

House Amendments to Senate Bill No. 2420

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

32 **SECTION 1.** This act shall be known and may be cited as the
33 "Lindsay Miller - Beth Finch Organ Recovery Act."

34 **SECTION 2.** Section 41-39-15, Mississippi Code of 1972, is
35 amended as follows:

36 41-39-15. (1) For the purposes of this section:

37 (a) "Potential organ donor" means a patient with a
38 severe neurological insult who exhibits loss of cranial nerve
39 response or who has a Glasgow Coma Scale score of five (5) or
40 less.

41 (b) "Potential tissue donor" means any patient who dies
42 due to cardiac arrest.

43 (c) "Organ procurement organization" means the
44 federally designated agency charged with coordinating the
45 procurement of human organs in the State of Mississippi for the
46 purpose of transplantation and research.

47 (d) "Tissue bank" or "tissue procurement organization"
48 means a not-for-profit agency certified by the Mississippi State
49 Department of Health to procure tissues, other than solid organs,
50 in the State of Mississippi.

51 (2) Before November 1, 1998, each licensed acute care
52 hospital in the state shall develop, with the concurrence of the
53 hospital medical staff and the organ procurement organization, a
54 protocol for identifying all potential organ and tissue donors.
55 The protocol shall include a procedure for family consultation.
56 This protocol shall not be applicable in cases where a declaration
57 by the organ donor (a) by will, (b) under a Durable Power of

58 Attorney for Health Care declaration under Section 41-41-209, (c)
59 under a Withdrawal of Life-Saving Mechanism (Living Will)
60 declaration under former Section 41-41-107 (now repealed), or (d)
61 under the Anatomical Gift Law under Section 41-39-39, has been
62 provided to the attending physician.

63 (3) The protocol shall require each hospital to contact the
64 organ procurement organization by telephone when a patient in the
65 hospital becomes either a potential organ donor or potential
66 tissue donor as defined in this section. The organ procurement
67 organization shall determine the suitability of the patient for
68 organ or tissue donation after a review of the patient's medical
69 history and present condition. The organ procurement organization
70 representative shall notify the attending physician or designee of
71 its assessment. The hospital shall note in the patient's chart
72 the organ procurement organization's assessment of suitability for
73 donation. The organ procurement organization representative shall
74 provide information about donation options to the family or
75 persons specified in Section 41-39-35 when consent for donation is
76 requested.

77 (4) If the patient becomes brain dead and is still suitable
78 as a potential donor, the organ procurement organization
79 representative shall approach the deceased patient's legal next of
80 kin or persons specified in Section 41-39-35 for consent to donate
81 the patient's organs. The organ procurement organization
82 representative shall initiate the consent process with reasonable
83 discretion and sensitivity to the family's circumstances, values
84 and beliefs.

85 To discourage multiple requests for donation consent, the
86 organ procurement organization representative shall make a request
87 for tissue donation during the organ donation consent process.
88 When the possibility of tissue donation alone exists, a tissue
89 bank representative or their designee may request the donation.

90 (5) The option of organ and/or tissue donation shall be made
91 to the deceased patient's family upon the occurrence of brain

92 death and while mechanical ventilation of the patient is in
93 progress.

94 The protocol shall require that the decision to donate be
95 noted in the patient's medical record. The organ procurement
96 organization shall provide a form to the hospital for the
97 documentation. The form shall be signed by the patient's family
98 pursuant to Sections 41-39-31 through 41-39-51. The form shall be
99 placed in each deceased patient's chart documenting the family's
100 decision regarding donation of organs or tissues from the patient.

101 (6) (a) If the deceased patient is medically suitable to be
102 an organ and/or tissue donor, as determined by the protocol in
103 this section, and the donor and/or family has authorized the
104 donation and transplantation, the donor's organs and/or tissues
105 shall be removed for the purpose of donation and transplantation
106 by the organ procurement organization, in accordance with
107 paragraph (b) of this subsection.

