

## CHAPTER 282

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**HEALTH AND ENVIRONMENT**


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**SENATE BILL 98-072**

BY SENATORS Coffman, Alexander, Ament, Arnold, Bishop, Blickensderfer, Chlouber, Congrove, Dennis, Feeley, Hernandez, Hopper, Johnson, Lacy, Lamborn, Linkhart, Martinez, Matsunaka, Mutzebaugh, Norton, Pascoe, Perlmutter, Phillips, Powers, Reeves, Rizzuto, Rupert, Schroeder, Tanner, Tebedo, Thiebaut, Wattenberg, Weddig, Wells, and Wham;  
also REPRESENTATIVES May, Bacon, Chavez, Clarke, Epps, Leyba, and Morrison.

**AN ACT**

CONCERNING REQUIREMENTS RELATING TO ANATOMICAL GIFTS UNDER THE "UNIFORM ANATOMICAL GIFT ACT", AND, IN CONNECTION THEREWITH, DELETING REQUIREMENTS FOR WITNESSES TO ANATOMICAL GIFT DOCUMENTS AND HLA TYPING INFORMATION ON DRIVERS' LICENSES AND IDENTIFICATION CARDS, CLARIFYING THE REVOCABILITY AND IRREVOCABILITY OF SUCH GIFTS, MAKING THE FORM PLACED ON DRIVERS' LICENSES AND IDENTIFICATION CARDS CONSISTENT WITH SUCH CHANGES, AND CLARIFYING PROVISIONS RELATING TO THE ADMINISTRATION OF THE ORGAN AND TISSUE DONATION AWARENESS FUND.

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

**SECTION 1.** 12-34-101.5, Colorado Revised Statutes, is amended to read:

**12-34-101.5. Legislative declaration.** The general assembly hereby finds and declares that the use of anatomical gifts, including the donation of organs or tissue, for the purpose of transplantation is of great interest to the well-being of the citizens of this state and may save or prolong the life or improve the health of extremely ill and dying persons. The general assembly therefore finds that it is in the best interests of the state to encourage such donations for transplants and to encourage the use of the authorization for anatomical gifts required to be printed on the back of drivers' licenses and identification cards indicating that the signer has consented to the donation of organs or tissue. ~~and indicating, if known, the results of HLA typing for the purpose of matching such anatomical gifts for transplants.~~ The general assembly further finds that it is beneficial to the state for employers to encourage such donations by allowing employees time off for the purpose of making such donations and, to that end, that it is necessary to direct that the state personnel board, consistent with section 24-50-104 (9) (c), C.R.S., adopt a rule that provides for two days per year of paid leave for employees in the state personnel system for the purpose of donating organs, tissue, or bone marrow for a transplant.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 2.** The introductory portion to 12-34-103 (2), Colorado Revised Statutes, is amended, and the said 12-34-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-34-103. Persons who may execute an anatomical gift.** (2) IN THE ABSENCE OF AN INDIVIDUAL DECLARATION TO DONATE ALL OR PART OF A PERSON'S OWN BODY, any of the following persons, in the order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of a contrary indication as defined in section 12-34-107, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in section 12-34-104:

(6) UNLESS HELD FOR PURPOSES SPECIFIED IN SECTION 30-10-606, C.R.S., AN ANATOMICAL GIFT THAT IS NOT REVOKED BY THE DONOR BEFORE DEATH IS IRREVOCABLE AND DOES NOT REQUIRE CONSENT OR CONCURRENCE OF ANY PERSON AFTER THE DONOR'S DEATH.

