

CHAPTER 50

AN ACT concerning anatomical gifts, revising parts of the statutory law and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.26:6-77 Short title.

1. a. This act shall be known and may be cited as the “Revised Uniform Anatomical Gift Act.”

b. Whenever the term "Uniform Anatomical Gift Act" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the "Revised Uniform Anatomical Gift Act."

C.26:6-78 Definitions relative to anatomical gifts.

2. As used in this act:

“Adult” means a person who is at least 18 years of age.

“Advance directive for health care” means an advance directive for health care that is executed pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.).

“Agent” means a person who is authorized to act as a health care representative by an advance directive for health care or is expressly authorized to make an anatomical gift on a donor’s behalf by any other record signed by the donor.

“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.

“Civil union partner” means one partner in a civil union couple as defined in section 2 of P.L.2006, c.103 (C.37:1-29).

“Decedent” means a deceased person whose body or part is or may be the source of an anatomical gift, and includes a stillborn infant or fetus.

“Designated requester” means a hospital employee who has completed a course offered or approved by an organ procurement organization.

“Disinterested witness” means a witness other than: the spouse, civil union partner, domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the person who makes, amends, revokes, or refuses to make an anatomical gift; another adult who exhibited special care and concern for the decedent; or a person to whom an anatomical gift may pass pursuant to section 10 of this act.

“Document of gift” means a donor card or other record used to make an anatomical gift, and includes a statement or symbol on a driver’s license, identification card, or donor registry.

“Domestic partner” means a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3).

“Donor” means a person whose body or part is the subject of an anatomical gift.

“Donor registry” means a database that contains records of anatomical gifts.

“Driver’s license” means a license or permit issued by the New Jersey Motor Vehicle Commission to operate a vehicle, whether or not conditions are attached to the license or permit.

“Eye bank” means an entity 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.

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“Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of another individual, but does not include a guardian ad litem.

“Hospital” means an institution, whether operated for profit or not, whether maintained, supervised or controlled by an agency of State government or a county or municipality or not, which maintains and operates facilities for the diagnosis, treatment, or care of two or more non-related individuals suffering from illness, injury, or deformity, and where emergency, outpatient, surgical, obstetrical, convalescent, or other medical and nursing care is rendered for periods exceeding 24 hours.

“Identification card” means an identification card issued by the New Jersey Motor Vehicle Commission.

“Medical examiner” means the State Medical Examiner, a county medical examiner, or another person performing the duties of a medical examiner pursuant to P.L.1967, c.234 (C.52:17B-78 et seq.).

“Minor” means a person who is under 18 years of age.

“Organ procurement organization” means an entity designated by the United States Secretary of Health and Human Services as an organ procurement organization.

“Parent” means a parent whose parental rights have not been terminated.

“Part” means an organ, eye, or tissue of a human being, but does not include the whole body.

“Physician” means a person authorized to practice medicine or osteopathy under the laws of any state.

“Procurement organization” means an eye bank, organ procurement organization, or tissue bank.

“Prospective donor” means a person who is dead or whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education, but does not include an individual who has made a refusal.

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

“Recipient” means a person into whose body a decedent’s part has been or is intended to be transplanted.

“Record” means information that is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.

“Refusal” means a record created pursuant to this act that expressly states an intent to bar other persons from making an anatomical gift of a person’s body or part.

“Sign” means, with the present intent to authenticate or adopt a record, to execute or adopt a tangible symbol, or to attach to or logically associate with the record an electronic symbol, sound, or process.

“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.

“Technician” means a person who is determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or State law, and includes an enucleator.

“Tissue” means a portion of the human body other than an organ or an eye, but does not include blood unless it is needed to facilitate the use of other parts or is donated for the purpose of research or education.

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“Tissue bank” means an entity that is licensed, accredited, or regulated under federal or State law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

“Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

C.26:6-79 Applicability of act.

3. The provisions of this act shall apply to an anatomical gift, or an amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

C.26:6-80 Anatomical gift by living donor.

4. Subject to the provisions of section 8 of this act, 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 5 of this act by:

- a. the donor, if the donor is an adult, or if the donor is a minor and is emancipated or is authorized under the laws of this State to apply for a driver’s license;
- b. an agent of the donor, unless the advance directive for health care or other record prohibits the agent from making an anatomical gift;
- c. a parent of the donor, if the donor is an unemancipated minor; or
- d. the donor’s guardian.

