

By: Senator(s) Hill

To: Public Health and  
Welfare

SENATE BILL NO. 2768

1 AN ACT TO AMEND SECTION 41-39-121, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A PERSON SHALL NOT BE DENIED AN ANATOMICAL GIFT,  
3 ORGAN TRANSPLANT OR RELATED TREATMENT AND SERVICES SOLELY ON THE  
4 BASIS OF THE PERSON'S VACCINATION OR IMMUNIZATION FOR CORONAVIRUS  
5 OR ITS VARIANTS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 41-39-121, Mississippi Code of 1972, is  
8 amended as follows:

9 41-39-121. (a) An anatomical gift may be made to the  
10 following persons named in the document of gift:

11 (1) A hospital; accredited medical school, dental  
12 school, college, or university; organ procurement organization; or  
13 other appropriate person, for research or education;

14 (2) Subject to subsection (b), an individual designated  
15 by the person making the anatomical gift if the individual is the  
16 recipient of the part; or

17 (3) An eye bank or tissue bank.

18 (b) If an anatomical gift to an individual under subsection  
19 (a) (2) cannot be transplanted into the individual, the part passes



20 in accordance with subsection (g) in the absence of an express,  
21 contrary indication by the person making the anatomical gift.

22 (c) If an anatomical gift of one or more specific parts or  
23 of all parts is made in a document of gift that does not name a  
24 person described in subsection (a) but identifies the purpose for  
25 which an anatomical gift may be used, the following rules apply:

26 (1) If the part is an eye and the gift is for the  
27 purpose of transplantation or therapy, the gift passes to the  
28 appropriate eye bank.

29 (2) If the part is tissue and the gift is for the  
30 purpose of transplantation or therapy, the gift passes to the  
31 appropriate tissue bank.

32 (3) If the part is an organ and the gift is for the  
33 purpose of transplantation or therapy, the gift passes to the  
34 appropriate organ procurement organization as custodian of the  
35 organ.

36 (4) If the part is an organ, an eye, or tissue and the  
37 gift is for the purpose of research or education, the gift passes  
38 to the appropriate procurement organization.

39 (d) For the purpose of subsection (c), if there is more than  
40 one (1) purpose of an anatomical gift set forth in the document of  
41 gift but the purposes are not set forth in any priority, the gift  
42 must be used for transplantation or therapy, if suitable. If the  
43 gift cannot be used for transplantation or therapy, the gift may  
44 be used for research or education.



45 (e) If an anatomical gift of one or more specific parts is  
46 made in a document of gift that does not name a person described  
47 in subsection (a) and does not identify the purpose of the gift,  
48 the gift may be used only for transplantation or therapy, and the  
49 gift passes in accordance with subsection (g).

50 (f) If a document of gift specifies only a general intent to  
51 make an anatomical gift by words such as "donor," "organ donor,"  
52 or "body donor," or by a symbol or statement of similar import,  
53 the gift may be used only for transplantation or therapy, and the  
54 gift passes in accordance with subsection (g).

55 (g) For purposes of subsections (b), (e), and (f) the  
56 following rules apply:

57 (1) If the part is an eye, the gift passes to the  
58 appropriate eye bank.

59 (2) If the part is tissue, the gift passes to the  
60 appropriate tissue bank.

61 (3) If the part is an organ, the gift passes to the  
62 appropriate organ procurement organization as custodian of the  
63 organ.

64 (h) An anatomical gift of an organ for transplantation or  
65 therapy, other than an anatomical gift under subsection (a)(2),  
66 passes to the organ procurement organization as custodian of the  
67 organ.

68 (i) If an anatomical gift does not pass pursuant to  
69 subsections (a) through (h) or the decedent's body or part is not



70 used for transplantation, therapy, research, or education, custody  
71 of the body or part passes to the person under obligation to  
72 dispose of the body or part.

73 (j) A person may not accept an anatomical gift if the person  
74 knows that the gift was not effectively made under Section  
75 41-39-109 or 41-39-119 or if the person knows that the decedent  
76 made a refusal under Section 41-39-113 that was not revoked. For  
77 purposes of the subsection, if a person knows that an anatomical  
78 gift was made on a document of gift, the person is deemed to know  
79 of any amendment or revocation of the gift or any refusal to make  
80 an anatomical gift on the same document of gift.

81 (k) Except as otherwise provided in subsection (a)(2),  
82 nothing in Sections 41-39-101 through 41-39-149 affects the  
83 allocation of organs for transplantation or therapy.

84 (l) A person shall not be denied an anatomical gift, organ  
85 transplant or related treatment and services solely on the basis  
86 of the person's vaccination or immunization for coronavirus  
87 (COVID-19) or its variants.

88 **SECTION 2.** This act shall take effect and be in force from  
89 and after July 1, 2023.