**SECTION 3.** 12-34-105 (1) (c) and (5) (a), Colorado Revised Statutes, are amended, and the said 12-34-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**12-34-105. Manner of executing anatomical gifts.** (1) A gift of all or part of a human body under section 12-34-103 (1) may be made by any of the following:

(c) By document other than a will or license. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, shall be signed by the donor. ~~in the presence of two witnesses who must then sign the document in his presence.~~ If the donor cannot sign, the document may be signed for ~~him~~ THE DONOR at ~~his~~ THE DONOR'S direction and in ~~his~~ THE DONOR'S presence. ~~and in the presence of two witnesses who must then sign the document in his presence.~~ Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(d) BY DRIVER'S LICENSE OR IDENTIFICATION CARD. THE DRIVER'S LICENSE OR IDENTIFICATION CARD SIGNED UPON ISSUANCE OF THE DOCUMENT AND A "Y" IN THE DONOR FIELD ON THE FRONT OF THE DRIVER'S LICENSE OR IDENTIFICATION CARD INDICATES THAT THE GIFT BECOMES EFFECTIVE UPON THE DEATH OF THE DONOR.

(5) (a) The department of revenue shall place on the back of each driver's license, provisional driver's license, and identification card issued pursuant to article 2 of title 42, C.R.S., a card, as provided in paragraph (c) of subsection (1) of this section, in the form as follows:

I hereby ~~give, at the time of my death, any of my organs and tissues designated below that may be needed for transplantation, therapy, research, or education.~~ I give MAKE AN ANATOMICAL GIFT, TO BE EFFECTIVE UPON MY DEATH, OF:

- A. ~~Any needed organ or tissue~~ ORGANS/TISSUES      ~~Date:~~ \_\_\_\_\_
- B. ~~Organs or tissue listed~~ THE FOLLOWING ORGANS/TISSUES:

\_\_\_\_\_

DONOR signature: \_\_\_\_\_  
of Donor: \_\_\_\_\_ **HLA typing (if known) :** \_\_\_\_\_  
Witness: \_\_\_\_\_ Witness: \_\_\_\_\_

**SECTION 4.** 12-34-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-34-107. Amendment or revocation of the gift.** (5) A PERSON, AFTER BEING ISSUED A DRIVER'S LICENSE OR IDENTIFICATION CARD, MAY AT A LATER DATE BECOME AN ANATOMICAL DONOR BY SIGNING SUCH PERSON'S NAME ON THE BACK OF THE LICENSE OR IDENTIFICATION CARD.

**SECTION 5.** 15-14-506, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**15-14-506. Medical durable power of attorney.** (3.5) ANY MEDICAL DURABLE POWER OF ATTORNEY EXECUTED UNDER SECTIONS 15-14-503 TO 15-14-509 MAY ALSO HAVE A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN SECTION 12-34-105 (1) (c), C.R.S., OR A STATEMENT IN SUBSTANTIALLY SIMILAR FORM, INDICATING A DECISION REGARDING ORGAN AND TISSUE DONATION. SUCH A DOCUMENT SHALL BE EXECUTED IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ANATOMICAL GIFT ACT", ARTICLE 34 OF TITLE 12, C.R.S. SUCH A WRITTEN STATEMENT MAY BE IN THE FOLLOWING FORM:

I HEREBY MAKE AN ANATOMICAL GIFT, TO BE EFFECTIVE UPON MY DEATH, OF:

- A. \_\_\_ ANY NEEDED ORGANS/TISSUES
- B. \_\_\_ THE FOLLOWING ORGANS/TISSUES:

\_\_\_\_\_  
DONOR SIGNATURE: \_\_\_\_\_

**SECTION 6.** 15-14-603 (3), Colorado Revised Statutes, is amended to read:

**15-14-603. Applicability.** (3) (a) The authority of an attorney-in-fact or an agent to act on behalf of the principal may include, but is not limited to, the powers specified in sections 15-14-501 to 15-14-506.

