

By: Representatives Kinkade, Ford (73rd),  
Hale, Morgan, Pigott, Powell

To: Wildlife, Fisheries and  
Parks

HOUSE BILL NO. 942

1 AN ACT TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF WILDLIFE,  
2 FISHERIES AND PARKS TO ALLOW AN ONLINE APPLICANT FOR A RESIDENT  
3 HUNTING OR FISHING LICENSE TO INDICATE IF THE APPLICANT DESIRES TO  
4 BE A DONOR OF AN ANATOMICAL GIFT; TO REQUIRE THE HUNTING OR  
5 FISHING LICENSE OF AN ONLINE APPLICANT WHO ELECTS TO BE A DONOR TO  
6 INCLUDE A SYMBOL INDICATING THAT THE LICENSE HOLDER IS A DONOR  
7 UNDER THE MISSISSIPPI UNIFORM ANATOMICAL GIFT ACT; TO AMEND  
8 SECTION 41-39-103, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM  
9 "HUNTING OR FISHING LICENSE" AS USED UNDER THE ANATOMICAL GIFT  
10 ACT; TO AMEND SECTION 41-39-107, MISSISSIPPI CODE OF 1972, TO  
11 INCLUDE PERSONS APPLYING ONLINE FOR A HUNTING OR FISHING LICENSE  
12 WHO ARE OVER THE AGE OF 18 IN THE LIST OF PERSONS ELIGIBLE TO MAKE  
13 AN ANATOMICAL GIFT; TO AMEND SECTIONS 41-39-109 AND 41-39-127,  
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING  
15 PROVISIONS; TO AMEND SECTION 41-39-139, MISSISSIPPI CODE OF 1972,  
16 TO REQUIRE THE DEPARTMENT TO PROVIDE RELEVANT INFORMATION  
17 REGARDING A DONOR'S ANATOMICAL GIFT TO A DONOR REGISTRY  
18 ESTABLISHED OR CONTRACTED FOR BY THE MISSISSIPPI DEPARTMENT OF  
19 PUBLIC SAFETY; TO REQUIRE AN ONLINE APPLICATION FOR THE RENEWAL OF  
20 A HUNTING OR FISHING LICENSE TO INCLUDE A QUESTION ASKING THE  
21 APPLICANT IF THE INDIVIDUAL DESIRES TO BE A DONOR; TO DIRECT THE  
22 CODE PUBLISHERS TO CODIFY SECTION 1 OF THIS ACT WITH THE LAWS  
23 GOVERNING HUNTING AND FISHING IN CHAPTER 7, TITLE 49, MISSISSIPPI  
24 CODE OF 1972; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** (1) An application through the department's  
27 online sales system for a resident hunting or fishing license that  
28 is required under this chapter may allow an applicant to indicate  
29 whether or not the applicant desires to be a donor of an



30 anatomical gift. If the applicant elects to be a donor, the  
31 hunting or fishing license issued to the applicant must include a  
32 symbol that indicates that the individual is a donor under the  
33 Revised Mississippi Uniform Anatomical Gift Act (Sections  
34 41-39-101 through 41-39-147).

35 (2) The department is not required to keep a physical record  
36 of the donor's application after issuing the hunting or fishing  
37 license in order for the anatomical gift to be valid.

38 **SECTION 2.** Section 41-39-103, Mississippi Code of 1972, is  
39 amended as follows:

40 41-39-103. In Sections 41-39-101 through 41-39-149:

41 (1) "Adult" means an individual who is at least  
42 eighteen (18) years of age.

43 (2) "Agent" means an individual:

44 (A) Authorized to make health care decisions on  
45 the principal's behalf by a power of attorney for health care; or

46 (B) Expressly authorized to make an anatomical  
47 gift on the principal's behalf by any other record signed by the  
48 principal.

49 (3) "Anatomical gift" means a donation of all or part  
50 of a human body to take effect after the donor's death for the  
51 purpose of transplantation, therapy, research, or education.

