

**SENATE BILL NO. 2112**

Introduced by

Senators Brown, Syverson, J. Lee, Flakoll

Representatives Ekstrom, Boehning

1 A BILL for an Act to amend and reenact sections 23-06.2-01, 23-06.2-02, and 39-06-03.1 of the  
2 North Dakota Century Code, relating to identification as an organ donor on nondriver photo  
3 identification cards.

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

5 **SECTION 1. AMENDMENT.** Section 23-06.2-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **23-06.2-01. Definitions.** As used in this chapter, unless the context or subject matter  
8 otherwise requires:

- 9 1. "Anatomical gift" means a donation of all or part of a human body to take effect  
10 upon or after death.
- 11 2. "Decedent" means a deceased individual and includes a stillborn infant or fetus.
- 12 3. "Document of gift" means a card;<sup>1</sup> a statement attached to or imprinted upon a  
13 motor vehicle operator's license; or permit or nondriver photo identification card  
14 issued by the department of transportation; a will;<sup>2</sup> or any other writing used to  
15 make an anatomical gift.
- 16 4. "Donor" means an individual who makes an anatomical gift of all or part of the  
17 individual's body.
- 18 5. "Enucleator" means an individual who has successfully completed a course in eye  
19 enucleation conducted by the department of ophthalmology of an accredited  
20 college of medicine that has been approved by the state board of medical  
21 examiners.
- 22 6. "Hospital" means a facility licensed, accredited, or approved as a hospital under  
23 the laws of any state and includes a hospital operated by the United States

- 1 government, a state, or a subdivision thereof, although not required to be licensed  
2 under state law.
- 3 7. "Part" means an organ, tissue, eye, bone, artery, blood, fluid, and any other portion  
4 of a human body.
- 5 8. "Physician" or "surgeon" means an individual licensed or authorized to practice  
6 medicine and surgery or osteopathy and surgery under the laws of any state.
- 7 9. "Procurement organization" means a person licensed, accredited, or approved  
8 under the laws of any state for procurement, distribution, or storage of human  
9 bodies or parts thereof.
- 10 10. "State" means any state, district, commonwealth, territory, insular possession, or  
11 other area subject to the legislative authority of the United States of America.
- 12 11. "Technician" means an individual who is licensed or certified by the state board of  
13 medical examiners to remove or process a part.

14 **SECTION 2. AMENDMENT.** Section 23-06.2-02 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **23-06.2-02. Making, amending, revoking, and refusing to make anatomical gifts**  
17 **by individual.**

- 18 1. An individual who has attained eighteen years of age may make an anatomical gift  
19 for any of the purposes specified in subsection 1 of section 23-06.2-06 or may  
20 refuse to make an anatomical gift. An individual may limit an anatomical gift to one  
21 or more of the purposes specified in subsection 1 of section 23-06.2-06.
- 22 2. An anatomical gift may be made by a document of gift.
- 23 a. A document of gift must be signed by the donor. If the donor cannot sign, the  
24 document of gift must state that it has been signed by another individual and  
25 by two witnesses, all of whom have signed at the direction and in the  
26 presence of the donor and in the presence of each other.
- 27 b. A document of gift may be a statement attached to or imprinted upon a  
28 donor's motor vehicle operator's license; or permit or nondriver photo  
29 identification card issued by the department of transportation subject to  
30 subdivision a. Revocation, suspension, expiration, or cancellation of the  
31 license, permit, or identification card does not invalidate the anatomical gift.