108 (b) If the deceased patient is the subject of a
109 medical-legal death investigation, the organ procurement
110 organization shall immediately notify the appropriate medical
111 examiner that the deceased patient is medically suitable to be an
112 organ and/or tissue donor. If the medical examiner determines
113 that examination, analysis or autopsy of the organs and/or tissue
114 is necessary for the medical examiner's investigation, the medical
115 examiner may be present while the organs and/or tissues are
116 removed for the purpose of transplantation. The physician,
117 surgeon or technician removing the organs and/or tissues shall
118 file with the medical examiner a report detailing the donation,
119 which shall become part of the medical examiner's report. When
120 requested by the medical examiner, the report shall include a
121 biopsy or medically approved sample, as specified by the medical
122 examiner, from the donated organs and/or tissues.

123 (c) In a medical-legal death investigation, decisions
124 about organ and/or tissue donation and transplantation shall be
125 made in accordance with a protocol established and agreed upon by
126 majority vote no later than July 1, 2005, by the organ procurement

127 organization, a certified state pathologist who shall be appointed
128 by the Mississippi Commissioner of Public Safety, a representative
129 from the University of Mississippi Medical Center, a
130 representative from the Mississippi Coroners Association, an organ
131 recipient who shall be appointed by the Governor, the Director of
132 the Mississippi Bureau of Investigation of the Mississippi
133 Department of Public Safety, and a representative of the
134 Mississippi Prosecutor's Association appointed by the Attorney
135 General. The protocol shall be established so as to maximize the
136 total number of organs and/or tissues available for donation and
137 transplantation. Organs and/or tissues designated by virtue of
138 this protocol shall be recovered. The protocol shall be reviewed
139 and evaluated on an annual basis.

140 (d) This subsection (6) shall stand repealed on June
141 30, 2007.

142 (7) Performance improvement record reviews of deceased
143 patients' medical records shall be conducted by the organ
144 procurement organization for each hospital having more than
145 ninety-five (95) licensed acute care beds and general surgical
146 capability. These reviews must be performed in the first four (4)
147 months of a calendar year for the previous calendar year. If the
148 organ procurement organization and hospital mutually agree, the
149 performance improvement record reviews may be performed more
150 frequently. Aggregate data concerning these reviews shall be
151 submitted by the organ procurement organization to the State
152 Department of Health by July 1 of each year for the preceding
153 year.

154 (8) No organ or tissue recovered in the State of Mississippi
155 may be shipped out of the state except through an approved organ
156 sharing network or, at the family's request, to an approved organ
157 transplant program.

158 (9) Any hospital, administrator, physician, surgeon, nurse,
159 technician, organ procurement organization, tissue procurement
160 organization or donee who acts in good faith to comply with this

161 section shall not be liable in any civil action to a claimant who
162 alleges that his consent for the donation was required.

163 (10) Nothing in this section shall be construed to supersede
164 or revoke, by implication or otherwise, any valid gift of the
165 entire body to a medical school.

166 (11) A gift of all or part of the body made (a) by will, (b)
167 under a Durable Power of Attorney for Health Care declaration
168 under Section 41-41-209, (c) under a Withdrawal of Life-Saving
169 Mechanism (Living Will) declaration under former Section 41-41-107
170 (now repealed), or (d) under an Anatomical Gift Act declaration
171 under Section 41-39-39, shall supersede and have precedence over
172 any decision by the family of the individual making the organ
173 donation.

174 **SECTION 3.** Section 41-61-59, Mississippi Code of 1972, is
175 amended as follows:

176 41-61-59. (1) A person's death that affects the public
177 interest as specified in subsection (2) of this section shall be
178 promptly reported to the medical examiner by the physician in
179 attendance, any hospital employee, any law enforcement officer
180 having knowledge of the death, the embalmer or other funeral home
181 employee, any emergency medical technician, any relative or any
182 other person present. The appropriate medical examiner shall
183 notify the municipal or state law enforcement agency or sheriff
184 and take charge of the body. When the medical examiner has
185 received notification under Section 41-39-15(6) that the deceased
186 is medically suitable to be an organ and/or tissue donor, the
187 medical examiner's authority over the body shall be subject to the
188 provisions of Section 41-39-15(6). The appropriate medical
189 examiner shall notify the Mississippi Bureau of Narcotics within
190 twenty-four (24) hours of receipt of the body in cases of death as
191 described in subsection (2)(m) or (n) of this section.