C.26:6-81 Procedure for donor to make anatomical gift.

5. a. A person may make an anatomical gift and thereby become a donor:

- (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 addressed to at least two adults, at least one of whom shall be a disinterested witness; or
- (4) as provided in subsection b. of this section.

b. A donor or other person authorized to make an anatomical gift pursuant to section 4 of this act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry.

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 shall:

- (1) be witnessed by at least two adults, at least one of whom shall be a disinterested witness, who have signed at the request of the donor or other person; and
- (2) state that it has been signed and witnessed as provided in paragraph (1) of this subsection.

c. The revocation, suspension, expiration, or cancellation of a driver’s license or identification card upon which an anatomical gift is indicated shall not invalidate the gift.

d. An anatomical gift made by will shall take effect upon the donor’s death, whether or not the will is probated. Invalidation of the will after the donor’s death shall not invalidate the gift.

C.26:6-82 Amendment, revocation of anatomical gift by donor.

6. a. Subject to the provisions of section 8 of this act, a donor or other person authorized to make an anatomical gift pursuant to section 4 of this act may amend or revoke an anatomical gift by:

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- (1) a record signed by:
 - (a) the donor or other person; or
 - (b) subject to the provisions of subsection b. of this section, another individual acting at the direction of the donor or the other person 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 pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section shall:
- (1) be witnessed by at least two adults, at least one of whom shall be a disinterested witness, who have signed at the request of the donor or other person; and
 - (2) state that it has been signed and witnessed as provided in paragraph (1) of this subsection.
- c. Subject to the provisions of section 8 of this act, a donor or other person authorized to make an anatomical gift pursuant to section 4 of this act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the 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 adults, at least one of whom shall be a disinterested witness.
- e. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection a. of this section.

C.26:6-83 Refusal to make anatomical gift.

7. a. A person may refuse to make an anatomical gift of the person's body or part by:
- (1) a record signed by:
 - (a) the person; or
 - (b) subject to subsection b. of this section, another individual acting at the person's direction if the person is physically unable to sign;
 - (2) the person's will, whether or not the will is admitted to probate or invalidated after the person's death; or
 - (3) any form of communication made by the person during the person's terminal illness or injury addressed to at least two adults, at least one of whom shall be a disinterested witness.
- b. A record signed pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section shall:
- (1) be witnessed by at least two adults, at least one of whom shall be a disinterested witness, who have signed at the request of the person who is making a refusal; and
 - (2) state that it has been signed and witnessed as provided in paragraph (1) of this subsection.
- c. A person who has made a refusal may amend or revoke the refusal:
- (1) in the manner provided in subsection a. of this section for making a refusal;
 - (2) by subsequently making an anatomical gift that is inconsistent with the refusal; or
 - (3) by destroying or canceling 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 otherwise provided in subsection h. of section 8 of this act, in the absence of an express, contrary indication by the person set forth in the refusal, a person's unrevoked

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refusal to make an anatomical gift of the person's body or part shall preclude another individual from making an anatomical gift of the person's body or part.

C.26:6-84 Person other than donor prohibited from making anatomical gift, exceptions.

8. a. In the absence of an express, contrary indication by the donor, a person other than the donor shall be prohibited 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 or an amendment to an anatomical gift of the donor's body or part.

b. A donor's revocation of an anatomical gift pursuant to section 6 of this act shall not be deemed to be a refusal and shall not preclude another person as specified in section 4 or section 9 of this act from making an anatomical gift of the donor's body or part.

c. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part pursuant to section 5 of this act or an amendment to an anatomical gift of the donor's body or part pursuant to section 6 of this act, another person shall not make, amend, or revoke the gift of the donor's body or part.

d. A revocation of an anatomical gift by a person other than the donor pursuant to section 6 of this act shall not preclude another person from making an anatomical gift of the body or part.

e. In the absence of an express, contrary indication by a donor or other person authorized to make an anatomical gift under this act, an anatomical gift of a part shall not be deemed to be 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 other person.

f. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under this act, an anatomical gift of a part for any of the purposes set forth in section 4 of this act shall not be deemed to limit the making of an anatomical gift of the part for any of those other purposes by the donor or other person.

g. Notwithstanding the provisions of this section to the contrary, in the event of the death of a donor who is an unemancipated minor, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

h. In the event of the death of an unemancipated minor who has signed a refusal, a parent of the minor who is reasonably available may revoke the minor's refusal.

