

Introduced by

Senators Kilzer, Hogue, J. Lee, Nething

Representatives Klemin, Kretschmar

1 A BILL for an Act to amend and reenact subsection 3 of section 23-06.6-13 and section  
2 23-06.6-20 of the North Dakota Century Code, relating to revisions and updates to the revised  
3 Uniform Anatomical Gift Act.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 23-06.6-13 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 3. When a hospital refers an individual at or near death to a procurement  
8 organization, the organization may conduct any reasonable examination necessary  
9 to ensure the medical suitability of a part that is or could be the subject of an  
10 anatomical gift for transplantation, therapy, research, or education from a donor or  
11 a prospective donor. During the examination period, measures necessary to  
12 ensure the medical suitability of the part may not be withdrawn unless the hospital  
13 or procurement organization knows that the individual expressed a contrary intent  
14 or the measures are contrary to reasonable medical standards.

15 **SECTION 2. AMENDMENT.** Section 23-06.6-20 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **23-06.6-20. Effect of anatomical gift on advance health care directive.**

18 1. In this section:  
19 a. "Advance health care directive" means a health care directive under chapter  
20 23-06.5, a power of attorney for health care, or a record signed or authorized  
21 by a prospective donor containing the prospective donor's direction  
22 concerning a health care decision for the prospective donor.

- 1           b. "Declaration" means a record signed by a prospective donor specifying the  
2           circumstances under which a life support system may be withheld or  
3           withdrawn from the prospective donor.  
4           c. "Health care decision" means any decision ~~made~~ regarding the health care of  
5           the prospective donor.

- 6           2. If a prospective donor has a declaration or advance health care directive; and the  
7           terms of the declaration or directive and the express or implied terms of a potential  
8           anatomical gift are in conflict with regard to the administration of measures  
9           necessary to ensure the medical suitability of an organ a part for transplantation or  
10          therapy may not be withheld or withdrawn from the prospective donor, unless the  
11          ~~declaration or advance health care directive expressly provides to the contrary, the~~  
12          prospective donor's attending physician and prospective donor shall confer to  
13          resolve the conflict. If the prospective donor is incapable of resolving the conflict,  
14          an agent acting under the prospective donor's declaration or directive or, if none or  
15          the agent is not reasonably available, another person authorized by law other than  
16          this chapter to make health care decisions on behalf of the prospective donor shall  
17          act for the donor to resolve the conflict. If involved in resolving the conflict, the  
18          agent or other person authorized by law shall make the decision in accordance  
19          with the agent's or person's knowledge of the prospective donor's wishes and  
20          religious or moral beliefs as stated orally or as contained in the declaration or  
21          advance health care directive. The conflict must be resolved as expeditiously as  
22          possible. If the conflict is not resolved expeditiously, the direction of the  
23          declaration or advance directive controls. Information relevant to the resolution of  
24          the conflict may be obtained from the appropriate procurement organization and  
25          any other person authorized to make an anatomical gift for the prospective donor  
26          under section 23-06.6-09. Before resolution of the conflict, measures necessary to  
27          ensure the medical suitability of the part may not be withheld or withdrawn from the  
28          prospective donor if withholding or withdrawing the measures is not contrary to  
29          reasonable medical standards.