192 (2) A death affecting the public interest includes, but is
193 not limited to, any of the following:

194 (a) Violent death, including homicidal, suicidal or
195 accidental death.

196 (b) Death caused by thermal, chemical, electrical or
197 radiation injury.

198 (c) Death caused by criminal abortion, including
199 self-induced abortion, or abortion related to or by sexual abuse.

200 (d) Death related to disease thought to be virulent or
201 contagious that may constitute a public hazard.

202 (e) Death that has occurred unexpectedly or from an
203 unexplained cause.

204 (f) Death of a person confined in a prison, jail or
205 correctional institution.

206 (g) Death of a person where a physician was not in
207 attendance within thirty-six (36) hours preceding death, or in
208 prediagnosed terminal or bedfast cases, within thirty (30) days
209 preceding death.

210 (h) Death of a person where the body is not claimed by
211 a relative or a friend.

212 (i) Death of a person where the identity of the
213 deceased is unknown.

214 (j) Death of a child under the age of two (2) years
215 where death results from an unknown cause or where the
216 circumstances surrounding the death indicate that sudden infant
217 death syndrome may be the cause of death.

218 (k) Where a body is brought into this state for
219 disposal and there is reason to believe either that the death was
220 not investigated properly or that there is not an adequate
221 certificate of death.

222 (l) Where a person is presented to a hospital emergency
223 room unconscious and/or unresponsive, with cardiopulmonary
224 resuscitative measures being performed, and dies within
225 twenty-four (24) hours of admission without regaining
226 consciousness or responsiveness, unless a physician was in
227 attendance within thirty-six (36) hours preceding presentation to
228 the hospital, or in cases in which the decedent had a prediagnosed
229 terminal or bedfast condition, unless a physician was in

230 attendance within thirty (30) days preceding presentation to the
231 hospital.

232 (m) Death that is caused by drug overdose or which is
233 believed to be caused by drug overdose.

234 (n) When a stillborn fetus is delivered and the cause
235 of the demise is medically believed to be from the use by the
236 mother of any controlled substance as defined in Section
237 41-29-105.

238 (3) The State Medical Examiner is empowered to investigate
239 deaths, under the authority hereinafter conferred, in any and all
240 political subdivisions of the state. The county medical examiners
241 and county medical examiner investigators, while appointed for a
242 specific county, may serve other counties on a regular basis with
243 written authorization by the State Medical Examiner, or may serve
244 other counties on an as-needed basis upon the request of the
245 ranking officer of the investigating law enforcement agency. The
246 county medical examiner or county medical examiner investigator of
247 any county that has established a regional medical examiner
248 district under subsection (4) of Section 41-61-77 may serve other
249 counties that are parties to the agreement establishing the
250 district, in accordance with the terms of the agreement, and may
251 contract with counties that are not part of the district to
252 provide medical examiner services for those counties. If a death
253 affecting the public interest takes place in a county other than
254 the one where injuries or other substantial causal factors leading
255 to the death have occurred, jurisdiction for investigation of the
256 death may be transferred, by mutual agreement of the respective
257 medical examiners of the counties involved, to the county where
258 the injuries or other substantial causal factors occurred, and the
259 costs of autopsy or other studies necessary to the further
260 investigation of the death shall be borne by the county assuming
261 jurisdiction.

262 (4) The chief county medical examiner or chief county
263 medical examiner investigator may receive from the county in which
264 he serves a salary of Nine Hundred Dollars (\$900.00) per month, in

265 addition to the fees specified in Sections 41-61-69 and 41-61-75,
266 provided that no county shall pay the chief county medical
267 examiner or chief county medical examiner investigator less than
268 One Hundred Dollars (\$100.00) per month as a salary, in addition
269 to other compensation provided by law. In any county having one
270 or more deputy medical examiners or deputy medical examiner
271 investigators, each deputy may receive from the county in which he
272 serves, in the discretion of the board of supervisors, a salary of
273 not more than Nine Hundred Dollars (\$900.00) per month, in
274 addition to the fees specified in Sections 41-61-69 and 41-61-75.
275 For this salary the chief shall assure twenty-four-hour daily and
276 readily available death investigators for the county, and shall
277 maintain copies of all medical examiner death investigations for
278 the county for at least the previous five (5) years. He shall
279 coordinate his office and duties and cooperate with the State
280 Medical Examiner, and the State Medical Examiner shall cooperate
281 with him.

