

CHAPTER 7

GOVERNMENT - COUNTY

HOUSE BILL 02-1007

BY REPRESENTATIVE(S) Witwer, Boyd, Cadman, Cloer, Crane, Daniel, Lee, Mace, Marshall, Paschall, Ragsdale, Stafford, Tapia, and Tochtrop;
also SENATOR(S) Pascoe, Andrews, and Perlmutter.

AN ACT

CONCERNING THE REPEAL OF THE AUTHORITY OF CORONERS TO PERMIT THE REMOVAL OF CORNEAL TISSUE FROM DECEDENTS.

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

SECTION 1. Repeal. 30-10-620, Colorado Revised Statutes, is repealed as follows:

30-10-620. Corneal tissue - taking authorized. ~~(1) A coroner may permit the taking of corneal tissue by an ophthalmologist or a person certified by the eye bank association of America from a decedent if the following conditions are met:~~

~~(a) A request is made from a bank or storage facility which is licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof and which obtains, stores, or distributes donor eyes to be used by a person licensed to practice medicine and qualified to perform corneal transplants for research, education, transplantation, or other medical purposes; and~~

~~(b) There is written or oral permission received by the coroner or a deputy coroner or the coroner has authorized a bank or storage facility set forth in paragraph (a) of this subsection (1) to obtain such permission and the bank or storage facility has in fact obtained such permission to such taking from the decedent by any of the following persons, in order of priority stated:~~

~~(I) The spouse;~~

~~(II) An adult son or daughter;~~

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

~~(III) Either parent;~~

~~(IV) An adult brother or sister;~~

~~(V) A guardian of the person of the decedent at the time of his death; and~~

~~(c) The decedent from whom the corneal tissue is to be taken died under circumstances requiring an investigation, autopsy, or inquest pursuant to section 30-10-606; and~~

~~(d) The removal of corneal tissue in the coroner's opinion will not interfere with the subsequent course of an investigation or autopsy or alter the post-mortem facial appearance of the decedent.~~

~~(2)(a) If persons authorized to give permission under paragraph (b) of subsection (1) of this section cannot be located after reasonable attempts to find such persons have been made, in order of priority, and if such persons cannot be located within a reasonable period of time, the person authorized to receive such permission may inform the coroner of his inability to locate any such persons and the coroner may permit the taking of corneal tissue if the provisions of paragraphs (a), (c), and (d) of subsection (1) of this section are met.~~

~~(b) A person authorized under paragraph (b) of subsection (1) of this section to receive permission for the taking of corneal tissue shall document his efforts to locate any person authorized to give such permission, in order of priority, which documentation shall include, but not be limited to, the methods by which such attempts were made, the time and place of such attempts, and affidavits indicating such attempts. The documentation shall be retained by such person for a period of not less than three years after the taking of the corneal tissue from the decedent.~~

~~(3)(a) Any person who acts in good faith in accordance with the terms of this section shall not be liable for damages in any civil action or be subject to prosecution in any criminal proceeding for his act. No coroner or deputy coroner shall be liable for damages in any civil action or be subject to prosecution in any criminal proceedings for releasing the name of the decedent and any necessary information regarding the decedent necessary to accomplish the purposes of this section or for releasing the name of any person designated in paragraph (b) of subsection (1) of this section to a bank or authority specified in paragraph (a) of subsection (1) of this section, or for authorizing such bank or authority to take any action in accordance with the provisions of subsection (1) of this section, or for permitting the taking of corneal tissue from a decedent in accordance with the provisions of subsection (2) of this section. Whenever a copy of the affidavit required by paragraph (b) of subsection (2) of this section is filed with the coroner or deputy coroner the recitals of the eye bank or storage facility contained therein shall be accepted as accurate and valid without further inquiry or investigation by the coroner or deputy coroner and any act thereafter taken or permitted by the coroner or deputy coroner in reliance upon the statements contained within said affidavit shall satisfy the good faith requirements of the coroner or deputy coroner.~~

~~(b) Any person who fails to document his attempts as provided in paragraph (b) of subsection (2) of this section or who takes corneal tissue in violation of any of the~~

~~provisions of this section commits abuse of a corpse, as defined in section 18-13-101, C.R.S.~~

~~(4) If a person authorized under paragraph (b) of subsection (1) of this section to receive permission for the taking of corneal tissue from a decedent communicates with any person, in order of priority, authorized to give such permission and the person authorized to give such permission objects to the taking, the corneal tissue shall not be taken from the decedent, and no further communication for such purpose shall occur between the person authorized to receive such permission and any other persons stated in order of priority authorized to give such permission.~~

SECTION 2. 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: March 13, 2002