C.26:6-85 Person authorized to make anatomical gift of a decedent's body.

9. a. (1) Subject to the provisions of this act, an anatomical gift of a decedent's body or part may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) an agent of the decedent at the time of the decedent's death who could have made an anatomical gift immediately before the decedent's death pursuant to section 4 of this act;

(b) the spouse, civil union partner, or domestic partner of the decedent;

(c) an adult child of the decedent;

(d) either parent of the decedent;

(e) an adult sibling of the decedent;

(f) another adult who is related to the decedent by blood, marriage, or adoption, or exhibited special care and concern for the decedent;

(g) a person who was acting as the guardian of the person of the decedent at the time of the decedent's death; and

(h) any other person having the authority to dispose of the decedent's body, including the administrator of a hospital in which the decedent was a patient or resident immediately

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preceding death. In the absence of actual notice of contrary indication by the decedent, the administrator shall make an anatomical gift of a decedent's body or part.

(2) If there is more than one member of a class as specified in subparagraphs (a) through (g) of paragraph (1) of this subsection who is entitled to make an anatomical gift, a member of the class may make an anatomical gift unless that member or a person to whom the gift may pass pursuant to section 10 of this act knows of an objection by another member of the class. If an objection is known, the gift shall be made only by a majority of the members of the class who are reasonably available. Nothing in this subsection shall be construed to require that all members of the class authorize the making of the gift or participate in the decision to make the gift.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class as specified in paragraph (1) of this subsection is reasonably available to make or object to the making of an anatomical gift.

b. (1) A person authorized to make an anatomical gift pursuant to subsection a. of this section 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.

(2) Subject to the provisions of paragraph (3) of this subsection, an anatomical gift by a person authorized to make the gift pursuant to subsection a. of this section 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 member of the prior class is reasonably available, the gift made by the authorized person may be:

(a) amended only if a majority of the reasonably available members agree to amending the gift; or

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

(3) A revocation made pursuant to paragraph (2) of this subsection shall be 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. A procurement organization, transplant hospital, or physician or technician with knowledge of a revocation shall make a best effort to communicate that information to the other parties involved in order to stop the anatomical gift recovery process.

C.26:6-86 Recipients of anatomical gift.

10. a. An anatomical gift may be made to the following persons or entities named in the document of gift:

(1) a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to the provisions of subsection b. of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) an eye bank or tissue bank.

b. If an anatomical gift to an individual cannot be transplanted into the individual, the part shall pass in accordance with subsection f. of this section in the absence of an express, contrary indication by the person making the anatomical gift.

c. If there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation

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or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

d. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person or entity as described in subsection a. of this section and does not identify the purpose of the gift, the gift shall be used only for transplantation or therapy, and shall pass in accordance with subsection f. of this section.

e. 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 shall include all parts, may be used only for transplantation or therapy, and shall pass in accordance with subsection f. of this section.

f. For the purposes of subsections b., d., and e. of this section, the following shall apply:

(1) if the part is an eye, the gift shall pass to the appropriate eye bank;

(2) if the part is tissue, the gift shall pass to the appropriate tissue bank; and

(3) if the part is an organ, the gift shall pass to the appropriate organ procurement organization as custodian of the organ.

g. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under paragraph (2) of subsection a. of this section, shall pass to the organ procurement organization as custodian of the organ.

h. If an anatomical gift does not pass pursuant to subsections a. through g. of this section or the decedent’s body or part is not used for transplantation, therapy, research, or education, custody of the body or part shall pass to the person or entity under obligation to dispose of the body or part.

i. A person or entity shall not accept an anatomical gift if the person or entity knows that the gift was not effectively made pursuant to this act or that the decedent made a refusal pursuant to this act that was not revoked. For the purposes of the subsection, if a person or entity knows that an anatomical gift was made on a document of gift, the person or entity shall be deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

j. Except as otherwise provided in paragraph (2) of subsection a. of this section, nothing in this act shall be construed to affect the allocation of organs for transplantation or therapy.

C.26:6-87 Search for potential donor, document of refusal; permitted entities.

11. a. Upon the request of an organ procurement organization, the following persons shall make a reasonable search of an individual who the person reasonably believes is dead or whose death is imminent for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

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

(2) 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 pursuant to subsection a. of this section, the person responsible for conducting the search shall make the document of gift or refusal immediately available to the organ procurement organization.

c. A person shall not be subject to criminal or civil liability, but may be subject to administrative sanctions, for a failure to discharge the duties imposed pursuant to this section.

