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HOUSE BILL 253

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Al Park

AN ACT

**RELATING TO ANATOMICAL GIFTS; CLARIFYING THE LEGAL BASIS OF A
DOCUMENT OF GIFT; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 24-6A-5 NMSA 1978 (being Laws 1995,
Chapter 116, Section 5, as amended) is amended to read:**

**"24-6A-5. REQUIRED REQUEST--SEARCH AND NOTIFICATION--
CIVIL OR CRIMINAL IMMUNITY.--**

**A. If, at or near the time of death of a patient,
there is no medical record that the patient has made or
refused to make an anatomical gift, the hospital administrator
or a representative designated by the administrator shall
discuss the option to make or refuse to make an anatomical
gift and request the making of an anatomical gift pursuant to**

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1 Subsection A of Section 24-6A-3 NMSA 1978. The request shall
2 be made with reasonable discretion and sensitivity to the
3 circumstances of the family. A request is not required if the
4 gift is not suitable, based upon accepted medical standards,
5 for a purpose specified in Section 24-6A-6 NMSA 1978. An
6 entry shall be made in the medical record of the patient,
7 stating the name and affiliation of the ~~[individual]~~ person
8 making the request and of the name, response and relationship
9 to the patient of the person to whom the request was made.
10 The secretary of health may adopt ~~[regulations]~~ rules to
11 implement this subsection.

12 B. The following persons shall make a reasonable
13 search for a document of gift or other information identifying
14 the bearer as a donor or as ~~[an individual]~~ a person who has
15 refused to make an anatomical gift:

16 (1) a law enforcement officer, firefighter,
17 emergency medical technician, emergency medical services first
18 responder or other emergency rescuer finding ~~[an individual]~~ a
19 person who the searcher believes is dead or near death; and

20 (2) a hospital, upon the admission of ~~[an~~
21 ~~individual]~~ a person at or near the time of death, if there is
22 not immediately available any other source of that
23 information.

24 C. If a document of gift or evidence of refusal to
25 make an anatomical gift is located by the search required by

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1 Paragraph (1) of Subsection B of this section and the
2 [~~individual~~] person or body to whom [~~it~~] the document or
3 evidence relates is taken to a hospital, the hospital shall be
4 notified of the contents and the document or other evidence
5 shall be sent to the hospital.

6 D. If, at or near the time of death of a patient,
7 a hospital knows that an anatomical gift has been made
8 pursuant to Subsection A of Section 24-6A-3 NMSA 1978, [~~or~~]
9 that a release and removal of a part has been permitted
10 pursuant to Section 24-6A-4 NMSA 1978, [~~or~~] that a patient or
11 [~~an individual~~] a person identified as in transit to the
12 hospital is a donor or that an anatomical gift has been made
13 in a document of gift, the hospital shall notify the donee if
14 one is named and known to the hospital; if not, it shall
15 notify an appropriate procurement organization. The hospital
16 shall cooperate in the implementation of the anatomical gift
17 or release and removal of a part.

18 E. A person who in good faith acts or attempts to
19 act in accordance with the provisions of the Uniform
20 Anatomical Gift Act or the anatomical gift laws of another
21 state is not liable for damages in a civil action or subject
22 to prosecution in a criminal proceeding for his acts. "

23 Section 2. Section 24-6A-6 NMSA 1978 (being Laws 1995,
24 Chapter 116, Section 6) is amended to read:

25 "24-6A-6. PERSONS WHO MAY BECOME DONEES--PURPOSES FOR

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1 WHICH ANATOMICAL GIFTS MAY BE MADE. --

2 A. The following persons may become donees of
3 anatomical gifts for the purposes stated:

4 (1) a hospital, physician, procurement
5 organization or an accredited medical school, dental school,
6 college or university, for transplantation, therapy, medical
7 or dental education, research or advancement of medical or
8 dental science; or

9 (2) a designated individual, for
10 transplantation or therapy needed by that individual. A donee
11 may not be designated on the basis of the donee's race, age,
12 religion, color, national origin, ancestry, gender, sexual
13 orientation or physical or mental handicaps.

14 B. An anatomical gift may be made to a designated
15 donee or without designating a donee. If a donee is not
16 designated in the document of gift or if the donee is not
17 available or rejects the anatomical gift, the anatomical gift
18 may be accepted by any hospital or procurement organization.

19 C. If the donee knows of the decedent's refusal or
20 contrary indications to make an anatomical gift or that an
21 anatomical gift by a member of a class having priority to act
22 is opposed by a member of the same class or a prior class
23 under Subsection A of Section [~~3 of the Uniform Anatomical~~
24 ~~Gift Act (1987)] 24-6A-3 NMSA 1978, the donee shall not accept
25 the anatomical gift. "~~

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Section 3. A new section of the Uniform Anatomical Gift Act is enacted to read:

"[NEW MATERIAL] DOCUMENT OF GIFT AS A LEGAL DOCUMENT. -- A document of gift, which includes a motor vehicle driver's license, constitutes a legal document and has sufficient legal authority to be accepted by a designated or undesignated donee of anatomical gifts pursuant to the Uniform Anatomical Gift Act. "