282 (5) A body composed of the State Medical Examiner, whether
283 appointed on a permanent or interim basis, the Director of the
284 State Board of Health or his designee, the Attorney General or his
285 designee, the President of the Mississippi Coroners' Association
286 (or successor organization) or his designee, and a certified
287 pathologist appointed by the Mississippi State Medical Association
288 shall adopt, promulgate, amend and repeal rules and regulations as
289 may be deemed necessary by them from time to time for the proper
290 enforcement, interpretation and administration of Sections
291 41-61-51 through 41-61-79, in accordance with the provisions of
292 the Mississippi Administrative Procedures Law, being Section
293 25-43-1 et seq.

294 **SECTION 4.** Section 41-61-65, Mississippi Code of 1972, is
295 amended as follows:

296 41-61-65. (1) If, in the opinion of the medical examiner
297 investigating the case, it is advisable and in the public interest
298 that an autopsy or other study be made for the purpose of
299 determining the primary and/or contributing cause of death, an

300 autopsy or other study shall be made by the State Medical Examiner
301 or by a competent pathologist designated by the State Medical
302 Examiner. The State Medical Examiner or designated pathologist
303 may retain any tissues as needed for further postmortem studies or
304 documentation. When the medical examiner has received
305 notification under Section 41-39-15(6) that the deceased is
306 medically suitable to be an organ and/or tissue donor, the State
307 Medical Examiner or designated pathologist may retain any biopsy
308 or medically approved sample of the organ and/or tissue in
309 accordance with the provisions of Section 41-39-15(6). A complete
310 autopsy report of findings and interpretations, prepared on forms
311 designated for this purpose, shall be submitted promptly to the
312 State Medical Examiner. Copies of the report shall be furnished
313 to the authorizing medical examiner, district attorney and court
314 clerk. A copy of the report shall be furnished to one (1) adult
315 member of the immediate family of the deceased or the legal
316 representative or legal guardian of members of the immediate
317 family of the deceased upon request. In determining the need for
318 an autopsy, the medical examiner may consider the request from the
319 district attorney or county prosecuting attorney, law enforcement
320 or other public officials or private persons. However, if the
321 death occurred in the manner specified in subsection (2)(j) of
322 Section 41-61-59, an autopsy shall be performed by the State
323 Medical Examiner or his designated pathologist, and the report of
324 findings shall be forwarded promptly to the State Medical
325 Examiner, investigating medical examiner, the State Department of
326 Health, the infant's attending physician and the local sudden
327 infant death syndrome coordinator.

328 (2) Any medical examiner or duly licensed physician
329 performing authorized investigations and/or autopsies as provided
330 in Sections 41-61-51 through 41-61-79 who, in good faith, complies
331 with the provisions of Sections 41-61-51 through 41-61-79 in the
332 determination of the cause and/or manner of death for the purpose
333 of certification of that death, shall not be liable for damages on

334 account thereof, and shall be immune from any civil liability that
335 might otherwise be incurred or imposed.

336 (3) Family members or others who disagree with the medical
337 examiner's determination shall be able to petition and present
338 written argument to the State Medical Examiner for further review.
339 If the petitioner still disagrees, he may petition the circuit
340 court, which may, in its discretion, hold a formal hearing. In
341 all those proceedings, the State Medical Examiner and the county
342 medical examiner or county medical examiner investigator who
343 certified the information shall be made defendants. All costs of
344 the petitioning and hearing shall be borne by the petitioner.

345 **SECTION 5.** Section 41-41-209, Mississippi Code of 1972, is
346 amended as follows:

347 41-41-209. The following form may be used to create an
348 advance health care directive. Sections 41-41-201 through
349 41-41-207 and 41-41-211 through 41-41-229 govern the effect of
350 this or any other writing used to create an advanced health care
351 directive. An individual may complete or modify all or any part
352 of the following form:

353 ADVANCE HEALTH CARE DIRECTIVE

354 **Explanation**

355 You have the right to give instructions about your own health
356 care. You also have the right to name someone else to make health
357 care decisions for you. This form lets you do either or both of
358 these things. It also lets you express your wishes regarding the
359 designation of your primary physician. If you use this form, you
360 may complete or modify all or any part of it. You are free to use
361 a different form.