C.26:6-88 Delivery of document of gift or a refusal.

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12. 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 whom the gift may pass pursuant to section 10 of this act.

C.26:6-89 Notification by hospital relative to donor status.

13. a. A hospital shall notify an organ procurement organization or a third party designated by that organization of a person whose death is imminent or who has died in the hospital, in a timely manner sufficient to ensure that the examination, evaluation, and ascertainment of donor status as set forth in subsection d. of this section can be completed within a time frame compatible with the donation of organs and tissues for transplant. The notification shall be made without regard to whether the person has executed an advance directive for health care.

b. When a hospital refers a person who is dead or whose death is imminent to an organ procurement organization, the organization shall make a reasonable search of the records of the New Jersey Motor Vehicle Commission and any donor registry that it knows exists for the geographical area in which the person resides in order to ascertain whether the person has made an anatomical gift.

c. (1) If the patient has a validly executed donor card, donor designation on a driver's license, advance directive for health care, will, other document of gift, or registration with a Statewide organ and tissue donor registry, the procurement organization representative or the designated requester shall attempt to notify a person listed in section 9 of this act of the gift.

If no document of gift is known to the procurement organization representative or the designated requester, one of those two individuals shall ask the persons listed in section 9 of this act whether the decedent had a validly executed document of gift. If there is no evidence of an anatomical gift or refusal by the decedent, the procurement organization representative or the designated requester shall attempt to notify a person listed in section 9 of this act of the option to donate organs or tissues.

(2) The person in charge of the hospital or that person's designated representative shall indicate in the medical record of the decedent whether or not a document of gift is known to exist, or otherwise whether consent was granted, the name of the person granting or refusing the consent, and that person's relationship to the decedent.

d. When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, and the organization has determined based upon a medical record review that the individual may be a prospective donor, then the organization may conduct any blood or tissue test or minimally invasive examination that is reasonably necessary to evaluate the medical suitability of a part that is or may be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. The hospital shall not withdraw any measures that are necessary to maintain the medical suitability of the part until the procurement organization has had the opportunity to advise the applicable persons as set forth in section 9 of this act of the option to make an anatomical gift or has ascertained that the individual expressed a contrary intent. The results of such tests and examinations shall be used or disclosed only for purposes of evaluating medical suitability for donation and to facilitate the donation process, and as required or permitted by existing law.

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e. At any time after a donor's death, the person to whom an anatomical gift may pass pursuant to section 10 of this act may conduct any test or examination that is reasonably necessary to evaluate the medical suitability of the body or part for its intended purpose.

f. An examination conducted pursuant to this section may include an examination of all medical and dental records of the donor or prospective donor.

g. Upon the death of a minor who was a donor or had signed a refusal, the procurement organization shall, unless it knows the minor is emancipated, 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.

h. Subject to the provisions of this act, the rights of a person or entity to whom a part passes pursuant to section 10 of this act shall be superior to the rights of all others with respect to that part. The person or entity may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and the provisions of this act, a person or entity who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and the use of remains in a funeral service. If the gift is of a part, the person or entity to which the part passes pursuant to section 10 of this act, 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 or registered professional nurse who attends the decedent at death nor the physician or registered professional nurse 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 remove.

k. Each hospital or other licensed health care facility in this State shall be authorized to enter into such agreements or affiliations with procurement organizations as are necessary for the coordination of procurement and use of anatomical gifts.

C.26:6-90 Notification of death to procurement organization.

14. A person who seeks to facilitate the making of an anatomical gift, for the purposes of transplantation or therapy, from a decedent who was not a hospital patient at the time of death shall notify the procurement organization at or around the time of the person's death in order to allow the organization to at least initially evaluate the potential donation and coordinate the donation process, as applicable.

C.26:6-91 Immunity from liability.

15. a. A person or entity shall be immune from liability for actions taken in accordance with, or in a good faith attempt to act in accordance with, the provisions of this act or the applicable anatomical gift law of another state.

b. Neither the person making an anatomical gift nor the donor's estate shall be 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 pursuant to this act, a person or entity shall rely upon representations made by an individual as specified in section 9 of this act relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

C.26:6-92 Valid document of gift.

