

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date 5/15/2023</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter DHS 137</p>	
<p>4. Subject Wisconsin donor registry for anatomical gifts.</p>	
<p>5. Fund Sources Affected <input checked="" type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected N/A</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The proposed changes to Chapter DHS 137 would modify the rule to lower the age requirement for those who may make a record of anatomical gift in the Wisconsin Donor Registry. Consistent with statutory language at the time the rule last amended in 2010, the current rule provides that when you apply for a driver's permit at 15 ½, you may add your name to the Wisconsin donor registry. 2021 Wis. Act 64 amended s. 343.07 (1g) to lower the age for a driver's permit from 15 ½ to 15 years, and 2021 Wis. Act 220 similarly amended s. 157.06 (4) (a) to lower the age requirement for making an anatomical gift to 15 years, with a parent or guardian able to revoke that decision for anyone under 18 years old. The proposed rule will make Chapter DHS 137 consistent with statutes by replacing all references to 15 ½ years of age in the rule with 15 years of age.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. Public comment was solicited as required and posted. No public comments were received during the 14-day economic impact public comment period.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule is anticipated to have no economic impact or effect on small business.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule This rule seeks to lower the age requirement for registering as a potential anatomical donor, which would thereby expand the number of donors on the registry—which would further increase its potential to save lives. No viable alternatives exist to rulemaking. Without the proposed revisions to Chapter DHS 137, administrative rules regarding the Wisconsin donor registry will not be consistent with Wisconsin Statutes.</p>	
<p>16. Long Range Implications of Implementing the Rule</p>	

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The proposed changes bring the administrative rule in line with current Wisconsin Statutes .

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### 17. Compare With Approaches Being Used by Federal Government

There are federal regulations regarding the recovery and distribution of donated organs, tissues, and eyes. For organs, regulation includes the 1984-National Organ Transplant Act (NOTA-P.L. 98-507). NOTA established the framework for the OPTN within the United States, the Scientific Registry of Transplant Recipients, a government unit within the Public Health Service (Division of Transplantation) to oversee contractual activities of the OPTN and prohibited the buying and selling of organs. The regulation and distribution of donated tissue is governed by the Food and Drug Administration. These rules and regulations govern the distribution of organs and tissues once recovered. Rules regarding registries and consent for donation are determined by states.

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### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

#### Illinois:

Illinois statute allows 16- and 17-year-olds to give consent to donate their organs and tissue at the time of their death, with a single limitation. The procurement organizations must make a reasonable effort to contact a parent or guardian to ensure they approve of the donation. The parent or guardian will have the opportunity to overturn the child's decision. Once the 16- or 17-year-old turns 18, his/her decision would be considered legally binding without limitation.

Applicable law found in 755 ILCS 50/5.

#### Iowa:

Iowa statute states that an anatomical gift of a donor's body or part may be by any of the following: (1) An adult. (2) A minor, if the minor is emancipated. (3) A minor, if the minor is authorized under state law to apply for a driver's license or identification card because the minor is at least fourteen years of age, and the minor authorizes a statement or symbol indicating an anatomical gift on a driver's license, identification card, or donor registry entry with the signed approval of a parent or guardian. (4) A minor, if the minor is authorized under state law to apply for a hunting, fishing, or fur harvester license, the minor is at least fourteen years of age, and the minor authorizes a symbol indicating an anatomical gift on a hunting, fishing, or fur harvester license with the signed approval of a parent or guardian. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part. Applicable law found in Iowa Code §142C.

#### Michigan:

An anatomical gift of a donor's body or body part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided by any of the following: (a) The donor, if the donor is an adult or if the donor is a minor and meets 1 or more of the following requirements: (i) Is emancipated. (ii) Has been issued a driver license or identification card because the donor is at least 16 years of age. (b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift. Public Applicable laws are found in Michigan Public Health Code § 333.10104.

#### Minnesota:

An emancipated minor or a minor who is at least 16 years old may make an anatomical gift during the life of the minor. However, upon the death of an unemancipated minor, the minor's parent may revoke or amend an anatomical gift or may revoke the minor's refusal to make an anatomical gift. Applicable law is found in Minnesota Statute Chapter 525A.04 and 525A.

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### 19. Contact Name

Jessica Link Reeve

### 20. Contact Phone Number

608-267-0247

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**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes     No
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