

By: Representative Holland

To: Public Health and Human Services; Judiciary B

HOUSE BILL NO. 1075  
(As Passed the House)

1 AN ACT TO ENACT THE MISSISSIPPI REVISED UNIFORM ANATOMICAL  
2 GIFT ACT; TO CREATE A POWER IN CERTAIN INDIVIDUALS TO AUTHORIZE AN  
3 ANATOMICAL GIFT ON BEHALF OF AN INCAPACITATED PERSON BEFORE DEATH  
4 ACTUALLY OCCURS WHEN THE PERSON HAS NOT EXECUTED A DOCUMENT OF  
5 GIFT; TO PROVIDE FOR THE USE OF DONOR REGISTRIES UPON WHICH A  
6 POTENTIAL DONOR MAY PUT A DOCUMENT OF GIFT FOR NOTICE PURPOSES; TO  
7 PROVIDE CRIMINAL PENALTIES FOR MISREPRESENTATION OF A DOCUMENT OF  
8 GIFT FOR THE PURPOSES OF SELLING ORGANS OR TISSUE; TO REPEAL  
9 SECTIONS 41-39-31 THROUGH 41-39-53, MISSISSIPPI CODE OF 1972,  
10 WHICH IS THE FORMER MISSISSIPPI ANATOMICAL GIFT LAW; AND FOR  
11 RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1. SHORT TITLE.** This law may be cited as the  
14 Mississippi Revised Uniform Anatomical Gift Act.

15 **SECTION 2. DEFINITIONS.** In this act:

16 (a) "Adult" means an individual who is at least  
17 eighteen (18) years of age.

18 (b) "Agent" means an individual:

19 (i) Authorized to make health-care decisions on  
20 the principal's behalf by a power of attorney for health care; or

21 (ii) Expressly authorized to make an anatomical  
22 gift on the principal's behalf by any other record signed by the  
23 principal.

24 (c) "Anatomical gift" means a donation of all or part  
25 of a human body to take effect after the donor's death for the  
26 purpose of transplantation, therapy, research, or education.

27 (d) "Decedent" means a deceased individual whose body  
28 or part is or may be the source of an anatomical gift. The term  
29 includes a stillborn infant and, subject to restrictions imposed  
30 by law other than this law, a fetus.



31 (e) "Disinterested witness" means a witness other than  
32 the spouse, child, parent, sibling, grandchild, grandparent, or  
33 guardian of the individual who makes, amends, revokes, or refuses  
34 to make an anatomical gift, or another adult who exhibited special  
35 care and concern for the individual. The term does not include a  
36 person to which an anatomical gift could pass under Section 11.

37 (f) "Document of gift" means a donor card or other  
38 record used to make an anatomical gift. The term includes a  
39 statement or symbol on a driver's license, identification card, or  
40 donor registry.

41 (g) "Donor" means an individual whose body or part is  
42 the subject of an anatomical gift.

43 (h) "Donor registry" means a database that contains  
44 records of anatomical gifts and amendments to or revocations of  
45 anatomical gifts.

46 (i) "Driver's license" means a license or permit issued  
47 by the Mississippi Department of Public Safety to operate a  
48 vehicle, whether or not conditions are attached to the license or  
49 permit.

50 (j) "Eye bank" means a person that is licensed,  
51 accredited, or regulated under federal or state law to engage in  
52 the recovery, screening, testing, processing, storage, or  
53 distribution of human eyes or portions of human eyes.

54 (k) "Guardian" means a person appointed by a court to  
55 make decisions regarding the support, care, education, health, or  
56 welfare of an individual. The term does not include a guardian ad  
57 litem.

58 (l) "Hospital" means a facility licensed as a hospital  
59 under the law of any state or a facility operated as a hospital by  
60 the United States, a state, or a subdivision of a state.

61 (m) "Identification card" means an identification card  
62 issued by the Mississippi Department of Public Safety.

63 (n) "Know" means to have actual knowledge.



64 (o) "Minor" means an individual who is under eighteen  
65 (18) years of age.

66 (p) "Organ procurement organization" means a person  
67 designated by the Secretary of the United States Department of  
68 Health and Human Services as an organ procurement organization.

69 (q) "Parent" means a parent whose parental rights have  
70 not been terminated.

71 (r) "Part" means an organ, an eye, or tissue of a human  
72 being. The term does not include the whole body.

73 (s) "Person" means an individual, corporation, business  
74 trust, estate, trust, partnership, limited liability company,  
75 association, joint venture, public corporation, government or  
76 governmental subdivision, agency, or instrumentality, or any other  
77 legal or commercial entity.

