

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1198

Introduced by

Representative Keiser

1 A BILL for an Act to amend and reenact section 23-06.2-05 and subsection 1 of section
2 39-06-14 of the North Dakota Century Code, relating to an individual's decision to be an organ
3 donor.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 23-06.2-05 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **23-06.2-05. Request for consent to an anatomical gift - Protocol - Exceptions.**

8 1. ~~When~~ If death occurs, or is deemed to be imminent, in a hospital to a patient who
9 has not made an anatomical gift, the hospital administrator or a designated
10 representative, other than ~~a person~~ an individual connected with the determination
11 of death, shall request the ~~person~~ individual described in subsection 1 of section
12 23-06.2-03, ~~in the order of priority stated, when persons in prior classes are not~~
13 ~~available at the time of death, and~~ in the absence of actual notice of contrary
14 indication by the decedent or ~~one~~ an individual in a ~~prior~~ superior class, to consent
15 to the gift of organs of the decedent's body as an anatomical gift. The hospital
16 shall develop a protocol that must be followed every time consent is requested for
17 the gift of organs which includes the training of employees or other ~~persons~~
18 individuals designated to make ~~the~~ a request for the gift of organs, the procedure
19 to be followed in making ~~the~~ a request, and a form of record identifying the ~~person~~
20 individual making the request ~~and~~, the response to the request, and the
21 responder's relationship to the decedent. The protocol must encourage
22 reasonable discretion and sensitivity to the family circumstances in all discussions
23 regarding anatomical gifts. The procedure for making a request for the gift of

organs must include informing the individual to whom a request is made of the results of any search performed under subsection 4.

2. If, based upon medical criteria, a request would not yield an anatomical gift that would be suitable for use, there is authorized an exception to the request required by this section.

3. If, based upon the attending physician's special and peculiar knowledge of the decedent or the circumstances surrounding the death of the patient, the attending physician determines ~~that~~ a request will not be made for an anatomical gift, that determination must be noted in the patient's medical record. The determination is an exception to the request required by this section.

4. A reasonable search for a document of gift or other information identifying the bearer as an anatomical gift donor or as an individual who has refused to make an anatomical gift must be made by:

a. A law enforcement officer, ~~fireman~~ a firefighter, a paramedic, or any other emergency rescuer upon finding an individual whom the searcher believes to be dead or near death; and

b. A hospital representative ~~upon the admission of an individual~~, at or near the time of death of a patient or an individual identified as in transit to the hospital, if there is no other source of ~~that~~ donation information immediately available.

5. If a document of gift or evidence of refusal to make a gift is located by the search required by subdivision a of subsection 4, a hospital must be notified of the contents and the document must be sent to the hospital with the individual to whom it applies.

6. ~~If, at or near the time of death, a hospital knows that an anatomical gift has been made pursuant to subsection 1 of section 23-06.2-03 or has been authorized pursuant to section 23-06.2-04, or that a patient or an individual identified as in transit to the hospital is a donor,~~ is at or near death, the hospital shall notify an appropriate organ procurement organization and if a donee is specified, the specified donee if one is specified; if not, the hospital shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of ~~the~~ an anatomical gift.

- 1 7. Any person who fails to discharge the duties imposed by this section is not subject
2 to criminal or civil liability but is subject to appropriate administrative sanctions.

3 **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06-14 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 1. The director, upon payment of a ten dollar fee, shall issue to every qualified
6 applicant an operator's license as applied for in the form prescribed by the director.
7 The license must bear a distinguishing number assigned to the licensee, a color
8 photograph of the licensee, the full name, date of birth, residence address, ~~and~~ a
9 brief description of the licensee, and ~~either~~ a facsimile of the signature of the
10 licensee or a space upon which the licensee shall write the licensee's usual
11 signature. If the licensee is under the age of twenty-one, the photograph must be
12 against a color border or background that is different from the color used for other
13 licensees. If requested on the license application, the license issued by the
14 director must include a statement making an anatomical gift under chapter 23-06.2.
15 ~~No~~ A license is not valid until ~~it has been~~ the license is signed by the licensee with
16 the licensee's usual signature. The department shall develop a system to require
17 each applicant for an operator's license or renewal of an operator's license to
18 determine whether ~~or not~~ the applicant wishes to be a donor under chapter
19 23-06.2, and this system must include provision of written donor education material
20 to each applicant designated as a donor. For purposes of verification, an officer
21 may require the licensee to write the licensee's signature in the presence of the
22 officer. The director may adopt rules, pursuant to chapter 28-32, relating to the
23 manner in which photographs are to be obtained and placed on operator's
24 licenses. The photograph may be produced by digital imaging or other electronic
25 means and is not a public record.