16. a. A document of gift shall be valid if executed in accordance with:

(1) the provisions of this act;

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(2) the laws of the state or country in which it is executed; or

(3) the laws of the state or country in which the person making the anatomical gift is domiciled, has a place of residence, or is a citizen at the time that the document of gift is executed.

b. The law of this State shall govern the interpretation of a valid document of gift to which the provisions of this act apply.

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

C.26:6-93 Requirements relative to donations from individuals having an advance directive.

17. If a hospital patient who is a prospective donor has executed an advance directive for health care, or has otherwise specified by record the circumstances under which the patient would want life support to be withheld or withdrawn from that person, and the terms of the advance directive or other record are in conflict with the option of making an anatomical gift by precluding the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the following requirements shall apply:

a. If the patient is determined to have decision making capacity pursuant to the provisions of P.L.1991, c.201 (C.26:2H-53 et seq.), then the patient shall, after consultation with the patient's attending physician about the donor option and all other relevant factors in end-of-life decision making, make a determination concerning the withholding or withdrawing of treatment pursuant to existing law;

b. If the patient is determined to lack decision making capacity pursuant to section 8 of P.L.1991, c.201 (C.26:2H-60), then an agent acting pursuant to the patient's advance directive or other record or, if no such agent has been designated by the patient or the agent is not reasonably available, another person authorized by law other than this act to make decisions on behalf of the patient with regard to the patient's health care shall act for the patient to resolve the conflict.

The parties specified in this subsection shall seek to resolve the conflict as set forth therein as expeditiously as possible. Information relevant to the resolution of the conflict shall be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the patient pursuant to section 9 of this act.

Measures necessary to ensure the medical suitability of the part shall not be withheld or withdrawn from the patient prior to resolution of the conflict if the withholding or withdrawing is not contraindicated by the requirements of providing appropriate end-of-life care.

C.26:6-94 Cooperation of medical examiner with procurement organization.

18. a. Each medical examiner shall cooperate with any procurement organization to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

b. A part shall not be removed from the body of a decedent under a medical examiner's jurisdiction for transplantation, therapy, research, or education, nor delivered to a person for research or education, unless the part is the subject of an anatomical gift. The provisions of this section shall not be construed to preclude a medical examiner from performing an investigation as provided in P.L.1967, c.234 (C.52:17B-78 et seq.) of a decedent under the medical examiner's jurisdiction.

c. Upon the request of a procurement organization, the medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the medical examiner's jurisdiction. If the

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decendent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release the post-mortem examination results to the procurement organization. The procurement organization shall make a subsequent disclosure of the post-mortem examination results or other information received from the medical examiner only if relevant to transplantation, therapy, research, or education.

C.26:6-95 Application, construction.

19. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

C.26:6-96 Acts modified, limited, superseded.

20. This act shall be deemed to modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. s.7001 et seq., but not to modify, limit, or supersede Section 101(a) of that act, 15 U.S.C. s.7001(a), or to authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. s.7003(b).

21. N.J.S.2C:20-2 is amended to read as follows:

Consolidation of theft and computer criminal activity offenses; grading, provisions applicable to theft generally.

2C:20-2. a. Consolidation of Theft and Computer Criminal Activity Offenses. Conduct denominated theft or computer criminal activity in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft or computer criminal activity may be supported by evidence that it was committed in any manner that would be theft or computer criminal activity under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is \$75,000.00 or more;

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram;

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is \$75,000.00 or more; or

(e) The property stolen is human remains or any part thereof; except that, if the human remains are stolen by deception or falsification of a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the theft constitutes a crime of the first degree.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds \$500.00 but is less than \$75,000.00;

(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse, domestic companion animal or airplane;

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(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than \$75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than \$75,000.00;

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;

(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14;

(k) The property stolen consists of an access device or a defaced access device; or

(l) The property stolen consists of anhydrous ammonia and the actor intends it to be used to manufacture methamphetamine.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least \$200.00 but does not exceed \$500.00. If the amount involved was less than \$200.00 the offense constitutes a disorderly persons offense.

(4) The amount involved in a theft or computer criminal activity shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts or computer criminal activities committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft or computer criminal activity was from or committed against the actor's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft or computer criminal activity only if it occurs after the parties have ceased living together.

22. Section 1 of P.L.2007, c.36 (C.2C:22-2) is amended to read as follows:

C.2C:22-2 Disposition of body parts, criminal penalties imposed for certain offenses.