(b) ANY DURABLE POWER OF ATTORNEY EXECUTED UNDER THIS PART 6 MAY ALSO HAVE A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN SECTION 12-34-105 (1) (c), C.R.S., OR A STATEMENT IN SUBSTANTIALLY SIMILAR FORM, INDICATING A DECISION REGARDING ORGAN AND TISSUE DONATION. SUCH A DOCUMENT SHALL BE EXECUTED IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ANATOMICAL GIFT ACT", ARTICLE 34 OF TITLE 12, C.R.S. SUCH A WRITTEN STATEMENT MAY BE IN THE FOLLOWING FORM:

I HEREBY MAKE AN ANATOMICAL GIFT, TO BE EFFECTIVE UPON MY DEATH, OF:

- A. \_\_\_ ANY NEEDED ORGANS/TISSUES
- B. \_\_\_ THE FOLLOWING ORGANS/TISSUES:

\_\_\_\_\_  
DONOR SIGNATURE: \_\_\_\_\_

**SECTION 7.** 15-18-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**15-18-104. Declaration as to medical treatment.** (4) ANY DECLARATION MADE PURSUANT TO SUBSECTION (3) OF THIS SECTION MAY ALSO HAVE A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN SECTION 12-34-105 (1) (c), C.R.S., OR A WRITTEN STATEMENT IN SUBSTANTIALLY SIMILAR FORM, INDICATING A DECISION REGARDING ORGAN AND TISSUE DONATION. SUCH A DOCUMENT SHALL BE EXECUTED IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ANATOMICAL GIFT ACT", ARTICLE 34 OF TITLE 12, C.R.S. SUCH A WRITTEN STATEMENT MAY BE IN THE FOLLOWING FORM:

I HEREBY MAKE AN ANATOMICAL GIFT, TO BE EFFECTIVE UPON MY DEATH, OF:

- A.  ANY NEEDED ORGANS/TISSUES
- B.  THE FOLLOWING ORGANS/TISSUES:

DONOR SIGNATURE: \_\_\_\_\_

**SECTION 8.** 15-18.6-103 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**15-18.6-103. CPR directive forms - duties of state board of health.** (2) CPR directive protocols to be adopted by the state board shall require the following information concerning the person who is the subject of the CPR directive:

(i) THE PERSON'S DIRECTIVE IN THE FORM OF A DOCUMENT WITH A WRITTEN STATEMENT AS PROVIDED IN SECTION 12-34-105 (1) (c), C.R.S., OR A STATEMENT IN SUBSTANTIALLY SIMILAR FORM, INDICATING A DECISION REGARDING TISSUE DONATION. SUCH A DOCUMENT SHALL BE EXECUTED IN ACCORDANCE WITH THE PROVISIONS OF THE "UNIFORM ANATOMICAL GIFT ACT", ARTICLE 34 OF TITLE 12, C.R.S. SUCH A WRITTEN STATEMENT MAY BE IN THE FOLLOWING FORM:

I HEREBY MAKE AN ANATOMICAL GIFT, TO BE EFFECTIVE UPON MY DEATH, OF:

- A.  ANY NEEDED TISSUES
- B.  THE FOLLOWING TISSUES:
  - SKIN
  - CORNEA
  - BONE, RELATED TISSUES, AND TENDONS

DONOR SIGNATURE: \_\_\_\_\_

**SECTION 9.** 42-2-107 (4) (a), (4) (b) (II), (4) (b) (III) (B), and (4) (b) (VII), Colorado Revised Statutes, are amended to read:

**42-2-107. Application for license or instruction permit - anatomical gifts - donations to organ and tissue donation awareness fund - legislative declaration.**

(4) (a) The department shall ALSO provide on the front side of each driver's license or provisional driver's license a space for indicating when the licensee has made an anatomical gift pursuant to part 1 of article 34 of title 12, C.R.S. The department shall also provide on the reverse side of such license a card INFORMATION as provided

in section 12-34-105 (5) (a), C.R.S.

