

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC's office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT



SPONSOR: HJC DATE TYPED: 02/08/02 HB 253/HJCS

SHORT TITLE: Anatomical Gifts SB _____

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	NFI				

SOURCES OF INFORMATION

Health Policy Commission (HPC)
 Attorney General's Office (AG)
 Department of Health (DOH)

SUMMARY

Synopsis of HJC Substitute

House Bill 253/HJCS amends the Anatomical Gift Act to expressly contemplate use of documents of gifts as a method of transferring an anatomical gift from one person to another.

HB 253/HJCS adds language that specifies the manner in which a donor may indicate his intentions on a state driver's license application. The Motor Vehicle Department (MVD) is required to provide a space on motor vehicle licenses that will identify a donor. MVD must develop an application and process to designate licensees as donors. The application must require the signature of the donor and the parents of the donor if the donor is under sixteen years of age.

The MVD shall create a statewide registry and shall provide on-line access to the donor registry to organ procurement agencies and procurement organizations under the Uniform Anatomical Gift Act. MVD will also allow access to its donor records by authorized hospitals or organ and tissue donor program personnel for verification of donor status of individual prior to or at time of donor's death.

Significant Issues

The AG says that the phenomenon of anatomical gifts is both new and serious enough that the common law of contracts has been imperfect in keeping stride. Along with the vast majority of states, New Mexico has adopted the Uniform Anatomical Gifts Act in large part. The substantive addition HB 253/HJCS seeks to make is not part of the Uniform Act as it was first published in the mid-1980s. Yet the Act as it now stands does not necessarily convey to the courts how much respect they should give to the written instruments that give anatomical gifts. Courts often are asked by litigants to choose between wishes made in such a document versus verbal directions a dying person may make to friends or loved ones. This statutory change should obviate any question about the legal efficacy of a document purporting to make an anatomical gift, including drivers' licenses, at least to the extent that medical people may rely on the documents. If they do, then the Act affords them the protection of a limitation of liability for following the instructions in the documents.

The specification of a particular form in the statute ought to clarify all ambiguity regarding whether a person wishes to be an organ donor. This certainty will allow medical workers to proceed within the short time frame available for harvest of organs and be confident of the donor's intentions.

DW/ar/njw