practicable, the coroner and pathologist shall work with the procurement organization to facilitate removal of a part following any postmortem examination of the decedent.**".

Page 27, line 6, after "subsection" insert "**(e) or**".

Page 27, line 15, delete ", upon" and insert "**shall do the following:**

(1) At the request of the coroner or designee and when practicable, perform diagnostic studies that would aid in documenting the presence or absence of injuries.

(2) Cause the physician or technician who removes the part to explain in a signed record the condition of the part, including the presence or absence of any injuries to the part or any surrounding tissue or organs.

(3) Provide a copy of the record described in subdivision (2) to the coroner and the investigating law enforcement agency.

(4) Cause the physician or technician who removes the part to photograph, collect, preserve, and maintain the appropriate

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chain of custody of any evidence that is found during procurement.

(5) Cause the physician or technician who removes the part to collect blood and other bodily fluid samples as directed by the coroner or designee.

(6) Cause the physician or technician who removes the part to, upon the request of the coroner or designee, photograph, biopsy, or provide any other information and observations concerning the part or body that would assist in the postmortem examination.

(i) If a coroner or designee must:

(1) be present at a removal procedure under subsection (f); or

(2) perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery under IC 29-2-16.1-21(b);

at the request of the coroner or designee, the procurement organization that requested the recovery of the part shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee to comply with subsection (f) or IC 29-2-16.1-21(b).".

Page 27, delete lines 16 through 20.

(Reference is to ESB 550 as printed March 13, 2007.)

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