78 (t) "Physician" means an individual authorized to  
79 practice medicine or osteopathy under the law of any state.

80 (u) "Procurement organization" means an eye bank, organ  
81 procurement organization, or tissue bank.

82 (v) "Prospective donor" means an individual who is dead  
83 or near death and has been determined by a procurement  
84 organization to have a part that could be medically suitable for  
85 transplantation, therapy, research, or education. The term does  
86 not include an individual who has made a refusal.

87 (w) "Reasonably available" means able to be contacted  
88 by a procurement organization without undue effort and willing and  
89 able to act in a timely manner consistent with existing medical  
90 criteria necessary for the making of an anatomical gift.

91 (x) "Recipient" means an individual into whose body a  
92 decedent's part has been or is intended to be transplanted.

93 (y) "Record" means information that is inscribed on a  
94 tangible medium or that is stored in an electronic or other medium  
95 and is retrievable in perceivable form.



96 (z) "Refusal" means a record created under Section 7  
97 that expressly states an intent to bar other persons from making  
98 an anatomical gift of an individual's body or part.

99 (aa) "Sign" means, with the present intent to  
100 authenticate or adopt a record:

101 (i) To execute or adopt a tangible symbol; or

102 (ii) To attach to or logically associate with the  
103 record an electronic symbol, sound, or process.

104 (bb) "State" means a state of the United States, the  
105 District of Columbia, Puerto Rico, the United States Virgin  
106 Islands, or any territory or insular possession subject to the  
107 jurisdiction of the United States.

108 (cc) "Technician" means an individual determined to be  
109 qualified to remove or process parts by an appropriate  
110 organization that is licensed, accredited, or regulated under  
111 federal or state law. The term includes an enucleator.

112 (dd) "Tissue" means a portion of the human body other  
113 than an organ or an eye. The term does not include blood unless  
114 the blood is donated for the purpose of research or education.

115 (ee) "Tissue bank" means a person that is licensed,  
116 accredited, or regulated under federal or state law to engage in  
117 the recovery, screening, testing, processing, storage, or  
118 distribution of tissue.

119 (ff) "Transplant hospital" means a hospital that  
120 furnishes organ transplants and other medical and surgical  
121 specialty services required for the care of transplant patients.

122 **SECTION 3. APPLICABILITY.** This law applies to an anatomical  
123 gift or amendment to, revocation of, or refusal to make an  
124 anatomical gift, whenever made.

125 **SECTION 4. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR'S**  
126 **DEATH.** Subject to Section 8, an anatomical gift of a donor's body  
127 or part may be made during the life of the donor for the purpose



128 of transplantation, therapy, research, or education in the manner  
129 provided in Section 5 by:

130 (a) The donor, if the donor is an adult or if the donor  
131 is an emancipated minor;

132 (b) An agent of the donor, unless the power of attorney  
133 for health care or other record prohibits the agent from making an  
134 anatomical gift; or

135 (c) The donor's guardian.

136 **SECTION 5. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S**

137 **DEATH.** (1) A donor may make an anatomical gift:

138 (a) By authorizing a statement or symbol indicating  
139 that the donor has made an anatomical gift to be imprinted on the  
140 donor's driver's license or identification card;

141 (b) In a will;

142 (c) During a terminal illness or injury of the donor,  
143 by any form of communication addressed to at least two (2) adults,  
144 at least one (1) of whom is a disinterested witness; or

145 (d) As provided in subsection (2).

146 (2) A donor or other person authorized to make an anatomical  
147 gift under Section 4 may make a gift by a donor card or other  
148 record signed by the donor or other person making the gift or by  
149 authorizing that a statement or symbol indicating that the donor  
150 has made an anatomical gift be included on a donor registry. If  
151 the donor or other person is physically unable to sign a record,  
152 the record may be signed by another individual at the direction of  
153 the donor or other person and must:

154 (a) Be witnessed by at least two (2) adults, at least  
155 one (1) of whom is a disinterested witness, who have signed at the  
156 request of the donor or the other person; and

157 (b) State that it has been signed and witnessed as  
158 provided in paragraph (a).



159 (3) Revocation, suspension, expiration, or cancellation of a  
160 driver's license or identification card upon which an anatomical  
161 gift is indicated does not invalidate the gift.

162 (4) An anatomical gift made by will takes effect upon the  
163 donor's death whether or not the will is probated. Invalidation  
164 of the will after the donor's death does not invalidate the gift.