(b) (II) There is hereby created in the state treasury the organ and tissue donation awareness fund, which shall consist of all moneys credited thereto from all sources including but not limited to moneys collected from voluntary contributions for organ and tissue donation pursuant to subparagraph (V) of this paragraph (b) and section 42-2-118 (1) (a) (II). All moneys in the fund ~~at the end of any fiscal year, after appropriations made pursuant to subparagraph (III) of this paragraph (b);~~ ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF THE TREASURY AND shall remain in the fund to be used for the purposes set forth in subparagraph (III) of this paragraph (b) and shall not revert to the general fund or any other fund. ~~In accordance with section 24-36-114, C.R.S.;~~ All interest derived from the deposit and investment of this fund shall be credited to the ~~general~~ fund. MONEYS IN THE FUND SHALL BE EXEMPT FROM THE MONTHLY MANAGEMENT FEE IMPOSED UNDER SECTION 24-36-114 (2), C.R.S. ~~At the end of each fiscal year~~ LEAST QUARTERLY, the state treasurer shall transfer all ~~designated~~ AVAILABLE moneys in the organ and tissue donation awareness fund to the transplant council of the rockies (TCOR), as directed by sub-subparagraph (A) of subparagraph (III) of this paragraph (b).

(III) ~~The general assembly shall appropriate annually~~ AT LEAST QUARTERLY, THE STATE TREASURER SHALL TRANSFER ALL AVAILABLE MONEYS from the organ and tissue donation awareness fund:

(A) To the transplant council of the rockies (TCOR), ~~such amount as is necessary~~ to provide funding for activities to promote organ and tissue donation through the creation and dissemination, by means of electronic media and otherwise, of educational information including public service announcements and information to increase awareness in the medical professions and related fields. The transplant council of the rockies (TCOR) shall create, by amendment to its articles of incorporation or bylaws or otherwise, as appropriate, an advisory group to allocate moneys received pursuant to this sub-subparagraph (A). Such advisory body shall include a representative of any qualified transplant organization. Such organizations shall include those for organs, tissue, bone marrow, and blood. The advisory body created under this sub-subparagraph (A) shall report in writing in a form and manner determined by the department and at such intervals as required by the department on the use of moneys received under this sub-subparagraph (A). No moneys made available pursuant to this paragraph (b) shall be used to encourage fetal tissue donation.

(B) ~~To the department of revenue its costs of administering moneys designated as contributions to the fund pursuant to this paragraph (b):~~

(VII) This paragraph (b) is repealed, effective July 1, ~~1999~~ 2004.

**SECTION 10.** 42-2-118 (1) (a) (II), Colorado Revised Statutes, is amended to read:

**42-2-118. Renewal of license in person or by mail - donations to organ and tissue donation awareness fund.** (1) (a) (II) (A) An applicant may make a donation of one dollar to the organ and tissue donation awareness fund, created in section 42-2-107 (4) (b) (II), to promote the donation of organs and tissues under the

provisions of the "Uniform Anatomical Gift Act", part 1 of article 34 of title 12, C.R.S. The department shall collect such donations and transmit them to the state treasurer, who shall credit the same to the organ and tissue donation awareness fund. The donation prescribed in this sub-subparagraph (A) is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants as designed and approved by the advisory body created under section 42-2-107 (4) (b) (III) (A). The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making the one dollar donation prescribed in this sub-subparagraph (A) and shall also specifically inform the applicant of the option for organ and tissue donations by ~~completing the card on the reverse side of the license as provided in section 12-34-105 (5) (a), C.R.S.~~ HAVING A "Y" PLACED IN THE DONOR FIELD ON THE FRONT OF THE DOCUMENT.

(B) This subparagraph (II) is repealed, effective July 1, ~~1999~~ 2004.

**SECTION 11.** 24-36-114 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-36-114. How interest earnings credited - management fee.** (2) (j) THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO THE ORGAN AND TISSUE DONATION AWARENESS FUND CREATED IN SECTION 42-2-107 (4) (b) (II), C.R.S.

**SECTION 12. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1998