52 (4) "Decedent" means a deceased individual whose body  
53 or part is or may be the source of an anatomical gift. The term



54 includes a stillborn infant and, subject to restrictions imposed  
55 by law other than Sections 41-39-101 through 41-39-149, a fetus.

56 (5) "Disinterested witness" means a witness other than  
57 the spouse, child, parent, sibling, grandchild, grandparent, or  
58 guardian of the individual who makes, amends, revokes, or refuses  
59 to make an anatomical gift, or another adult who exhibited special  
60 care and concern for the individual. The term does not include a  
61 person to which an anatomical gift could pass under Section  
62 41-39-121.

63 (6) "Document of gift" means a donor card or other  
64 record used to make an anatomical gift. The term includes a  
65 statement or symbol on a driver's license, identification card,  
66 hunting or fishing license, or donor registry.

67 (7) "Donor" means an individual whose body or part is  
68 the subject of an anatomical gift.

69 (8) "Donor registry" means a database that contains  
70 records of anatomical gifts and amendments to or revocations of  
71 anatomical gifts.

72 (9) "Driver's license" means a license or permit issued  
73 by the Mississippi Department of Public Safety to operate a  
74 vehicle, whether or not conditions are attached to the license or  
75 permit.

76 (10) "Eye bank" means a person that is licensed,  
77 accredited, or regulated under federal or state law to engage in



78 the recovery, screening, testing, processing, storage, or  
79 distribution of human eyes or portions of human eyes.

80 (11) "Guardian" means a person appointed by a court to  
81 make decisions regarding the support, care, education, health, or  
82 welfare of an individual. The term does not include a guardian ad  
83 litem.

84 (12) "Hospital" means a facility licensed as a hospital  
85 under the law of any state or a facility operated as a hospital by  
86 the United States, a state, or a subdivision of a state.

87 (13) "Hunting or fishing license" means a license to  
88 hunt or fish issued under Chapter 7, Title 49, Mississippi Code of  
89 1972, which is purchased or renewed online by a resident of the  
90 state through the website of the Mississippi Department of  
91 Wildlife, Fisheries and Parks.

92 ( \* \* \*14) "Identification card" means an  
93 identification card issued by the Mississippi Department of Public  
94 Safety.

95 ( \* \* \*15) "Know" means to have actual knowledge.

96 ( \* \* \*16) "Minor" means an individual who is under  
97 eighteen (18) years of age.

98 ( \* \* \*17) "Organ procurement organization" means a  
99 person designated by the Secretary of the United States Department  
100 of Health and Human Services as an organ procurement organization.

101 ( \* \* \*18) "Parent" means a parent whose parental  
102 rights have not been terminated.



103 ( \* \* \*19) "Part" means an organ, an eye, or tissue of  
104 a human being. The term does not include the whole body.

105 ( \* \* \*20) "Person" means an individual, corporation,  
106 business trust, estate, trust, partnership, limited liability  
107 company, association, joint venture, public corporation,  
108 government or governmental subdivision, agency, or  
109 instrumentality, or any other legal or commercial entity.

110 ( \* \* \*21) "Physician" means an individual authorized  
111 to practice medicine or osteopathy under the law of any state.

112 ( \* \* \*22) "Procurement organization" means an eye  
113 bank, organ procurement organization, or tissue bank.

114 ( \* \* \*23) "Prospective donor" means an individual who  
115 is dead or near death, Glasgow Coma Scale of five (5) or less, and  
116 has been determined by a procurement organization to have a part  
117 that could be medically suitable for transplantation, therapy,  
118 research, or education. The term does not include an individual  
119 who has made a refusal.

120 ( \* \* \*24) "Reasonably available" means able to be  
121 contacted by a procurement organization without undue effort and  
122 willing and able to act in a timely manner consistent with  
123 existing medical criteria necessary for the making of an  
124 anatomical gift.

125 ( \* \* \*25) "Recipient" means an individual into whose  
126 body a decedent's part has been or is intended to be transplanted.