165 **SECTION 6. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE**

166 **DONOR'S DEATH.** (1) Subject to Section 8, a donor or other person  
167 authorized to make an anatomical gift under Section 4 may amend or  
168 revoke an anatomical gift by:

169 (a) A record signed by:

170 (i) The donor;

171 (ii) The other person; or

172 (iii) Subject to subsection (2), another  
173 individual acting at the direction of the donor or the other  
174 person if the donor or other person is physically unable to sign;  
175 or

176 (b) A later-executed document of gift that amends or  
177 revokes a previous anatomical gift or portion of an anatomical  
178 gift, either expressly or by inconsistency.

179 (2) A record signed pursuant to subsection (1)(a)(iii) must:

180 (a) Be witnessed by at least two (2) adults, at least  
181 one (1) of whom is a disinterested witness, who have signed at the  
182 request of the donor or the other person; and

183 (b) State that it has been signed and witnessed as  
184 provided in paragraph (a).

185 (3) Subject to Section 8, a donor or other person authorized  
186 to make an anatomical gift under Section 4 may revoke an  
187 anatomical gift by the destruction or cancellation of the document  
188 of gift, or the portion of the document of gift used to make the  
189 gift, with the intent to revoke the gift.

190 (4) A donor may amend or revoke an anatomical gift that was  
191 not made in a will by any form of communication during a terminal



192 illness or injury addressed to at least two (2) adults, at least  
193 one (1) of whom is a disinterested witness.

194 (5) A donor who makes an anatomical gift in a will may amend  
195 or revoke the gift in the manner provided for amendment or  
196 revocation of wills or as provided in subsection (1).

197 **SECTION 7. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF**

198 **REFUSAL.** (1) An individual may refuse to make an anatomical gift  
199 of the individual's body or part by:

200 (a) A record signed by:

201 (i) The individual; or

202 (ii) Subject to subsection (2), another individual  
203 acting at the direction of the individual if the individual is  
204 physically unable to sign;

205 (b) The individual's will, whether or not the will is  
206 admitted to probate or invalidated after the individual's death;  
207 or

208 (c) Any form of communication made by the individual  
209 during the individual's terminal illness or injury addressed to at  
210 least two (2) adults, at least one (1) of whom is a disinterested  
211 witness.

212 (2) A record signed pursuant to subsection (1)(a)(ii) must:

213 (a) Be witnessed by at least two (2) adults, at least  
214 one (1) of whom is a disinterested witness, who have signed at the  
215 request of the individual; and

216 (b) State that it has been signed and witnessed as  
217 provided in paragraph (a).

218 (3) An individual who has made a refusal may amend or revoke  
219 the refusal:

220 (a) In the manner provided in subsection (1) for making  
221 a refusal;

222 (b) By subsequently making an anatomical gift pursuant  
223 to Section 5 that is inconsistent with the refusal; or



224 (c) By destroying or canceling the record evidencing  
225 the refusal, or the portion of the record used to make the  
226 refusal, with the intent to revoke the refusal.

227 (4) Except as otherwise provided in Section 8(8), in the  
228 absence of an express, contrary indication by the individual set  
229 forth in the refusal, an individual's unrevoked refusal to make an  
230 anatomical gift of the individual's body or part bars all other  
231 persons from making an anatomical gift of the individual's body or  
232 part.

233 **SECTION 8. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT,**

234 **OR REVOCATION.** (1) Except as otherwise provided in subsection  
235 (7) and subject to subsection (6), in the absence of an express,  
236 contrary indication by the donor, a person other than the donor is  
237 barred from making, amending, or revoking an anatomical gift of a  
238 donor's body or part if the donor made an anatomical gift of the  
239 donor's body or part under Section 5 or an amendment to an  
240 anatomical gift of the donor's body or part under Section 6.

241 (2) A donor's revocation of an anatomical gift of the  
242 donor's body or part under Section 6 is not a refusal and does not  
243 bar another person specified in Section 4 or 9 from making an  
244 anatomical gift of the donor's body or part under Section 5 or 10.

245 (3) If a person other than the donor makes an unrevoked  
246 anatomical gift of the donor's body or part under Section 5 or an  
247 amendment to an anatomical gift of the donor's body or part under  
248 Section 6, another person may not make, amend, or revoke the gift  
249 of the donor's body or part under Section 10.

250 (4) A revocation of an anatomical gift of a donor's body or  
251 part under Section 6 by a person other than the donor does not bar  
252 another person from making an anatomical gift of the body or part  
253 under Section 5 or 10.