362 Part 1 of this form is a power of attorney for health care.
363 Part 1 lets you name another individual as agent to make health
364 care decisions for you if you become incapable of making your own
365 decisions or if you want someone else to make those decisions for
366 you now even though you are still capable. You may name an
367 alternate agent to act for you if your first choice is not
368 willing, able or reasonably available to make decisions for you.

369 Unless related to you, your agent may not be an owner, operator,
370 or employee of a residential long-term health care institution at
371 which you are receiving care.

372 Unless the form you sign limits the authority of your agent,
373 your agent may make all health care decisions for you. This form
374 has a place for you to limit the authority of your agent. You
375 need not limit the authority of your agent if you wish to rely on
376 your agent for all health care decisions that may have to be made.
377 If you choose not to limit the authority of your agent, your agent
378 will have the right to:

379 (a) Consent or refuse consent to any care, treatment,
380 service, or procedure to maintain, diagnose, or otherwise affect a
381 physical or mental condition;

382 (b) Select or discharge health care providers and
383 institutions;

384 (c) Approve or disapprove diagnostic tests, surgical
385 procedures, programs of medication, and orders not to resuscitate;
386 and

387 (d) Direct the provision, withholding, or withdrawal of
388 artificial nutrition and hydration and all other forms of health
389 care.

390 Part 2 of this form lets you give specific instructions about
391 any aspect of your health care. Choices are provided for you to
392 express your wishes regarding the provision, withholding, or
393 withdrawal of treatment to keep you alive, including the provision
394 of artificial nutrition and hydration, as well as the provision of
395 pain relief. Space is provided for you to add to the choices you
396 have made or for you to write out any additional wishes.

397 Part 3 of this form lets you designate a physician to have
398 primary responsibility for your health care.

399 Part 4 of this form lets you authorize the donation of your
400 organs at your death, and declares that this decision will
401 supersede any decision by a member of your family.

402 After completing this form, sign and date the form at the end
403 and have the form witnessed by one of the two alternative methods

404 listed below. Give a copy of the signed and completed form to
405 your physician, to any other health care providers you may have,
406 to any health care institution at which you are receiving care,
407 and to any health care agents you have named. You should talk to
408 the person you have named as agent to make sure that he or she
409 understands your wishes and is willing to take the responsibility.

410 You have the right to revoke this advance health care
411 directive or replace this form at any time.

412 PART 1

413 POWER OF ATTORNEY FOR HEALTH CARE

414 (1) DESIGNATION OF AGENT: I designate the following
415 individual as my agent to make health care decisions for me:

416 _____

417 (name of individual you choose as agent)

418 _____

419 (address) (city) (state) (zip code)

420 _____

421 (home phone) (work phone)

422 OPTIONAL: If I revoke my agent's authority or if my agent is
423 not willing, able, or reasonably available to make a health care
424 decision for me, I designate as my first alternate agent:

425 _____

426 (name of individual you choose as first alternate agent)

427 _____

428 (address) (city) (state) (zip code)

429 _____

430 (home phone) (work phone)

431 OPTIONAL: If I revoke the authority of my agent and first
432 alternate agent or if neither is willing, able, or reasonably
433 available to make a health care decision for me, I designate as my
434 second alternate agent:

435 _____

436 (name of individual you choose as second alternate agent)

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438 (address) (city) (state) (zip code)

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(home phone) (work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to make all health care decisions for me, including decisions to provide, withhold, or withdraw artificial nutrition and hydration, and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician determines that I am unable to make my own health care decisions unless I mark the following box. If I mark this box [], my agent's authority to make health care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able, or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill

473 out this part of the form. If you do fill out this part of the
474 form, you may strike any wording you do not want.

475 (6) END-OF-LIFE DECISIONS: I direct that my health care
476 providers and others involved in my care provide, withhold or
477 withdraw treatment in accordance with the choice I have marked
478 below:

479 [] (a) Choice Not To Prolong Life

480 I do not want my life to be prolonged if (i) I have an
481 incurable and irreversible condition that will result in my death
482 within a relatively short time, (ii) I become unconscious and, to
483 a reasonable degree of medical certainty, I will not regain
484 consciousness, or (iii) the likely risks and burdens of treatment
485 would outweigh the expected benefits, or

486 [] (b) Choice To Prolong Life

487 I want my life to be prolonged as long as possible
488 within the limits of generally accepted health care standards.

