

Senate Amendments to House Bill No. 942

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

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 Title 49, Chapter 7, 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 Title 49, Chapter 7, Mississippi Code of 1972.

357 **SECTION 8.** This act shall take effect and be in force from
358 and after July 1, 2022, and shall stand repealed on June 30, 2022.

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

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.

SS26\HB942A.J

Eugene S. Clarke
Secretary of the Senate