254 (5) In the absence of an express, contrary indication by the  
255 donor or other person authorized to make an anatomical gift under  
256 Section 4, an anatomical gift of a part is neither a refusal to





257 give another part nor a limitation on the making of an anatomical  
258 gift of another part at a later time by the donor or another  
259 person.

260 (6) In the absence of an express, contrary indication by the  
261 donor or other person authorized to make an anatomical gift under  
262 Section 4, an anatomical gift of a part for one or more of the  
263 purposes set forth in Section 4 is not a limitation on the making  
264 of an anatomical gift of the part for any of the other purposes by  
265 the donor or any other person under Section 5 or 10.

266 (7) If a donor who is an unemancipated minor dies, a parent  
267 of the donor who is reasonably available may revoke or amend an  
268 anatomical gift of the donor's body or part.

269 (8) If an unemancipated minor who signed a refusal dies, a  
270 parent of the minor who is reasonably available may revoke the  
271 minor's refusal.

272 **SECTION 9. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY**

273 **OR PART.** (1) Subject to subsections (2) and (3) and unless  
274 barred by Section 7 or 8, an anatomical gift of a decedent's body  
275 or part for purpose of transplantation, therapy, research, or  
276 education may be made by any member of the following classes of  
277 persons who is reasonably available, in the order of priority  
278 listed:

279 (a) An agent of the decedent at the time of death who  
280 could have made an anatomical gift under Section 4(2) immediately  
281 before the decedent's death;

282 (b) The spouse of the decedent;

283 (c) Adult children of the decedent;

284 (d) Parents of the decedent;

285 (e) Adult siblings of the decedent;

286 (f) Adult grandchildren of the decedent;

287 (g) Grandparents of the decedent;

288 (h) The persons who were acting as the guardians of the  
289 person of the decedent at the time of death;



290 (i) Any other person having the authority to dispose of  
291 the decedent's body; and

292 (j) Any other person having the legal authority to  
293 dispose of the civil matters of the decedent.

294 (2) If there is more than one (1) member of a class listed  
295 in subsection (1) (a), (c), (d), (e), (f), (g), or (h) entitled to  
296 make an anatomical gift, an anatomical gift may be made by a  
297 member of the class unless that member or a person to which the  
298 gift may pass under Section 11 knows of an objection by another  
299 member of the class. If an objection is known, the gift may be  
300 made only by a majority of the members of the class who are  
301 reasonably available.

302 (3) A person may not make an anatomical gift if, at the time  
303 of the decedent's death, a person in a prior class under  
304 subsection (1) is reasonably available to make or to object to the  
305 making of an anatomical gift.

306 **SECTION 10. MANNER OF MAKING, AMENDING, OR REVOKING**

307 **ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.** (1) A person  
308 authorized to make an anatomical gift under Section 9 may make an  
309 anatomical gift by a document of gift signed by the person making  
310 the gift or by that person's oral communication that is  
311 electronically recorded or is contemporaneously reduced to a  
312 record and signed by the individual receiving the oral  
313 communication.

314 (2) Subject to subsection (3), an anatomical gift by a  
315 person authorized under Section 9 may be amended or revoked orally  
316 or in a record by any member of a prior class who is reasonably  
317 available. If more than one (1) member of the prior class is  
318 reasonably available, the gift made by a person authorized under  
319 Section 9 may be:

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



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

325 (3) A revocation under subsection (2) is effective only if,  
326 before an incision has been made to remove a part from the donor's  
327 body or before invasive procedures have begun to prepare the  
328 recipient, the procurement organization, transplant hospital, or  
329 physician or technician knows of the revocation.

330 **SECTION 11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;**

331 **PURPOSE OF ANATOMICAL GIFT.** (1) An anatomical gift may be made  
332 to the following persons named in the document of gift:

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

336 (b) Subject to subsection (2), an individual designated  
337 by the person making the anatomical gift if the individual is the  
338 recipient of the part;

339 (c) An eye bank or tissue bank.

340 (2) If an anatomical gift to an individual under subsection  
341 (1)(b) cannot be transplanted into the individual, the part passes  
342 in accordance with subsection (7) in the absence of an express,  
343 contrary indication by the person making the anatomical gift.

344 (3) If an anatomical gift of one or more specific parts or  
345 of all parts is made in a document of gift that does not name a  
346 person described in subsection (1) but identifies the purpose for  
347 which an anatomical gift may be used, the following rules apply:

348 (a) If the part is an eye and the gift is for the  
349 purpose of transplantation or therapy, the gift passes to the  
350 appropriate eye bank.