1. a. A person who knowingly, for valuable consideration, purchases or sells a part for transplantation or therapy, if removal of a part from a donor is intended to occur after the donor's death, is guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000, as well as the term of imprisonment provided under N.J.S.2C:43-6, or both.

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Nothing in this subsection shall be construed to prohibit a person from charging a reasonable amount for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

b. A person who intentionally falsifies, forges, conceals, defaces, or obliterates a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), an amendment or revocation of such a document, or any death record or document of medical or social history pertaining to the body or part of the donor, or a refusal to make a gift, in order to obtain a financial benefit or gain, is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000, as well as the term of imprisonment provided under N.J.S.2C:43-6, or both.

c. As used in this section, the terms "decedent," "donor," "part," and "person" have the meaning ascribed to them in section 2 of P.L.2008, c.50 (C.26:6-78).

23. Section 6 of P.L.1995, c.257 (C.26:6-58.5) is amended to read as follows:

C.26:6-58.5 Transplant recovery technician's recovery of human body part.

6. A technician as defined in section 2 of P.L.2008, c.50 (C.26:6-78) may recover a human body part for any purpose specified in P.L.2008, c.50 (C.26:6-77 et al.). A physician shall not be required to be present during the recovery procedure. Nothing in this section shall be construed to limit a physician or other person authorized by law to recover human body parts pursuant to law.

24. R.S.39:3-10 is amended to read as follows:

Licensing of drivers; classifications.

39:3-10. No person shall drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a provisional or basic driver's license issued to him in accordance with this article.

No person under 18 years of age shall be issued a basic license to drive motor vehicles, nor shall a person be issued a validated permit, including a validated examination permit, until he has passed a satisfactory examination and other requirements as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices and of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road. No person shall sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a provisional license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. No

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person shall sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia or the United States Territories of American Samoa, Guam, Puerto Rico or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner and other motorists. No new locations for the road test shall be approved unless the test can be given on public streets.

The commission shall issue a basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this title for not less than one year, not including any period of suspension or postponement, from the date of issuance of a provisional license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of his ability to operate a motor vehicle pursuant to this section.

The commission shall expand the driver's license examination by 20%. The additional questions to be added shall consist solely of questions developed in conjunction with the State Department of Health and Senior Services concerning the use of alcohol or drugs as related to highway safety. The commission shall develop in conjunction with the State Department of Health and Senior Services supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, after consultation with the Director of the Office of Highway Traffic Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current driver's license issued to him by another state or jurisdiction upon his receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is less than 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license

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applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

The commission shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering.

b. Omnibuses as classified by R.S.39:3-10.1 and school buses classified under N.J.S.18A:39-1 et seq.

c. (Deleted by amendment, P.L.1999, c.28).

d. All motor vehicles not included in classifications a. and b. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license."

Every applicant for a license under classification b. shall be a holder of a basic driver's license. Any issuance of a license under classification b. shall be by endorsement on the basic driver's license.

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the 48th calendar month following the calendar month in which such license was issued.

The commission may, at its discretion and for good cause shown, issue licenses which shall expire on a date fixed by it. If the commission issues a license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew such a license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the 48-month period shall be as follows:

Motorcycle license or endorsement: \$18.

Omnibus or school bus endorsement: \$18.

Basic driver's license: \$18.

The commission shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the commission's satisfaction that said applicant will use the omnibus endorsement exclusively for operating omnibuses owned by a nonprofit organization duly incorporated under Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes.

The commission shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of such period, such licenses to be effective immediately.

All applications for renewals of licenses shall be made in a manner prescribed by the commission and in accordance with procedures established by it.

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The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted such a permit or license, but no defect of the applicant shall debar him from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates him from safely operating a motor vehicle.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide, as a condition for obtaining a permit and license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.

If the commission has reasonable cause to suspect that any document presented by an applicant as proof of identity, age or legal residency is altered, false or otherwise invalid, the commission shall refuse to grant the permit or license until such time as the document may be verified by the issuing agency to the commission's satisfaction.

A person violating this section shall be subject to a fine not exceeding \$500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, he shall be subject to a fine of not less than \$200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

Nothing in this section shall be construed to alter or extend the expiration of any license issued prior to the date this amendatory and supplementary act becomes operative.