127 ( \* \* \* 26) "Record" means information that is inscribed  
128 on a tangible medium or that is stored in an electronic or other  
129 medium and is retrievable in perceivable form.

130 ( \* \* \* 27) "Refusal" means a record created under  
131 Section 41-39-113 that expressly states an intent to bar other  
132 persons from making an anatomical gift of an individual's body or  
133 part.

134 ( \* \* \* 28) "Sign" means, with the present intent to  
135 authenticate or adopt a record:

136 (A) To execute or adopt a tangible symbol; or

137 (B) To attach to or logically associate with the  
138 record an electronic symbol, sound, or process.

139 ( \* \* \* 29) "State" means a state of the United States,  
140 the District of Columbia, Puerto Rico, the United States Virgin  
141 Islands, or any territory or insular possession subject to the  
142 jurisdiction of the United States.

143 ( \* \* \* 30) "Technician" means an individual determined  
144 to be qualified to remove or process parts by an appropriate  
145 organization that is licensed, accredited, or regulated under  
146 federal or state law. The term includes an enucleator.

147 ( \* \* \* 31) "Tissue" means a portion of the human body  
148 other than an organ or an eye. The term does not include blood  
149 unless the blood is donated for the purpose of research or  
150 education.



151 ( \* \* \*32) "Tissue bank" means a person that is  
152 licensed, accredited, or regulated under federal or state law to  
153 engage in the recovery, screening, testing, processing, storage,  
154 or distribution of tissue.

155 ( \* \* \*33) "Transplant hospital" means a hospital that  
156 furnishes organ transplants and other medical and surgical  
157 specialty services required for the care of transplant patients.

158 **SECTION 3.** Section 41-39-107, Mississippi Code of 1972, is  
159 amended as follows:

160 41-39-107. Subject to Section 41-39-115, an anatomical gift  
161 of a donor's body or part may be made during the life of the donor  
162 for the purpose of transplantation, therapy, research, or  
163 education in the manner provided in Section 41-39-109 by:

164 (1) The donor, if the donor is an adult or if the donor  
165 is a minor and is:

166 (A) Emancipated; \* \* \*

167 (B) Authorized under state law to apply for a  
168 driver's license because the donor is at least eighteen (18) years  
169 of age; or

170 (C) Authorized under state law to apply for a  
171 hunting or fishing license and is at least eighteen (18) years of  
172 age.

173 (2) An agent of the donor, unless the power of attorney  
174 for health care or other record prohibits the agent from making an  
175 anatomical gift;



176 (3) A parent of the donor, if the donor is an  
177 unemancipated minor; or

178 (4) The donor's guardian.

179 **SECTION 4.** Section 41-39-109, Mississippi Code of 1972, is  
180 amended as follows:

181 41-39-109. (a) A donor may make an anatomical gift:

182 (1) By authorizing a statement or symbol indicating  
183 that the donor has made an anatomical gift to be imprinted on the  
184 donor's driver's license \* \* \*, identification card or hunting or  
185 fishing license;

186 (2) In a will;

187 (3) During a terminal illness or injury of the donor,  
188 by any form of communication addressed to at least two (2) adults,  
189 at least one (1) of whom is a disinterested witness; or

190 (4) As provided in subsection (b).

191 (b) A donor or other person authorized to make an anatomical  
192 gift under Section 41-39-107 may make a gift by a donor card or  
193 other record signed by the donor or other person making the gift  
194 or by authorizing that a statement or symbol indicating that the  
195 donor has made an anatomical gift be included on a donor registry.  
196 If the donor or other person is physically unable to sign a  
197 record, the record may be signed by another individual at the  
198 direction of the donor or other person and must:





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

202 (2) State that it has been signed and witnessed as  
203 provided in paragraph (1).

204 (c) Revocation, suspension, expiration, or cancellation of a  
205 driver's license \* \* \*, identification card or hunting or fishing  
206 license upon which an anatomical gift is indicated does not  
207 invalidate the gift.

208 (d) An anatomical gift made by will takes effect upon the  
209 donor's death whether or not the will is probated. Invalidation  
210 of the will after the donor's death does not invalidate the gift.