489 (7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial
490 nutrition and hydration must be provided, withheld or withdrawn in
491 accordance with the choice I have made in paragraph (6) unless I
492 mark the following box. If I mark this box [], artificial
493 nutrition and hydration must be provided regardless of my
494 condition and regardless of the choice I have made in paragraph
495 (6).

496 (8) RELIEF FROM PAIN: Except as I state in the following
497 space, I direct that treatment for alleviation of pain or
498 discomfort be provided at all times, even if it hastens my death:

499 _____
500 _____

501 (9) OTHER WISHES: (If you do not agree with any of the
502 optional choices above and wish to write your own, or if you wish
503 to add to the instructions you have given above, you may do so
504 here.) I direct that:

505 _____
506 _____

507 (Add additional sheets if needed.)

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PART 3

PRIMARY PHYSICIAN

(OPTIONAL)

(10) I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

OPTIONAL: If the physician I have designated above is not willing, able, or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

(11) EFFECT OF COPY: A copy of this form has the same effect as the original.

(12) SIGNATURES: Sign and date the form here:

(date)

(sign your name)

(address)

(print your name)

(city) (state)

PART 4

CERTIFICATE OF AUTHORIZATION FOR ORGAN DONATION

(OPTIONAL)

541 I, the undersigned, this _____ day of _____,
542 20__, desire that my _____ organ(s) be made available
543 after my demise for:

544 (a) Any licensed hospital, surgeon or physician, for
545 medical education, research, advancement of medical science,
546 therapy or transplantation to individuals;

547 (b) Any accredited medical school, college or
548 university engaged in medical education or research, for therapy,
549 educational research or medical science purposes or any accredited
550 school or mortuary science;

551 (c) Any person operating a bank or storage facility for
552 blood, arteries, eyes, pituitaries, or other human parts, for use
553 in medical education, research, therapy or transplantation to
554 individuals;

555 (d) The donee specified below, for therapy or
556 transplantation needed by him or her, do donate my _____ for
557 that purpose to _____ (name) at
558 _____ (address).

559 I authorize a licensed physician or surgeon to remove and
560 preserve for use my _____ for that
561 purpose.

562 I specifically provide that this declaration shall supersede
563 and take precedence over any decision by my family to the
564 contrary.

565 Witnessed this _____ day of _____, 20__.

566 _____
567 (donor)

568 _____
569 (address)

570 _____
571 (telephone)

572 _____
573 (witness)

574 _____
575 (witness)

576 (13) WITNESSES: This power of attorney will not be valid
577 for making health care decisions unless it is either (a) signed by
578 two (2) qualified adult witnesses who are personally known to you
579 and who are present when you sign or acknowledge your signature;
580 or (b) acknowledged before a notary public in the state.

581 ALTERNATIVE NO. 1

582 Witness

583 I declare under penalty of perjury pursuant to Section
584 97-9-61, Mississippi Code of 1972, that the principal is
585 personally known to me, that the principal signed or acknowledged
586 this power of attorney in my presence, that the principal appears
587 to be of sound mind and under no duress, fraud or undue influence,
588 that I am not the person appointed as agent by this document, and
589 that I am not a health care provider, nor an employee of a health
590 care provider or facility. I am not related to the principal by
591 blood, marriage or adoption, and to the best of my knowledge, I am
592 not entitled to any part of the estate of the principal upon the
593 death of the principal under a will now existing or by operation
594 of law.

595 _____

596 (date)

(signature of witness)

597 _____

598 (address)

(printed name of witness)

599 _____

600 (city) (state)

601 Witness

602 I declare under penalty of perjury pursuant to Section
603 97-9-61, Mississippi Code of 1972, that the principal is
604 personally known to me, that the principal signed or acknowledged
605 this power of attorney in my presence, that the principal appears
606 to be of sound mind and under no duress, fraud or undue influence,
607 that I am not the person appointed as agent by this document, and
608 that I am not a health care provider, nor an employee of a health
609 care provider or facility.