351 (b) If the part is tissue and the gift is for the  
352 purpose of transplantation or therapy, the gift passes to the  
353 appropriate tissue bank.



354 (c) If the part is an organ and the gift is for the  
355 purpose of transplantation or therapy, the gift passes to the  
356 appropriate organ procurement organization as custodian of the  
357 organ.

358 (d) If the part is an organ, an eye, or tissue and the  
359 gift is for the purpose of research or education, the gift passes  
360 to the appropriate procurement organization.

361 (4) For the purpose of subsection (3), if there is more than  
362 one (1) purpose of an anatomical gift set forth in the document of  
363 gift but the purposes are not set forth in any priority,  
364 the gift must be used for transplantation or therapy, if suitable.  
365 If the gift cannot be used for transplantation or therapy, the  
366 gift may be used for research or education.

367 (5) If an anatomical gift of one or more specific parts is  
368 made in a document of gift that does not name a person described  
369 in subsection (1) and does not identify the purpose of the gift,  
370 the gift may be used only for transplantation or therapy, and the  
371 gift passes in accordance with subsection (7).

372 (6) If a document of gift specifies only a general intent to  
373 make an anatomical gift by words such as "donor", "organ donor",  
374 or "body donor", or by a symbol or statement of similar import,  
375 the gift may be used only for transplantation or therapy, and the  
376 gift passes in accordance with subsection (7).

377 (7) For purposes of subsections (2), (5), and (6) the  
378 following rules apply:

379 (a) If the part is an eye, the gift passes to the  
380 appropriate eye bank.

381 (b) If the part is tissue, the gift passes to the  
382 appropriate tissue bank.

383 (c) If the part is an organ, the gift passes to the  
384 appropriate organ procurement organization as custodian of the  
385 organ.



386 (8) An anatomical gift of an organ for transplantation or  
387 therapy, other than an anatomical gift under subsection (1)(b),  
388 passes to the organ procurement organization as custodian of the  
389 organ.

390 (9) If an anatomical gift does not pass pursuant to  
391 subsections (1) through (8) or the decedent's body or part is not  
392 used for transplantation, therapy, research, or education, custody  
393 of the body or part passes to the person under obligation to  
394 dispose of the body or part.

395 (10) A person may not accept an anatomical gift if the  
396 person knows that the gift was not effectively made under Section  
397 5 or 10 or if the person knows that the decedent made a refusal  
398 under Section 7 that was not revoked. For purposes of this  
399 subsection, if a person knows that an anatomical gift was made on  
400 a document of gift, the person is deemed to know of any amendment  
401 or revocation of the gift or any refusal to make an anatomical  
402 gift on the same document of gift.

403 (11) Except as otherwise provided in subsection (1)(b),  
404 nothing in this law affects the allocation of organs for  
405 transplantation or therapy.

406 **SECTION 12. SEARCH AND NOTIFICATION.** (1) The following  
407 persons shall make a reasonable search of an individual who the  
408 person reasonably believes is dead or near death for a document of  
409 gift or other information identifying the individual as a donor or  
410 as an individual who made a refusal:

411 (a) A law enforcement officer, fire fighter, paramedic,  
412 or other emergency rescuer finding the individual; and

413 (b) If no other source of the information is  
414 immediately available, a hospital, as soon as practical after the  
415 individual's arrival at the hospital.

416 (2) If a document of gift or a refusal to make an anatomical  
417 gift is located by the search required by subsection (1)(a) and  
418 the individual or deceased individual to whom it relates is taken



419 to a hospital, the person responsible for conducting the search  
420 shall send the document of gift or refusal to the hospital.

421 (3) A person is not subject to criminal or civil liability  
422 for failing to discharge the duties imposed by this section but  
423 may be subject to administrative sanctions.

424 **SECTION 13. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT**  
425 **TO EXAMINE.** (1) A document of gift need not be delivered during  
426 the donor's lifetime to be effective.

427 (2) Upon or after an individual's death, a person in  
428 possession of a document of gift or a refusal to make an  
429 anatomical gift with respect to the individual shall allow  
430 examination and copying of the document of gift or refusal by a  
431 person authorized to make or object to the making of an anatomical  
432 gift with respect to the individual or by a person to which the  
433 gift could pass under Section 11.

434 **SECTION 14. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION**  
435 **AND OTHERS.** (1) When a hospital refers an individual at or near  
436 death to a procurement organization, the organization shall make a  
437 reasonable search of the records of the Mississippi Department of  
438 Public Safety and any donor registry that it knows exists for the  
439 geographical area in which the individual resides to ascertain  
440 whether the individual has made an anatomical gift.