211 **SECTION 5.** Section 41-39-127, Mississippi Code of 1972, is  
212 amended as follows:

213 41-39-127. (a) When a hospital refers an individual at or  
214 near death to a procurement organization, the organization shall  
215 make a reasonable search of the records of the Mississippi  
216 Department of Public Safety, the Mississippi Department of  
217 Wildlife, Fisheries and Parks and any donor registry that it knows  
218 exists for the geographical area in which the individual resides  
219 to ascertain whether the individual has made an anatomical gift.

220 (b) A procurement organization must be allowed reasonable  
221 access to information in the records of the Mississippi Department  
222 of Public Safety and the Mississippi Department of Wildlife,



223 Fisheries and Parks to ascertain whether an individual at or near  
224 death is a donor.

225 (c) When a hospital refers an individual at or near death to  
226 a procurement organization, the organization may conduct any  
227 reasonable examination necessary to ensure the medical suitability  
228 of a part that is or could be the subject of an anatomical gift  
229 for transplantation, therapy, research, or education from a donor  
230 or a prospective donor. The organ procurement organizations,  
231 tissue bank, or eye bank, or hospital medical professionals under  
232 the direction thereof, may perform any and all tests to evaluate  
233 the deceased as a potential donor and any invasive procedures on  
234 the deceased body in order to preserve the potential donor's  
235 organs. During the examination period, measures necessary to  
236 ensure the medical suitability of the part may not be withdrawn  
237 unless the hospital or procurement organization knows that the  
238 individual expressed a contrary intent. The procurement  
239 organization representative shall initiate the consent process  
240 with reasonable discretion and sensitivity to the family's  
241 circumstances, values and beliefs.

242 (d) Unless prohibited by law other than Sections 41-39-101  
243 through 41-39-149, at any time after a donor's death, the person  
244 to which a part passes under Section 41-39-121 may conduct any  
245 reasonable examination necessary to ensure the medical suitability  
246 of the body or part for its intended purpose.



247 (e) Unless prohibited by law other than Sections 41-39-101  
248 through 41-39-149, an examination under subsection (c) or (d) may  
249 include an examination of all medical and dental records of the  
250 donor or prospective donor.

251 (f) Upon the death of a minor who was a donor or had signed  
252 a refusal, unless a procurement organization knows the minor is  
253 emancipated, the procurement organization shall conduct a  
254 reasonable search for the parents of the minor and provide the  
255 parents with an opportunity to revoke or amend the anatomical gift  
256 or revoke the refusal.

257 (g) Upon referral by a hospital under subsection (a), a  
258 procurement organization shall make a reasonable search for any  
259 person listed in Section 41-39-117 having priority to make an  
260 anatomical gift on behalf of a prospective donor. If a  
261 procurement organization receives information that an anatomical  
262 gift to any other person was made, amended, or revoked, it shall  
263 promptly advise the other person of all relevant information.

264 (h) Subject to Sections 41-39-121(i) and 41-39-143, the  
265 rights of the person to which a part passes under Section  
266 41-39-121 are superior to the rights of all others with respect to  
267 the part. The person may accept or reject an anatomical gift in  
268 whole or in part. Subject to the terms of the document of gift  
269 and Sections 41-39-101 through 41-39-149, a person that accepts an  
270 anatomical gift of an entire body may allow embalming, burial or  
271 cremation, and use of remains in a funeral service. If the gift



272 is of a part, the person to which the part passes under Section  
273 41-39-121, upon the death of the donor and before embalming,  
274 burial, or cremation, shall cause the part to be removed without  
275 unnecessary mutilation.

276 (i) Neither the physician who attends the decedent at death  
277 nor the physician who determines the time of the decedent's death  
278 may participate in the procedures for removing or transplanting a  
279 part from the decedent.

280 (j) A physician or technician may remove a donated part from  
281 the body of a donor that the physician or technician is qualified  
282 to remove.