25. Section 1 of P.L.1978, c.181 (C.39:3-12.2) is amended to read as follows:

C.39:3-12.2 License to include designation as organ, tissue donor, education program, access to information.

1. a. The Chief Administrator of the New Jersey Motor Vehicle Commission shall provide with every new license, renewal license, identification card or renewal identification card the opportunity for each person pursuant to the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.), to designate that the person shall donate all or any organs or tissues for the purposes of transplantation or therapy.

b. The designation indicating that a person is a donor pursuant to subsection a. of this section shall be done in accordance with procedures prescribed by the chief administrator. The designation shall be displayed in print in a conspicuous form and manner on the license or identification card, and electronically, by substantially the following statement: "ORGAN DONOR" and shall constitute sufficient legal authority for the removal of organs or tissues for the purposes of transplantation or therapy upon the death of the licensee or identification cardholder. The designation shall be removed in accordance with procedures prescribed by the chief administrator.

c. (Deleted by amendment, P.L.1999, c.28).

d. (Deleted by amendment, P.L.2007, c.80).

e. The chief administrator, in consultation with those organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey, shall establish and provide an annual education program for agency employees and personnel. The program shall focus on the benefits associated with organ and tissue donations, the scope and operation of New Jersey's donor program, and how the agency's employees and personnel can effectively inform the public about the donor program and can best assist those wishing

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to participate in the donor program, including use of the Donate Life NJ Registry, established pursuant to P.L.2008, c.48 (C.26:6-66 et al.).

f. The chief administrator shall electronically record and store all organ donor designations and identification information, and shall provide the organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey with real-time electronic access to the organ donor designation information collected pursuant to subsection a. of this section. An organ procurement organization designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey, or any donor registry established by any such organization, shall have real-time electronic access to those organ donor designations and identification at all times, without exception, for the purposes of verifying organ and tissue donation status and identity. For these purposes, the federally designated organ procurement organization shall have electronic access to each recorded donor's name, address, date of birth, gender, color of eyes, height, and driver's license number. Upon request, the chief administrator shall provide a copy of the donor's original driver's license application.

g. Those organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey may contract with a third party, in consultation with the chief administrator, to assess, develop, and implement any system set-up necessary to support the initial and ongoing electronic access by those organizations to the donor designation and identification information required to be made available in accordance with the provisions of this section; however, the organ procurement organizations shall not be required to incur an aggregate cost in excess of \$50,000 for the purposes of this subsection.

26. R.S.39:3-41 is amended to read as follows:

Driver's manual made available; contents.

39:3-41. a. At the time of the issuance of an examination permit or a special learner's permit to operate a motor vehicle, the director shall make available to each applicant for the examination permit or special learner's permit a driver's manual containing information required to be known and followed by licensed drivers relating to licensing requirements.

b. At the time of any required examination for renewal of a driver's license, the director shall upon request make available to each applicant for renewal a copy of the manual and any supplements thereto.

c. The driver's manual and any supplements thereto or any other booklet or writing prepared in connection with examinations for drivers' licenses or for renewals of drivers' licenses shall contain all information necessary to answer any question on an examination for a driver's license or for a renewal of a driver's license.

d. The director, following consultation with the organ procurement organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, shall include in the driver's manual information explaining the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.), the beneficial uses of donated organs and tissues, and the procedure for indicating on the driver's license the intention to make such a donation pursuant to P.L.1978, c.181 (C.39:3-12.2). The director may distribute all remaining copies of the existing driver's manual before reprinting the manual with the information required pursuant to this subsection.

27. Section 1 of P.L.1993, c.276 (C.52:17B-88.7) is amended to read as follows:

C.52:17B-88.7 Procedures performed on anatomical gift, time, manner.

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1. Notwithstanding any provision of law to the contrary, if a deceased person whose death is under investigation pursuant to section 9 of P.L.1967, c.234 (C.52:17B-86) is a donor of all or part of his body as evidenced by an advance directive, will, card or other document, or as otherwise provided in the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.), the State Medical Examiner or the county medical examiner, or his designee, who has notice of the donation shall perform an examination, autopsy or analysis of tissues or organs only in a manner and within a time period compatible with their preservation for the purposes of transplantation.

Repealer.

28. The following are repealed:

P.L.1969, c.161 (C.26:6-57 et seq.); and

P.L.1987, c.244 (C.26:6-58.1 et seq.).

29. This act shall take effect immediately.

Approved July 22, 2008.