441 (2) A procurement organization must be allowed reasonable  
442 access to information in the records of the Mississippi Department  
443 of Public Safety to ascertain whether an individual at or near  
444 death is a donor.

445 (3) When a hospital refers an individual at or near death to  
446 a procurement organization, the organization may conduct any  
447 reasonable examination necessary to ensure the medical suitability  
448 of a part that is or could be the subject of an anatomical gift  
449 for transplantation, therapy, research, or education from a donor  
450 or a prospective donor. The organ procurement organizations,  
451 tissue bank, or eye bank, or hospital medical professionals under



452 the direction thereof, may perform any and all tests to evaluate  
453 the deceased as a potential donor and any invasive procedures on  
454 the deceased body in order to preserve the potential donor's  
455 organs. During the examination period, measures necessary to  
456 ensure the medical suitability of the part may not be withdrawn  
457 unless the hospital or procurement organization knows that the  
458 individual expressed a contrary intent.

459 (4) Unless prohibited by law other than this law, at any  
460 time after a donor's death, the person to which a part passes  
461 under Section 11 may conduct any reasonable examination necessary  
462 to ensure the medical suitability of the body or part for its  
463 intended purpose.

464 (5) Unless prohibited by law other than this law, an  
465 examination under subsection (3) or (4) may include an examination  
466 of all medical and dental records of the donor or prospective  
467 donor.

468 (6) Upon the death of a minor who was a donor or had signed  
469 a refusal, unless a procurement organization knows the minor is  
470 emancipated, the procurement organization shall conduct a  
471 reasonable search for the parents of the minor and provide the  
472 parents with an opportunity to revoke or amend the anatomical gift  
473 or revoke the refusal.

474 (7) Upon referral by a hospital under subsection (1), a  
475 procurement organization shall make a reasonable search for any  
476 person listed in Section 9 having priority to make an anatomical  
477 gift on behalf of a prospective donor. If a procurement  
478 organization receives information that an anatomical gift to any  
479 other person was made, amended, or revoked, it shall promptly  
480 advise the other person of all relevant information.

481 (8) Subject to Sections 11(a) and 22, the rights of the  
482 person to which a part passes under Section 11 are superior to the  
483 rights of all others with respect to the part. The person may  
484 accept or reject an anatomical gift in whole or in part. Subject



485 to the terms of the document of gift and this law, a person that  
486 accepts an anatomical gift of an entire body may allow embalming,  
487 burial or cremation, and use of remains in a funeral service. If  
488 the gift is of a part, the person to which the part passes under  
489 Section 11, upon the death of the donor and before embalming,  
490 burial, or cremation, shall cause the part to be removed without  
491 unnecessary mutilation.

492 (9) Neither the physician who attends the decedent at death  
493 nor the physician who determines the time of the decedent's death  
494 may participate in the procedures for removing or transplanting a  
495 part from the decedent.

496 (10) A physician or technician may remove a donated part  
497 from the body of a donor that the physician or technician is  
498 qualified to remove.

499 **SECTION 15. COORDINATION OF PROCUREMENT AND USE.** Each  
500 hospital in this state shall enter into agreements or affiliations  
501 with procurement organizations for coordination of procurement and  
502 use of anatomical gifts.

503 **SECTION 16. SALE OR PURCHASE OF PARTS PROHIBITED.** (1)  
504 Except as otherwise provided in subsection (2), a person who for  
505 valuable consideration, knowingly purchases or sells a part for  
506 transplantation or therapy, if removal of a part from an  
507 individual is intended to occur after the individual's death  
508 commits a felony and upon conviction thereof is subject to a fine  
509 not exceeding Fifty Thousand Dollars (\$50,000.00) or imprisonment  
510 not exceeding five (5) years, or both.

511 (2) A person may charge a reasonable amount for the removal,  
512 processing, preservation, quality control, storage,  
513 transportation, implantation, or disposal of a part.

514 **SECTION 17. OTHER PROHIBITED ACTS.** A person who, in order  
515 to obtain a financial gain, intentionally falsifies, forges,  
516 conceals, defaces, or obliterates a document of gift, an amendment  
517 or revocation of a document of gift, or a refusal, commits a





518 felony and, upon conviction thereof, is subject to a fine not  
519 exceeding Fifty Thousand Dollars (\$50,000.00) or imprisonment not  
520 exceeding five (5) years, or both.

