

SENATE BILL No. 700

November 30, 1989, Introduced by Senators DI NELLO,
WELBORN, POSTHUMUS, SCHWARZ, CHERRY and CONROY and
referred to the Committee on Health Policy.

A bill to amend sections 10102, 10104, and 10107 of Act
No. 368 of the Public Acts of 1978, entitled as amended
"Public health code,"
being sections 333.10102, 333.10104, and 333.10107 of the
Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 10102, 10104, and 10107 of Act No. 368
2 of the Public Acts of 1978, being sections 333.10102, 333.10104,
3 and 333.10107 of the Michigan Compiled Laws, are amended to read
4 as follows:

5 Sec. 10102. (1) An individual WHO IS of sound mind and ~~18~~
6 ~~years of age or more~~ MEETS EITHER OF THE FOLLOWING REQUIREMENTS
7 may give all or any physical part of the individual's body for
8 any purpose specified in section 10103, the gift to take effect
9 upon death: —

1 (A) IS AN ADULT..

2 (B) IS A MINOR AND THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN
3 HAS SIGNED A DOCUMENT PURSUANT TO SECTION 10104(2).

4 (2) Any of the following persons, in order of priority
5 stated, when persons in prior classes are not available at the
6 time of death, and in the absence of actual notice of contrary
7 indications by the decedent or actual notice of opposition by a
8 member of the same or a prior class, may give all or any physical
9 part of the decedent's body for any purpose specified in section
10 10103:

11 (a) The spouse.

12 (b) An adult son or daughter.

13 (c) Either parent.

14 (d) An adult brother or sister.

15 (e) A guardian of the person of the decedent at the time of
16 the death.

17 (f) Any other person authorized or under obligation to dis-
18 pose of the body.

19 (3) If the donee has actual notice of contrary indications
20 by the decedent or that a gift by a member of a class is opposed
21 by a member of the same or a prior class, the donee shall not
22 accept the gift. The persons authorized by subsection (2) may
23 make the gift after or immediately before death.

24 (4) A gift of all or a physical part of a body authorizes
25 any examination necessary to assure medical acceptability of the
26 gift for the purposes intended.

1 (5) The rights of the donee created by the gift are
2 paramount to the rights of others except as provided by section
3 10108(4).

4 Sec. 10104. (1) A gift of all or a physical part of the
5 body under section ~~10102(1)~~ 10102(1)(A) may be made by will.
6 The gift becomes effective upon the death of the testator without
7 waiting for probate. If the will is not probated, or if it is
8 declared invalid for testamentary purposes, the gift, to the
9 extent that it has been acted upon in good faith, is nevertheless
10 valid and effective.

11 (2) A gift of all or a physical part of the body under sec-
12 tion 10102(1) may also be made by document other than a will.
13 The gift becomes effective upon the death of the donor. The doc-
14 ument, which may be a card designed to be carried on the person,
15 shall be signed by the donor in the presence of 2 witnesses who
16 shall sign the document in the donor's presence. IF THE DONOR IS
17 A MINOR, 1 OF THE 2 WITNESSES WHO SIGNS THE DOCUMENT SHALL BE A
18 PARENT OR GUARDIAN OF THE MINOR. If the donor cannot sign, the
19 document may be signed for the donor at his or her direction and
20 in his or her presence in the presence of 2 witnesses who shall
21 sign the document in the donor's presence. Delivery of the docu-
22 ment of gift during the donor's lifetime is not necessary to make
23 the gift valid. A document which conforms substantially to the
24 following form is sufficient for the purposes of this
25 subsection:

Uniform Donor Card

of.....

Print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

I give: (a) any needed organs or physical parts

(b) only the following organs or physical parts

Specify the organ(s) or physical part(s)

For the purposes of transplantation, therapy, medical research or education;

(c) my body for anatomical study if needed.

Limitations or special wishes, if any:

Signed by the donor and the following 2 witnesses in the presence of each other:

Signature of donor

Date of birth of donor

Date signed

City and state

Witness

Witness

(3) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a physical part.

(4) Notwithstanding section 10108(4), the donor may designate in his or her will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available,

1 the donee or other person authorized to accept the gift may
2 employ or authorize any surgeon or physician for the purpose.

3 (5) Any gift by a person designated in section 10102(2)
4 shall be made by a document signed by the person or made by the
5 person's telegraphic, recorded telephonic, or other recorded
6 message.

7 (6) A document of gift executed in another state or foreign
8 country and in accord with the laws of that state or country is
9 valid as a document of gift in this state, although the document
10 does not conform substantially to the form set forth in subsec-
11 tion (2).

12 Sec. 10107. (1) If the will, card, or other document or
13 executed copy thereof, has been delivered to a specified donee,
14 the donor may amend or revoke the gift by any of the following
15 methods:

16 (a) The execution and delivery to the donee of a signed
17 statement. IF THE DONOR IS A MINOR, THE STATEMENT SHALL ALSO BE
18 SIGNED BY A PARENT OR GUARDIAN OF THE MINOR.

19 (b) An oral statement made in the presence of 2 persons and
20 communicated to the donee. IF THE DONOR IS A MINOR, 1 OF THE 2
21 PERSONS REQUIRED UNDER THIS SUBDIVISION SHALL BE A PARENT OR
22 GUARDIAN OF THE MINOR.

23 (c) A statement during a terminal illness or injury
24 addressed to an attending physician and communicated to the
25 donee. IF THE DONOR IS A MINOR, THE STATEMENT SHALL BE CONCURRED
26 IN BY A PARENT OR GUARDIAN OF THE MINOR, AND THE CONCURRENCE
27 SHALL BE COMMUNICATED AT LEAST TO THE ATTENDING PHYSICIAN.

1 (d) A signed card or document found on the donor's person or
2 in the donor's effects. IF THE DONOR IS A MINOR, THE CARD OR
3 DOCUMENT SHALL ALSO BE SIGNED BY A PARENT OR GUARDIAN OF THE
4 MINOR.

5 (2) Any document of gift which has not been delivered to the
6 donee may be revoked by the donor in the manner set out in sub-
7 section (1), or by destruction, cancellation, or mutilation of
8 the document and all executed copies thereof.

9 (3) Any gift made by a will may also be amended or revoked
10 in the manner provided for amendment or revocation of wills, or
11 as provided in subsection (1).