610 _____

611 (date) (signature of witness)
612 _____
613 (address) (printed name of witness)
614 _____
615 (city) (state)

616 ALTERNATIVE NO. 2

617 State of _____
618 County of _____

619 On this _____ day of _____, in the year _____, before
620 me, _____ (insert name of notary public) appeared
621 _____, personally known to me (or proved to me on the
622 basis of satisfactory evidence) to be the person whose name is
623 subscribed to this instrument, and acknowledged that he or she
624 executed it. I declare under the penalty of perjury that the
625 person whose name is subscribed to this instrument appears to be
626 of sound mind and under no duress, fraud or undue influence.

627 Notary Seal
628 _____
629 (Signature of Notary Public)

630 **SECTION 6.** Section 41-61-71, Mississippi Code of 1972, which
631 sets forth a procedure for obtaining corneal tissue and other
632 tissues from a decedent, is repealed.

633 **SECTION 7.** This act shall take effect and be in force from
634 and after July 1, 2005.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-39-15, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF A DECEASED PATIENT IN A HOSPITAL IS MEDICALLY
3 SUITABLE TO BE AN ORGAN AND/OR TISSUE DONOR, AND AUTHORIZATION FOR
4 THE DONATION AND TRANSPLANTATION HAS BEEN OBTAINED, THE DONOR'S
5 ORGANS AND/OR TISSUES SHALL BE REMOVED FOR THE PURPOSE OF DONATION
6 AND TRANSPLANTATION BY THE ORGAN PROCUREMENT ORGANIZATION, WHICH
7 SHALL IMMEDIATELY NOTIFY THE APPROPRIATE MEDICAL EXAMINER THAT THE
8 DECEASED PATIENT IS MEDICALLY SUITABLE TO BE AN ORGAN AND/OR
9 TISSUE DONOR; TO PROVIDE THAT IF THE MEDICAL EXAMINER DETERMINES
10 THAT EXAMINATION, ANALYSIS OR AUTOPSY OF THE ORGANS AND/OR TISSUE
11 IS NECESSARY FOR HIS OR HER INVESTIGATION, THE MEDICAL EXAMINER
12 MAY BE PRESENT WHILE THE ORGANS AND/OR TISSUES ARE REMOVED; TO
13 REQUIRE THE PHYSICIAN REMOVING THE ORGANS AND/OR TISSUES TO FILE
14 WITH THE MEDICAL EXAMINER A REPORT DETAILING THE DONATION; TO
15 PROVIDE THAT WHEN REQUESTED BY THE MEDICAL EXAMINER, THE REPORT
16 SHALL INCLUDE A BIOPSY OR MEDICALLY APPROVED SAMPLE FROM THE

17 DONATED ORGANS AND/OR TISSUES; TO PROVIDE THAT IN A MEDICAL-LEGAL
18 DEATH INVESTIGATION, DECISIONS ABOUT ORGAN AND/OR TISSUE DONATION
19 AND TRANSPLANTATION SHALL BE MADE IN ACCORDANCE WITH A PROTOCOL
20 ESTABLISHED AND AGREED TO BY INDIVIDUALS REPRESENTING SEVERAL
21 DIFFERENT INTERESTS; TO PROVIDE THAT AN ORGAN DONATION MADE BY
22 WILL, BY A DURABLE POWER OF ATTORNEY, BY A LIVING WILL OR UNDER
23 THE ANATOMICAL GIFT ACT SUPERSEDES ANY DECISION BY THE FAMILY OF
24 THE ORGAN DONOR; TO AMEND SECTIONS 41-61-59 AND 41-61-65,
25 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO
26 AMEND SECTION 41-41-209, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
27 FORM FOR A DECLARATION BY AN ORGAN DONOR; TO REPEAL SECTION
28 41-61-71, MISSISSIPPI CODE OF 1972, WHICH SETS FORTH A PROCEDURE
29 FOR OBTAINING CORNEAL TISSUE AND OTHER TISSUES FROM A DECEDENT;
30 AND FOR RELATED PURPOSES.

HR07\SB2420A.J

Don Richardson
Clerk of the House of Representatives