521 **SECTION 18. IMMUNITY.** (1) A person that acts in accordance  
522 with this law or with the applicable anatomical gift law of  
523 another state, or attempts in good faith to do so, is not liable  
524 for the act in a civil action, criminal prosecution, or  
525 administrative proceeding.

526 (2) Neither the person making an anatomical gift nor the  
527 donor's estate is liable for any injury or damage that results  
528 from the making or use of the gift.

529 (3) In determining whether an anatomical gift has been made,  
530 amended, or revoked under this law, a person may rely upon  
531 representations of an individual listed in Section 9(1)(b), (c),  
532 (d), (e), (f) or (g) relating to the individual's relationship to  
533 the donor or prospective donor unless the person knows that the  
534 representation is untrue.

535 **SECTION 19. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO**  
536 **EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY.** (1) A  
537 document of gift is valid if executed in accordance with:

538 (a) This law;

539 (b) The laws of the state or country where it was  
540 executed; or

541 (c) The laws of the state or country where the person  
542 making the anatomical gift was domiciled, has a place of  
543 residence, or was a national at the time the document of gift was  
544 executed.

545 (2) If a document of gift is valid under this section, the  
546 law of this state governs the interpretation of the document of  
547 gift.

548 (3) A person may presume that a document of gift or  
549 amendment of an anatomical gift is valid unless that person knows  
550 that it was not validly executed or was revoked.



551           **SECTION 20. DONOR REGISTRY.** (1) The Mississippi Department  
552 of Public Safety may establish or contract for the establishment  
553 of a donor registry.

554           (2) The Mississippi Department of Public Safety shall  
555 cooperate with a person that administers any donor registry that  
556 this state establishes, contracts for, or recognizes for the  
557 purpose of transferring to the donor registry all relevant  
558 information regarding a donor's making, amendment to, or  
559 revocation of an anatomical gift.

560           (3) A donor registry must:

561                 (a) Allow a donor or other person authorized under  
562 Section 4 to include on the donor registry a statement or symbol  
563 that the donor has made, amended, or revoked an anatomical gift;

564                 (b) Be accessible to a procurement organization to  
565 allow it to obtain relevant information on the donor registry to  
566 determine, at or near death of the donor or a prospective donor,  
567 whether the donor or prospective donor has made, amended, or  
568 revoked an anatomical gift; and

569                 (c) Be accessible for purposes of paragraphs (a) and  
570 (b) seven (7) days a week on a twenty-four-hour basis.

571           (4) Except as otherwise provided in subsection (6),  
572 personally identifiable information on a donor registry about a  
573 donor or prospective donor may not be used or disclosed without  
574 the express consent of the donor, prospective donor, or person  
575 that made the anatomical gift for any purpose other than to  
576 determine, at or near death of the donor or prospective donor,  
577 whether the donor or prospective donor has made, amended, or  
578 revoked an anatomical gift.

579           (5) This section does not prohibit any person from creating  
580 or maintaining a donor registry that is not established by or  
581 under contract with the state. Any such registry must comply with  
582 subsections (3) and (4).



583 (6) At the time that a person is renewing his or her  
584 driver's license, the Department of Public Safety shall ask the  
585 person if he or she would like to be a donor. If the answer is  
586 yes, the department shall inform the prospective donor that his or  
587 her decision to be a donor cannot be revoked, changed or contested  
588 after his or her death by the donor's next of kin or by any other  
589 person, and shall ask the person if he or she would like for  
590 information about the person's decision to be a donor to be sent  
591 to another person or persons. If the answer is yes, the  
592 department shall obtain the name and mailing address of the person  
593 or persons designated by the prospective donor, and the donor  
594 registry shall send the information about the prospective donor's  
595 decision to the designated person or persons as requested.

596 **SECTION 21. EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH-CARE**

597 **DIRECTIVE.** (1) In this section:

598 (a) "Advance health-care directive" means a power of  
599 attorney for health care or a record signed or authorized by a  
600 prospective donor containing the prospective donor's direction  
601 concerning a health-care decision for the prospective donor.

602 (b) "Declaration" means a record signed by a  
603 prospective donor specifying the circumstances under which a life  
604 support system may be withheld or withdrawn from the prospective  
605 donor.

606 (c) "Health-care decision" means any decision regarding  
607 the health care of the prospective donor.

608 (2) If a prospective donor has a declaration or advance  
609 health-care directive and the terms of the declaration or  
610 directive and the express or implied terms of a potential  
611 anatomical gift are in conflict with regard to the administration  
612 of measures necessary to ensure the medical suitability of a part  
613 for transplantation or therapy, the prospective donor's attending  
614 physician and prospective donor shall confer to resolve the  
615 conflict. If the prospective donor is incapable of resolving the



616 conflict, an agent acting under the prospective donor's  
617 declaration or directive, or, if none or the agent is not  
618 reasonably available, another person authorized by law other than  
619 this law to make health-care decisions on behalf of the  
620 prospective donor, shall act for the donor to resolve the  
621 conflict. The conflict must be resolved as expeditiously as  
622 possible. Information relevant to the resolution of the conflict  
623 may be obtained from the appropriate procurement organization and  
624 any other person authorized to make an anatomical gift for the  
625 prospective donor under Section 9. Before resolution of the  
626 conflict, measures necessary to ensure the medical suitability of  
627 the part may not be withheld or withdrawn from the prospective  
628 donor if withholding or withdrawing the measures is not  
629 contraindicated by appropriate end-of-life care.

630 **SECTION 22. DECISIONS ABOUT ORGAN AND/OR TISSUE DONATIONS IN**  
631 **MEDICAL-LEGAL DEATH INVESTIGATIONS.** (1) If the deceased patient  
632 is medically suitable to be an organ and/or tissue donor, as  
633 determined by the procurement organization, and the donor and/or  
634 family has authorized the donation and transplantation, the  
635 donor's organs and/or tissues shall be removed for the purpose of  
636 donation and transplantation by the organ procurement  
637 organization, in accordance with subsection (2) of this section.

638 (2) If the deceased patient is the subject of a  
639 medical-legal death investigation, the procurement organization  
640 shall immediately notify the appropriate medical examiner that the  
641 deceased patient is medically suitable to be an organ and/or  
642 tissue donor. If the medical examiner determines that  
643 examination, analysis or autopsy of the organs and/or tissue is  
644 necessary for the medical examiner's investigation, the medical  
645 examiner may be present while the organs and/or tissues are  
646 removed for the purpose of transplantation. The physician,  
647 surgeon or technician removing the organs and/or tissues shall  
648 file with the medical examiner a report detailing the donation,



649 which shall become part of the medical examiner's report. When  
650 requested by the medical examiner, the report shall include a  
651 biopsy or medically approved sample, as specified by the medical  
652 examiner, from the donated organs and/or tissues.

653 (3) In a medical-legal death investigation, decisions about  
654 organ and/or tissue donation and transplantation shall be made in  
655 accordance with the protocol that was established and agreed upon  
656 under the provisions of the former Section 41-39-15 as it existed  
657 on July 1, 2008, or as that protocol may be later revised by a  
658 majority vote of the following: the procurement organization, a  
659 certified state pathologist appointed by the Mississippi  
660 Commissioner of Public Safety, a representative from the  
661 University of Mississippi Medical Center, a representative from  
662 the Mississippi Coroners Association, an organ recipient appointed  
663 by the Governor, the Director of the Mississippi Bureau of  
664 Investigation of the Mississippi Department of Public Safety, and  
665 a representative of the Mississippi Prosecutor's Association  
666 appointed by the Attorney General. The protocol may be revised as  
667 necessary as to maximize the total number of organs and/or tissues  
668 available for donation and transplantation. Organs and/or tissues  
669 designated by virtue of this protocol shall be recovered. The  
670 protocol shall be reviewed and evaluated on an annual basis.

671 **SECTION 23. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
672 applying and construing this uniform act, consideration must be  
673 given to the need to promote uniformity of the law with respect to  
674 its subject matter among states that enact it.

675 **SECTION 24. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
676 **NATIONAL COMMERCE ACT.** This act modifies, limits, and supersedes  
677 the Electronic Signatures in Global and National Commerce Act, 15  
678 USCS Section 7001 et seq., but does not modify, limit or supersede  
679 Section 101(a) of that act, 15 USCS Section 7001, or authorize  
680 electronic delivery of any of the notices described in Section  
681 103(b) of that act, 15 USCS Section 7003(b).



682           **SECTION 25.**   **REPEALS.**   Sections 41-39-31, 41-39-33, 41-39-35,  
683 41-39-37, 41-39-39, 41-39-41, 41-39-43, 41-39-45, 41-39-47,  
684 41-39-49, 41-39-51, and 41-39-53, Mississippi Code of 1972, which  
685 constitute the Uniform Anatomical Gift Act of 1970, are repealed.

686           **SECTION 26.**   **EFFECTIVE DATE.**   This act shall take effect and  
687 be in force from and after July 1, 2008.

