



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 395

**Senate Substitute
Amendment 1**

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Contact: Richard Sweet, Senior Staff Attorney (266-2982)

Current law allows a person to make an anatomical gift by signing what is referred to in the law as a “document of gift.” In addition, certain persons listed in the statutes in order of priority are permitted to make a document of gift for a deceased person unless the deceased person has, at the time of death, made an unrevoked refusal to make an anatomical gift. The priority list in the statutes is as follows: (1) spouse; (2) adult son or daughter; (3) parent; (4) adult brother or sister; (5) grandparent; (6) guardian of the person; and (7) health care agent.

Current law provides that a person in the priority list described above may not make an anatomical gift if a person in a prior class is available and objects, if the person knows of a refusal or contrary indications by the deceased person, or if the person knows of an objection by a member of the person’s class or a prior class. A person in the priority list may make an anatomical gift by either executing a document of gift that is signed by the person, or by making a telegraphic, recorded telephonic or other recorded message, or other form of communication that is reduced to writing and signed by the recipient at the time it is received.

Senate Substitute Amendment 1 provides that a hospital, organ procurement organization (OPO), tissue bank, coroner, or medical examiner that provides a document of gift to a potential donor or to a person in the statutory priority list must include in the document of gift the following statement:

I understand that donated bones or tissues, including skin, may have numerous uses, including for reconstructive and cosmetic purposes, and that multiple organizations, including nonprofit and for-profit organizations, may recover, process, or distribute the donations. I further understand that I may, by this document, limit the use of the bones or tissues, including skin, that are donated or types of organizations that recover, process, or distribute the donation.

A document of gift that includes the above statement must include a line or space after the statement for the donor or other person to sign or initial to acknowledge that he or she has read the statement or that the statement has been read aloud to him or her. Failure of the donor or other person to place his or her initials or signature on the line or space is a refusal to make an anatomical gift of bones or tissues. In addition, the document of gift must include a line or space for the donor or other person to sign or initial and specify any limitation on the use of bones or tissues or on the types of organizations that recover, process, or distribute the donation.

Under the substitute amendment, if the potential donor or other person makes an anatomical gift, the hospital, OPO, tissue bank, coroner, or medical examiner that provides the document of gift must also provide the donor or other person with the telephone number and address of the agency or organization that recovers the anatomical gift.

With respect to anatomical gifts that are made for a deceased person by a person in the statutory priority list and that are made, for example, through a telephone conversation, the hospital, OPO, tissue bank, coroner, or medical examiner requesting the anatomical gift must do all of the following: (1) inform the person that the conversation is recorded and that a recorded copy of the conversation is available upon request and, if requested, provide such a copy; (2) read aloud to the person the statement quoted above; and (3) note on the request form that the person has been read the statement and note any limitations that the person imposes on the use of the bones or tissues or the types of organizations that recover, process, or distribute the donation. If this procedure is followed, the person's signature or initials following the statement are not required.

A hospital, OPO, tissue bank, coroner, or medical examiner making the request for an anatomical gift must provide the donor or the person in the statutory priority list with a copy of any document of gift that is executed under the requirements of the substitute amendment.

Whoever fails to comply with the requirement to provide the statement quoted above may be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation.

The substitute amendment also requires the Department of Health and Family Services (DHFS) to study and, by January 1, 2007, report to the Legislature concerning the need for a uniform document of gift form specifically for hospitals, OPOs, tissue banks, coroners, or medical examiner to provide to potential donors or other persons in the statutory priority list. In conducting the study, DHFS must consult with hospitals, OPOs, tissue banks, coroners, and medical examiners.

The substitute amendment takes effect on the first day of the seventh month beginning after publication and applies to requests for anatomical gifts that are made on or after that date.

Legislative History

On January 18, 2006, the Senate Committee on Health, Children, Families, Aging and Long Term Care recommended adoption of Senate Substitute Amendment 1, and passage of the bill as amended, both by votes of Ayes, 5; Noes, 0.

RNS:rv:jal