- 1           c. Notwithstanding subsection 2 of section 23-06.2-08, a document of gift may  
2           designate a particular physician or surgeon to carry out the appropriate  
3           procedures. In the absence of a designation or if the designee is not  
4           available, the donee or other person authorized to accept the anatomical gift  
5           may employ or authorize any physician, surgeon, technician, or enucleator for  
6           the purpose.
- 7           3. An anatomical gift by will becomes effective upon death of the testator without  
8           waiting for probate. If the will is not probated, or if, after death, it is declared invalid  
9           for testamentary purposes, the gift is nevertheless valid.
- 10          4. The donor may amend or revoke an anatomical gift, not made by will, only by:
- 11          a. A signed statement;
- 12          b. An oral statement made in the presence of two individuals;
- 13          c. Any form of communication during a terminal illness or injury addressed to a  
14          physician or surgeon; or
- 15          d. The delivery of a signed statement to a specified donee to whom a document  
16          of gift had been delivered.
- 17          5. An anatomical gift made by a will may be amended or revoked in the manner  
18          provided for amendment or revocation of wills, or as provided in subsection 4.
- 19          6. An anatomical gift that is not revoked by the donor is irrevocable and does not  
20          require the consent or concurrence of any other person after the death of the donor  
21          but is subject to subsection 2 of section 23-06.2-11.
- 22          7. A potential donor may refuse to make an anatomical gift by a writing executed in  
23          the same manner as an anatomical gift is made or any other instrument used to  
24          identify the individual as refusing to make an anatomical gift. It may be an oral  
25          statement or other form of communication during a terminal illness or injury.
- 26          8. An anatomical gift of a part by a donor pursuant to subsection 1 is not a refusal to  
27          give other parts in the absence of contrary indications by the donor and is not a  
28          limitation on a gift or release of other parts pursuant to sections 23-06.2-03 and  
29          23-06.2-04.
- 30          9. A revocation or amendment of an anatomical gift by a donor is not a refusal to  
31          make another anatomical gift in the absence of contrary indications by the donor.

1           If the donor intends a revocation to be a refusal to make an anatomical gift, the  
2           donor must make a refusal pursuant to subsection 7.

3           **SECTION 3. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **39-06-03.1. Nondriver photo identification card issued by director - Release of**  
6 **information - Penalty - Public awareness.**

- 7           1. The director shall issue upon request a nondriver color photo identification card to  
8 any North Dakota resident who fulfills the requirements of this section. An  
9 application for an identification card must be made on a form furnished by the  
10 director. The application must provide for the voluntary identification of the  
11 applicant as a donor under the provisions of chapter 23-06.2. If requested on the  
12 identification card application, the identification card issued by the director must  
13 include a statement making an anatomical gift under chapter 23-06.2. If the person  
14 is under the age of eighteen or at least the age of eighteen and under the age of  
15 twenty-one, the photo must be against the same color background required on a  
16 motor vehicle operator's license for an operator of that age.
- 17           2. The name and date of birth on all original applications must be verified by a birth  
18 certificate or other satisfactory evidence. Applicants must produce documents  
19 which will be acceptable as listed below:
- 20           a. Birth certificate.
- 21           b. Any other documentary evidence which confirms to the satisfaction of the  
22 examining officer the true identity and date of birth of the applicant.
- 23           3. The fee is eight dollars. Fees collected pursuant to this section must be paid  
24 monthly into the highway fund in the state treasury.
- 25           4. Any information obtained by the director from an applicant for the issuance,  
26 renewal, or replacement of an identification card issuable pursuant to this chapter  
27 may only be released in accordance with the provisions of section 39-16-03.
- 28           5. It is a class B misdemeanor for any person, except the director or the director's  
29 authorized agent, to print or otherwise produce or reproduce cards or their  
30 components, which may be utilized as identification cards issued pursuant to this  
31 section.

- 1           6.    The director ~~is hereby authorized to utilize whatever advertising deemed necessary~~  
2            ~~to make the public aware~~ may advertise the availability and the use of the card and  
3            ~~its use.~~
- 4           7.    Identification cards issued pursuant to this section ~~shall be~~ are sufficient  
5            identification ~~whenever~~ for all identification ~~is required~~ purposes.
- 6           8.    The director shall cancel any card upon determining that the holder is not entitled  
7            to the issuance of the card under the laws of this state, or the holder has failed to  
8            give the required or correct information to the director, or has committed fraud in  
9            making ~~such~~ the application, or the fee was in the form of an insufficient or  
10           no-account check. Upon cancellation, the holder shall surrender ~~such~~ the card to  
11           the director. When a cancellation is in effect, any law enforcement officer may take  
12           custody of ~~such~~ the card.
- 13          9.    A duplicate card may be obtained by making an application and paying an eight  
14           dollar fee. For a cardholder who has reached the age of eighteen or twenty-one, a  
15           replacement card may be obtained by making an application and paying an eight  
16           dollar fee.