283 **SECTION 6.** Section 41-39-139, Mississippi Code of 1972, is  
284 amended as follows:

285 41-39-139. (a) The Mississippi Department of Public Safety  
286 may establish or contract for the establishment of a donor  
287 registry.

288 (b) The Mississippi Department of Public Safety shall  
289 cooperate with a person that administers any donor registry that  
290 this state establishes, contracts for, or recognizes for the  
291 purpose of transferring to the donor registry all relevant  
292 information regarding a donor's making, amendment to, or  
293 revocation of an anatomical gift.

294 (c) The Mississippi Department of Wildlife, Fisheries and  
295 Parks shall provide all relevant information regarding a donor's  
296 making, amendment to, or revocation of an anatomical gift to a



297 donor registry established or contracted for under this section.  
298 The donor registry shall reimburse the department for any costs  
299 associated with providing this information to the registry. If  
300 the department is not reimbursed according to this subsection, the  
301 department is absolved of all responsibility to collect and  
302 provide donor data to the registry.

303 ( \* \* \*d) A donor registry must:

304 (1) Allow a donor or other person authorized under  
305 Section 41-39-107 to include on the donor registry a statement or  
306 symbol that the donor has made, amended, or revoked an anatomical  
307 gift;

308 (2) Be accessible to a procurement organization to  
309 allow it to obtain relevant information on the donor registry to  
310 determine, at or near death of the donor or a prospective donor,  
311 whether the donor or prospective donor has made, amended, or  
312 revoked an anatomical gift; and

313 (3) Be accessible for purposes of paragraphs (1) and  
314 (2) seven (7) days a week on a twenty-four-hour basis.

315 ( \* \* \*e) Except as otherwise provided in subsection  
316 ( \* \* \*g), personally identifiable information on a donor registry  
317 about a donor or prospective donor may not be used or disclosed  
318 without the express consent of the donor, prospective donor, or  
319 person that made the anatomical gift for any purpose other than to  
320 determine, at or near death of the donor or prospective donor,



321 whether the donor or prospective donor has made, amended, or  
322 revoked an anatomical gift.

323 ( \* \* \*f) This section does not prohibit any person from  
324 creating or maintaining a donor registry that is not established  
325 by or under contract with the state. Any such registry must  
326 comply with subsections ( \* \* \*d) and ( \* \* \*e).

327 ( \* \* \*g) At the time that a person is renewing his or her  
328 driver's license, the Department of Public Safety shall ask the  
329 person if he or she would like to be a donor. If the answer is  
330 yes, the department shall inform the prospective donor that his or  
331 her decision to be a donor cannot be revoked, changed or contested  
332 after his or her death by the donor's next of kin or by any other  
333 person, and shall ask the person if he or she desires information  
334 about the person's decision to be a donor to be sent to another  
335 person or persons. If the answer is yes, the department shall  
336 obtain the name and mailing address of the person or persons  
337 designated by the prospective donor, and the donor registry shall  
338 send the information about the prospective donor's decision to the  
339 designated person or persons as requested.

340 (h) At the time that a person is applying to renew a hunting  
341 or fishing license online through the Mississippi Department of  
342 Wildlife, Fisheries and Parks' website, the website will include a  
343 question asking if the person would like to be a donor. If the  
344 answer is yes, the website application must inform the prospective  
345 donor that a decision to be a donor cannot be revoked, changed or



346 contested after the donor's death by the donor's next of kin or by  
347 any other person. The application will include a question asking  
348 the applicant if the person desires information about the person's  
349 decision to be a donor to be sent to another person or persons.  
350 If the answer is yes, the online application must obtain the name  
351 and mailing address of the person or persons designated by the  
352 prospective donor, and the donor registry shall send the  
353 information about the prospective donor's decision to the  
354 designated person or persons as requested.

355       **SECTION 7.** Section 1 of this act shall be codified as a new  
356 section in Chapter 7, Title 49, Mississippi Code of 1972.

357       **SECTION 8.** This act shall take effect and be in force from  
358 and after July 1, 2022.

