

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0854.01 Conrad Imel x2313

SENATE BILL 21-195

SENATE SPONSORSHIP

Story, Gonzales

HOUSE SPONSORSHIP

Snyder and Soper,

Senate Committees

Judiciary

House Committees

Public & Behavioral Health & Human Services

A BILL FOR AN ACT

101 **CONCERNING PERMITTING NOTARIZATION OF CERTAIN PROBATE**
102 **DOCUMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under existing law, a declaration made pursuant to the "Colorado Medical Treatment Decision Act" must be signed in the presence of 2 witnesses. The bill permits the declaration to be witnessed or acknowledged before a notary public or other individual authorized by law to take acknowledgments.

A donor may make an anatomical gift by a donor card or other

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
April 23, 2021

SENATE
3rd Reading Unamended
April 12, 2021

SENATE
2nd Reading Unamended
April 9, 2021

record signed by the donor. If the donor is physically unable to sign a record, the record may be signed by another individual at the direction of the donor and be witnessed by at least 2 adults, at least one of whom is a disinterested witness. The bill permits the record of a person unable to sign to be witnessed or acknowledged before a notary public or other individual authorized by law to take acknowledgments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 15-18-106 as
3 follows:

4 **15-18-106. Witnessed or notarized declaration.** (1) Except as
5 otherwise provided in section 15-18-105, a declaration ~~shall~~ MUST be:

6 (a) Signed by the declarant in the presence of two witnesses; ~~The~~
7 ~~witnesses shall not include any person specified in section 15-18-105.~~ OR

8 (b) SIGNED BY THE DECLARANT AND ACKNOWLEDGED BEFORE A
9 NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE
10 ACKNOWLEDGMENTS, UNLESS A COURT DETERMINES THAT THIS
11 SUBSECTION (1)(b) SHOULD NOT APPLY TO THE DECLARATION IN THE
12 INTEREST OF JUSTICE.

13 (2) ~~A declaration may be notarized. The absence of notarization~~
14 ~~shall have no impact on the validity of a declaration.~~ FOR THE PURPOSES
15 OF THIS SECTION, A PERSON SPECIFIED IN SECTION 15-18-105 SHALL NOT
16 BE A WITNESS, NOTARY PUBLIC, OR OTHER INDIVIDUAL AUTHORIZED BY
17 LAW TO TAKE ACKNOWLEDGMENTS.

18 **SECTION 2.** In Colorado Revised Statutes, 15-18-104, **amend**
19 (5) as follows:

20 **15-18-104. Declaration as to medical treatment.** (5) A
21 declaration executed ~~before two witnesses~~ IN ACCORDANCE WITH SECTION
22 15-18-106 by any adult with decisional capacity ~~shall be~~ IS legally

1 effective for the purposes of this ~~article~~ ARTICLE 18.

2 **SECTION 3.** In Colorado Revised Statutes, 15-19-205, **amend**
3 (b)(1) and (b)(2) as follows:

4 **15-19-205. Manner of making anatomical gift before donor's**
5 **death.** (b) A donor or other person authorized to make an anatomical gift
6 under section 15-19-204 may make a gift by a donor card or other record
7 signed by the donor or other person making the gift or by authorizing that
8 a statement or symbol indicating that the donor has made an anatomical
9 gift be included on a donor registry. If the donor or other person is
10 physically unable to sign a record, the record may be signed by another
11 individual at the direction of the donor or other person and must:

12 (1) (A) Be witnessed by at least two adults, at least one of whom
13 is a disinterested witness, who have signed at the request of the donor or
14 the other person; ~~and~~ OR

15 (B) BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR OTHER
16 INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS, UNLESS
17 A COURT DETERMINES THAT THIS SUBSECTION (b)(1)(B) SHOULD NOT
18 APPLY TO THE RECORD IN THE INTEREST OF JUSTICE; AND

19 (2) State that it has been signed and witnessed OR
20 ACKNOWLEDGED as provided in subsection (b)(1) of this section.

21 **SECTION 4. Applicability.** This act applies to declarations and
22 records executed before, on, or after the effective date of this act.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety.