

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 17-223

BY SENATOR(S) Gardner, Cooke, Guzman, Holbert, Kagan, Crowder, Lambert, Martinez Humenik;
also REPRESENTATIVE(S) Herod, Foote, Lee, Willett, Wist, Coleman, Gray, Valdez.

CONCERNING THE NONSUBSTANTIVE RELOCATION OF LAWS RELATED TO THE TREATMENT OF HUMAN BODIES AFTER DEATH FROM TITLE 12, COLORADO REVISED STATUTES, AS PART OF THE ORGANIZATIONAL RECODIFICATION OF TITLE 12.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** parts 2 and 3 to article 19 of title 15 as follows:

PART 2 REVISED UNIFORM ANATOMICAL GIFT ACT

15-19-201. [Formerly 12-34-101] Short title. ~~This part shall be known and may be cited as~~ THE SHORT TITLE OF THIS PART 2 IS the "Revised Uniform Anatomical Gift Act".

15-19-202. [Formerly 12-34-102] Definitions. In this part ~~+~~ PART

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

2:

(1) "Adult" means an individual who is at least eighteen years of age.

(2) "Agent" means an individual:

(A) Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

(B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body, to take effect after the donor's death, for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this ~~part~~ PART 2, a fetus.

(5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under ~~section 12-34-111~~ SECTION 15-19-211.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the

department of revenue to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of revenue or the department's agent.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is under eighteen years of age.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual authorized to practice

medicine or osteopathy under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(23) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(24) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(25) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) "Refusal" means a record created under ~~section 12-34-107~~ SECTION 15-19-207 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician" means an individual determined to be qualified

to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

15-19-203. [Formerly 12-34-103] Applicability. This ~~part~~ PART 2 applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

15-19-204. [Formerly 12-34-104] Who may make anatomical gift before donor's death. Subject to ~~section 12-34-108~~ SECTION 15-19-208, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in ~~section 12-34-105~~ SECTION 15-19-205 by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(A) Emancipated; or

(B) Authorized under state law to apply for a driver's license because the donor is at least sixteen years of age;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor;
or

(4) The donor's guardian.

15-19-205. [Formerly 12-34-105] Manner of making anatomical gift before donor's death. (a) A donor may make an anatomical gift:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) In a will;

(3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (b) of this section.

(b) A donor or other person authorized to make an anatomical gift under ~~section 12-34-104~~ SECTION 15-19-204 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in ~~paragraph (1) of this subsection (b)~~ SUBSECTION (b)(1) OF THIS SECTION.

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

15-19-206. [Formerly 12-34-106] Amending or revoking anatomical gift before donor's death. (a) Subject to ~~section 12-34-108~~ SECTION 15-19-208, a donor or other person authorized to make an anatomical gift under ~~section 12-34-104~~ SECTION 15-19-204 may amend or revoke an anatomical gift by:

(1) A record signed by:

(A) The donor;

(B) The other person; or

(C) Subject to subsection (b) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to ~~subparagraph (C) of paragraph (1) of subsection (a)~~ SUBSECTION (a)(1)(C) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) State that it has been signed and witnessed as provided in ~~paragraph (1) of this subsection (b)~~ SUBSECTION (b)(1) OF THIS SECTION.

(c) Subject to ~~section 12-34-108~~ SECTION 15-19-208, a donor or other person authorized to make an anatomical gift under ~~section 12-34-104~~ SECTION 15-19-204 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

15-19-207. [Formerly 12-34-107] Refusal to make anatomical gift - effect of refusal. (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) A record signed by:

(A) The individual; or

(B) Subject to subsection (b) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to ~~subparagraph (B) of paragraph (1) of subsection (a)~~ SUBSECTION (a)(1)(B) of this section must:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) State that it has been signed and witnessed as provided in ~~paragraph (1) of this subsection (b)~~ SUBSECTION (b)(1) OF THIS SECTION.

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) In the manner provided in subsection (a) of this section for making a refusal;

(2) By subsequently making an anatomical gift pursuant to ~~section 12-34-105~~ SECTION 15-19-205 that is inconsistent with the refusal; or

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in ~~section 12-34-108 (h)~~ SECTION 15-19-208 (h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

15-19-208. [Formerly 12-34-108] Preclusive effect of anatomical gift, amendment, or revocation. (a) Except as otherwise provided in subsection (g) of this section and subject to subsection (f) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under ~~section 12-34-105~~ SECTION 15-19-205 or an amendment to an anatomical gift of the donor's body or part under ~~section 12-34-106~~ SECTION 15-19-206.

(b) A donor's revocation of an anatomical gift of the donor's body or part under ~~section 12-34-106~~ SECTION 15-19-206 is not a refusal and does not bar another person specified in ~~section 12-34-104 or 12-34-109~~ SECTION 15-19-204 OR 15-19-209 from making an anatomical gift of the donor's body or part under ~~section 12-34-105 or 12-34-110~~ SECTION 15-19-205 OR 15-19-210.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under ~~section 12-34-105~~ SECTION 15-19-205 or an amendment to an anatomical gift of the donor's body or part under ~~section 12-34-106~~ SECTION 15-19-206, another person may not make, amend, or revoke the gift of the donor's body or part under ~~section 12-34-110~~ SECTION 15-19-210.

(d) A revocation of an anatomical gift of a donor's body or part under ~~section 12-34-106~~ SECTION 15-19-206 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under ~~section 12-34-105 or 12-34-110~~ SECTION 15-19-205 OR 15-19-210.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ~~section 12-34-104~~ SECTION 15-19-204, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ~~section 12-34-104~~ SECTION 15-19-204, an anatomical gift of a part for one or more of the purposes set forth in ~~section 12-34-104~~ SECTION 15-19-204 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under ~~section 12-34-105 or 12-34-110~~ SECTION 15-19-205 OR 15-19-210.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

15-19-209. [Formerly 12-34-109] Who may make anatomical gift of decedent's body or part. (a) Subject to subsections (b) and (c) of this section and unless barred by ~~section 12-34-107 or 12-34-108~~ SECTION 15-19-207 OR 15-19-208, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under ~~section 12-34-104~~ (2) SECTION 15-19-204 (2) immediately before the decedent's death;

(2) The spouse of the decedent;

(2.5) A person who is designated by the decedent as a designated beneficiary in a designated beneficiary agreement pursuant to article 22 of THIS title 15, ~~C.R.S.~~, with the right to be an agent to make, revoke, or object to anatomical gifts of the decedent;

- (3) Adult children of the decedent;
- (4) Parents of the decedent;
- (5) Adult siblings of the decedent;
- (6) Adult grandchildren of the decedent;
- (7) Grandparents of the decedent;
- (8) An adult who exhibited special care and concern for the decedent;
- (9) The persons who were acting as the guardians of the person of the decedent at the time of death; and
- (10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in ~~paragraph (1), (3), (4), (5), (6), (7), or (9) of subsection (a)~~ SUBSECTION (a)(1), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), OR (a)(9) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under ~~section 12-34-111~~ SECTION 15-19-211 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) of this section is reasonably available to make or to object to the making of an anatomical gift.

15-19-210. [Formerly 12-34-110] Manner of making, amending, or revoking anatomical gift of decedent's body or part. (a) A person authorized to make an anatomical gift under ~~section 12-34-109~~ SECTION 15-19-209 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c) of this section, an anatomical gift by a person authorized under ~~section 12-34-109~~ SECTION 15-19-209 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under ~~section 12-34-109~~ SECTION 15-19-209 may be:

(1) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

15-19-211. [Formerly 12-34-111] Persons that may receive anatomical gift - purpose of anatomical gift. (a) An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;

(2) Subject to subsection (b) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(3) An eye bank or tissue bank.

(b) If an anatomical gift to an individual under ~~paragraph (2) of subsection (a)~~ SUBSECTION (a)(2) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (g) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (a) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(d) For the purpose of subsection (c) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (a) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (g) of this section.

(g) For purposes of subsections (b), (e), and (f) of this section the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under ~~paragraph (2) of subsection (a)~~ SUBSECTION (a)(2) of this section, passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under ~~section 12-34-105 or 12-34-110~~ SECTION 15-19-205 OR 15-19-210 or if the person knows that the decedent made a refusal under ~~section 12-34-107~~ SECTION 15-19-207 that was not revoked. For purposes of this subsection (j), if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(k) Except as otherwise provided in ~~paragraph (2) of subsection (a)~~ SUBSECTION (a)(2) of this section, nothing in this ~~part~~ PART 2 affects the allocation of organs for transplantation or therapy.

15-19-212. [Formerly 12-34-112] Search and notification.
(Reserved)

15-19-213. [Formerly 12-34-113] Delivery of document of gift not required - right to examine. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or

refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under ~~section 12-34-111~~ SECTION 15-19-211.

15-19-214. [Formerly 12-34-114] Rights and duties of procurement organization and others. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of revenue and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the department of revenue to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this ~~part 1~~ PART 2, at any time after a donor's death, the person to which a part passes under ~~section 12-34-111~~ SECTION 15-19-211 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this ~~part 1~~ PART 2, an examination under subsection (c) or (d) of this section may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an

opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a) of this section, a procurement organization shall make a reasonable search for any person listed in ~~section 12-34-109~~ SECTION 15-19-209 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to ~~sections 12-34-111 (i) and 12-34-123~~ SECTIONS 15-19-211 (i) AND 15-19-223, the rights of the person to which a part passes under ~~section 12-34-111~~ SECTION 15-19-211 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this ~~part~~ PART 2, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under ~~section 12-34-111~~ SECTION 15-19-211, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

15-19-215. [Formerly 12-34-115] Coordination of procurement and use. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

15-19-216. [Formerly 12-34-116] Sale or purchase of parts prohibited. (a) Except as otherwise provided in subsection (b) of this section, a person that knowingly acquires, receives, or otherwise transfers a part for valuable consideration for transplantation may be liable as specified in 42 U.S.C. sec. 274e.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

15-19-217. [Formerly 12-34-117] Other prohibited acts. A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal commits a class 1 misdemeanor as specified in section 18-1.3-501. ~~C.R.S.~~

15-19-218. [Formerly 12-34-118] Immunity. (a) A person that acts in accordance with this ~~part~~ PART 2 or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this ~~part~~ PART 2, a person may rely upon representations of an individual listed in ~~section 12-34-109 (a) (2), (a) (3), (a) (4), (a) (5), (a) (6), (a) (7), or (a) (8)~~ SECTION 15-19-209 (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), OR (a)(8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

15-19-219. [Formerly 12-34-119] Law governing validity - choice of law as to execution of document of gift - presumption of validity.

(a) A document of gift is valid if executed in accordance with:

(1) This ~~part~~ PART 2;

(2) The laws of the state or country where it was executed; or

(3) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this

state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

15-19-220. [Formerly 12-34-120] Donor registry. (a) The department of revenue may establish or contract for the establishment of a donor registry.

(b) The department of revenue shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(c) A donor registry must:

(1) Allow a donor or other person authorized under ~~section 12-34-104~~ SECTION 15-19-204 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) Be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) Be accessible for purposes of ~~paragraphs (1) and (2) of this subsection (c)~~ SUBSECTION (c)(1) AND (c)(2) OF THIS SECTION seven days a week on a twenty-four-hour basis.

(d) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(e) This section does not prohibit any person from creating or

maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (c) and (d) of this section.

15-19-221. [Formerly 12-34-121] Effect of anatomical gift on advance health-care directive. (a) In this section:

(1) "Advance health-care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health-care decision" means any decision regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or health-care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this article to make health-care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under ~~section 12-34-109~~ SECTION 15-19-209. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

15-19-222. [Formerly 12-34-122] Cooperation between coroner

and procurement organization. (a) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation or therapy.

(b) Subject to ~~section 12-34-123~~ SECTION 15-19-223, if a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is going to be performed, the coroner or designee shall make every reasonable effort to conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift and the medicolegal death investigation.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection (c) does not preclude a coroner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner.

15-19-223. [Formerly 12-34-123] Facilitation of anatomical gift from decedent whose body is under jurisdiction of coroner. (a) Upon request of a procurement organization, a coroner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body or part is medically suitable for transplantation or therapy, the coroner shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the coroner only if relevant to transplantation or therapy.

(b) The coroner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the coroner which the coroner determines may be relevant to the investigation.

(c) A person that has any information requested by a coroner pursuant to subsection (b) of this section shall provide that information as expeditiously as possible to allow the coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation or therapy.

(d) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the coroner and a post-mortem examination is not required, or the coroner determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the coroner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation or therapy.

(e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has been or might be made, but the coroner initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death or preservation or collection of evidence, the coroner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. The procurement organization shall obtain and provide the coroner with all available information which could relate to the cause or manner of the decedent's death. After consultation, the coroner may allow the recovery, or may deny or delay the recovery as provided in subsection (f), (g), or (h) of this section.

(f) The coroner, district attorney, and a procurement organization shall enter into an agreement establishing protocols and procedures governing the relations between them when an anatomical gift of a part from a decedent whose body is under the jurisdiction of the coroner has been or might be made but the coroner or the district attorney believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death or the documentation or preservation of evidence. Decisions regarding the recovery of the part from the decedent shall be made in accordance with the agreement. The coroner, district attorney, and procurement organization shall evaluate the effectiveness of the agreement at regular intervals but no less frequently than every two years.

(g) In the absence of an agreement as provided in subsection (f) of this section that establishes protocols and procedures governing the relations between the coroner, district attorney, and procurement organization when an anatomical gift of an organ from a decedent whose body is under the jurisdiction of the coroner has been or might be made, and following the consultation under subsection (e) of this section, if the coroner intends to deny recovery of the organ, the coroner or designee, at the request of the procurement organization, shall view the body either at the hospital or recovery location or by electronic means, prior to making a decision whether or not to allow the procurement organization to recover the organ. After viewing the body, the coroner or designee may allow recovery by the procurement organization to proceed, or, if the coroner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death or preservation or collection of evidence, deny recovery by the procurement organization. The coroner or designee shall comply with all the requirements of this section in a manner and within a time period compatible with the preservation and purposes of the organ.

(h) In the absence of an agreement establishing protocols and procedures governing the relations between the coroner, district attorney, and procurement organization when an anatomical gift of an eye or tissues from a decedent whose body is under the jurisdiction of the coroner has been or might be made, and following the consultation under subsection (e) of this section, the coroner may allow, deny, or delay the recovery of the eye or tissues until after the collection of evidence or autopsy, in order to preserve and collect evidence, to maintain a proper chain-of-custody, or to allow an accurate determination of the decedent's cause of death. When a determination to delay the recovery of the eye or tissues is made, every effort possible shall be made by the coroner to complete the collection of evidence or autopsy in a timely manner compatible with the preservation of the eye or tissues for the purpose of transplantation or therapy.

(i) If the coroner or designee denies or delays recovery under subsection (f), (g), or (h) of this section, the coroner or designee shall:

(1) State in a record the specific reasons for not allowing recovery of the part;

(2) Include the specific reasons in the records of the coroner; and

(3) Upon request by a procurement organization, provide a record within two weeks of the date of the request with the specific reasons for not allowing recovery of the part.

(j) If the coroner or designee allows recovery of a part, in addition to any information required pursuant to the protocol under subsection (f) of this section, the procurement organization shall cooperate with the coroner in any documentation of injuries and the preservation and collection of evidence prior to and during the recovery of the part and, upon the coroner's request, shall cause the physician or technician who removes the part to provide the coroner, as soon as practicable, with a record that includes: The names of all personnel participating in the removal of the part; a report documenting any internal or external injuries observed, any evidence observed, and describing the condition of the part; photographs or other documentation of evidence as identified in the protocol; and any other information and observations that would assist in the post mortem.

(k) If a coroner or designee is required to be present to view the body at the hospital or recovery location under subsection (g) of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the coroner or designee for the reasonable additional cost of travel incurred in complying with subsection (g) of this section.

15-19-224. [Formerly 12-34-124] Uniformity of application and construction. In applying and construing this ~~part~~ PART 2, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

15-19-225. [Formerly 12-34-125] Relation to "Electronic Signatures in Global and National Commerce Act". This ~~act~~ PART 2 modifies, limits, and supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (a) of that act, 15 U.S.C. sec. 7001, or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

PART 3
UNCLAIMED HUMAN BODIES

15-19-301. [Formerly 12-34-201] Board for distribution of unclaimed human bodies - rules. (1) The deans and the heads of the departments of anatomy and surgery of the accredited medical and dental schools of this state are constituted a board for the distribution and delivery of unclaimed dead human bodies, described in this ~~part 2~~ PART 3, to and among such institutions ~~which~~ THAT, under the provisions of this ~~part 2~~ PART 3, are entitled to distribution. The board has full power to establish rules ~~and regulations~~ for its government, and to appoint and remove officers, and shall keep full and complete minutes of its transactions. Records shall also be kept, under its direction, of all bodies received and distributed by ~~said~~ THE board, and of the institutions to which the same may be distributed. ~~which~~ THE minutes and records shall be open at all times to the inspection of each member of ~~said~~ THE board and of any district attorney of any county within this state. The name of ~~said~~ THE board of distribution shall be the anatomical board of the state of Colorado, called, in this ~~part 2~~ PART 3, the "anatomical board". The anatomical board, in its discretion, may exempt any counties or other districts from the provisions of this ~~part 2~~ PART 3 for any calendar year by the ~~regulations~~ RULES of the board issued for ~~such~~ THAT year.

(2) Repealed.

15-19-302. [Formerly 12-34-202] Duty of public officers as to unclaimed bodies. (1) All public officers, agents, and servants, and all officers, agents, and servants of every county, city, township, borough, district, and other municipality, and every almshouse, prison, morgue, hospital, or other municipal or other public institution, and all other persons having charge or control over unclaimed dead human bodies required to be buried at public expense shall use reasonable effort to ascertain if ~~said~~ THE deceased person has any relative, friend, or other representative who will assume charge of ~~said~~ THE body for burial at his OR HER expense. If ~~such~~ THE effort does not result in the discovery of a claimant within twenty-four hours after death, ~~such~~ THE officers, agents, or other persons shall immediately notify the anatomical board or such person as may from time to time be designated by ~~said~~ THE board as its duly authorized officer or agent, when such unclaimed body or bodies come into his OR HER possession, charge, or control. In any county ~~which~~ THAT is entirely located more than one hundred fifty miles from any accredited medical or dental school, the minimum period of notification shall be extended to forty-eight hours. ~~Such~~ THE officers, agents, or other persons, without fee or reward,

shall deliver ~~such~~ THE unclaimed body to the anatomical board and permit the board or its agents to take and remove all ~~such~~ THE unclaimed bodies to be used for the advancement of medical and anatomical sciences.

(2) Such notices shall be given to the anatomical board in all cases, but no such body shall be delivered if any relative, by blood or marriage, shall previously claim the body for burial at the expense of ~~such~~ THE relative, but the body shall be surrendered to ~~said~~ THE claimant for interment; nor shall any such body be delivered if any representative of a fraternal society of which the deceased was a member, or a representative of any charitable organization, or if any friend of the deceased shall claim the body for burial prior to delivery to the board, ~~said~~ THE burial to be at the expense of ~~such~~ THE fraternal society, charitable organization, or friend. In the case of death of any person whose body is required to be buried at public expense and the duly authorized officer or agent of the anatomical board deems ~~such~~ THE body unfit for anatomical purposes, he OR SHE shall notify the board of county commissioners or such other agency as may be in charge of the county paupers of the county in which ~~such~~ THE person dies, in writing, and the board of county commissioners or other agency shall direct some person to take charge of the body of ~~such~~ THE deceased indigent person, and cause it to be buried, and draw warrants upon the treasurer of ~~said~~ THE county for the payment of such expenses.

(3) No warrants for the payment of the expenses of the burial of any person whose body is required to be buried at public expense shall be drawn or paid except upon the certificate of the duly authorized officer or agent of the anatomical board to the effect that ~~such~~ THE unclaimed body is unfit for anatomical purposes, by reason of decomposition or contagious disease, and that the provisions of this ~~part 2~~ PART 3 have been complied with. If, through the failure of any person to deliver the body of a deceased indigent as required by this ~~part 2,~~ ~~such~~ PART 3, THE unclaimed body becomes unfit for anatomical purposes, and is so certified by the duly authorized officer or agent of ~~said~~ THE anatomical board, ~~such~~ THE body shall be buried in accordance with the provisions of this ~~part 2~~ PART 3, and the person so failing to deliver ~~such~~ THE unclaimed body shall pay to the county treasurer the expense so incurred. Upon the refusal or failure of ~~such~~ THE person, on demand, to pay ~~such~~ THE expense, the board of county commissioners, or such other agency as may be in charge of the county paupers, may bring suit to recover the expenses, and the same may be recovered as debts of like amount are collectible by law.

15-19-303. [Formerly 12-34-203] Claiming of body - publication of notice. After an unclaimed body has been received by the anatomical board or its duly authorized agent, and has been preserved and stored, ~~said~~ THE body may be claimed within twenty days after death by relatives, friends, or fraternal or charitable organizations for burial or cremation at the expense of ~~said~~ THE claimant, and the body shall be surrendered to ~~such~~ THE claimant without charge of any character. During the twenty-day period the board shall publish at least two notices in ~~some~~ A newspaper of general circulation, published in the county in which the death occurred or in which the body was first discovered, stating that the body is unclaimed and giving the name of the deceased if it is known. ~~Such~~ THE notice shall be published in the name of the coroner of ~~such~~ THE county.

15-19-304. [Formerly 12-34-204] Disposition of all or any portion of body after death - nonliability. (1) A person has a right during his OR HER lifetime to provide for the disposition of all or any portion of his OR HER body upon his OR HER death.

(2) No cause of action for damages shall accrue to any person arising out of the removal of all or any portion of the body of any deceased person if ~~such~~ THE deceased person has, prior to the time of his OR HER death, executed a written consent to ~~such~~ removal, and the person against whom ~~such~~ THE cause of action is alleged had no actual knowledge of any revocation of such consent.

(3) The anatomical board, or its duly authorized agent, is authorized to receive and distribute dead human bodies or parts thereof bequeathed or donated to it for the advancement of medical and anatomical sciences in the same manner as is now provided by law for the receipt and distribution of unclaimed dead human bodies; except that no publication of notice as required by ~~section 12-34-203~~ SECTION 15-19-303 shall be required.

15-19-305. [Formerly 12-34-205] Unlawful to hold autopsy. It is unlawful for any person to hold an autopsy on any dead human body mentioned in this ~~part 2~~ PART 3, except on the request of the district attorney of the district where ~~such~~ THE body is located, without the written, telegraphic, or telephonic consent of the secretary of the anatomical board, such telegraphic or telephonic consent to be verified by written consent.

15-19-306. [Formerly 12-34-206] Holding of body for twenty

days. The anatomical board, or its duly authorized agent, shall take and receive any unclaimed bodies so delivered, and, after holding ~~said~~ THE bodies for a period of twenty days to determine if ~~said~~ THE bodies are claimed, shall distribute and deliver ~~said~~ THE unclaimed bodies on requisition to and among the institutions mentioned in this ~~part 2~~ PART 3, to be used for anatomical purposes as ~~such~~ THE institutions shall determine.

15-19-307. [Formerly 12-34-207] Disposition of remains. After the institutions to which ~~said~~ THE unclaimed bodies have been distributed by the anatomical board have completed the scientific study of ~~such~~ THE unclaimed bodies, the remains thereof shall in every case be disposed of by burial or cremation.

15-19-308. [Formerly 12-34-208] Expense to be borne by institutions. Neither the county, municipality, nor any officer, agent, or servant thereof shall incur any expense by reason of the delivery or distribution of any ~~such~~ unclaimed body, but all the expenses thereof and of the anatomical board shall be borne by those institutions receiving ~~said~~ THE unclaimed bodies in the manner determined by the board.

15-19-309. [Formerly 12-34-209] Penalty. Any person having duties enjoined upon him OR HER by the provisions of this ~~part 2~~ PART 3, who neglects, refuses, or omits to perform the same as required in this ~~part 2~~ PART 3, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

SECTION 2. In Colorado Revised Statutes, 12-54-104, **amend** (1)(i) introductory portion and (1)(i)(VIII) as follows:

12-54-104. Unlawful acts. (1) It is unlawful:

(i) For a funeral director, mortuary science practitioner, or embalmer to admit or permit any person to visit the embalming, cremation, or preparation room during the time a body is being embalmed, cremated, or prepared for final disposition, unless ~~such~~ THE person:

(VIII) Is a technician representing a procurement organization as defined in ~~section 12-34-102~~ SECTION 15-19-202 for purposes of an anatomical gift; or

SECTION 3. In Colorado Revised Statutes, 12-54-301, **amend** (1)(e) introductory portion and (1)(e)(VIII) as follows:

12-54-301. Unlawful acts. (1) It is unlawful for a crematory:

(e) To admit or permit any person to visit the crematory or preparation room during the time a body is being cremated or prepared for final disposition unless ~~such~~ THE person:

(VIII) Is a technician representing a procurement organization as defined in ~~section 12-34-102~~ SECTION 15-19-202 for purposes of an anatomical gift; or

SECTION 4. In Colorado Revised Statutes, 13-22-103, **amend** (1) as follows:

13-22-103. Minors - consent for medical, dental, and related care. (1) Except as otherwise provided in ~~sections 12-34-104, 18-1.3-407 (4.5), and 25-4-409, C.R.S.~~ SECTIONS 15-19-204, 18-1.3-407 (4.5), AND 25-4-409, a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his or her parent, parents, or legal guardian, with or without the consent of his or her parent, parents, or legal guardian, and is managing his or her own financial affairs, regardless of the source of his or her income, or any minor who has contracted a lawful marriage may give consent to organ or tissue donation or the furnishing of hospital, medical, dental, emergency health, and surgical care to himself or herself. Such consent is not subject to disaffirmance because of minority, and, when such consent is given, ~~said~~ THE minor has the same rights, powers, and obligations as if he or she had obtained majority. Consent to organ or tissue donation may be revoked pursuant to ~~section 12-34-106, C.R.S.~~ SECTION 15-19-206.

SECTION 5. In Colorado Revised Statutes, 14-15-107, **amend** (5)(q) as follows:

14-15-107. Rights, benefits, protections, duties, obligations, responsibilities, and other incidents of parties to a civil union. (5) Rights, benefits, protections, duties, obligations, responsibilities, and other incidents under law as are granted to or imposed upon spouses, that apply in like manner to parties to a civil union under this section, include

but are not limited to:

(q) Laws relating to making, revoking, and objecting to anatomical gifts by others pursuant to the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ PART 2 OF ARTICLE 19 OF TITLE 15;

SECTION 6. In Colorado Revised Statutes, 15-14-506, **amend** (3.5) as follows:

15-14-506. Medical durable power of attorney. (3.5) Any medical durable power of attorney executed under sections 15-14-503 to 15-14-509 may also have a document with a written statement as provided in ~~section 12-34-105 (b), C.R.S.~~ SECTION 15-19-205 (b), or a statement in substantially similar form, indicating a decision regarding organ and tissue donation. ~~Such a~~ THE document shall be executed in accordance with the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ PART 2 OF ARTICLE 19 OF THIS TITLE 15. ~~Such a~~ THE written statement may be in the following form:

I hereby make an anatomical gift, to be effective upon my death, of:

A. Any needed organs/tissues

B. The following organs/tissues:

Donor signature: _____

SECTION 7. In Colorado Revised Statutes, 15-18-104, **amend** (6) as follows:

15-18-104. Declaration as to medical treatment. (6) A declaration executed pursuant to this article may include a document with a written statement as provided in ~~section 12-34-105 (a), C.R.S.~~ SECTION 15-19-205 (a), or a written statement in substantially similar form, indicating a decision regarding organ and tissue donation. ~~Such a~~ THE document shall be executed in accordance with the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ PART 2 OF ARTICLE 19 OF THIS TITLE 15.

SECTION 8. In Colorado Revised Statutes, 15-18.6-103, **amend** (2)(i) as follows:

15-18.6-103. CPR directive forms - duties of state board of health. (2) CPR directive protocols to be adopted by the state board shall require the following information concerning the person who is the subject of the CPR directive:

(i) The person's directive in the form of a document with a written statement as provided in ~~section 12-34-105 (b), C.R.S.~~ SECTION 15-19-205 (b), or a statement in substantially similar form, indicating a decision regarding tissue donation. ~~Such a~~ THE document shall be executed in accordance with the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ ~~Such a~~ PART 2 OF ARTICLE 19 OF THIS TITLE 15. THE written statement may be in the following form:

I hereby make an anatomical gift, to be effective upon my death, of:

A. Any needed tissues

B. The following tissues:

Skin

Cornea

Bone, related tissues, and tendons

Donor signature: _____

SECTION 9. In Colorado Revised Statutes, **amend** 15-19-101 as follows:

15-19-101. Short title. ~~This article shall be known and may be cited as~~ THE SHORT TITLE OF THIS PART 1 IS the "Disposition of Last Remains Act".

SECTION 10. In Colorado Revised Statutes, 15-19-102, **amend** (2) and (3) introductory portion as follows:

15-19-102. Legislative declaration - construction. (2) This ~~article~~ PART 1 shall be interpreted liberally to carry out a decedent's intent when not conflicting with this ~~article~~ PART 1.

(3) This ~~article~~ PART 1 shall not be construed to:

SECTION 11. In Colorado Revised Statutes, 15-19-103, **amend** the introductory portion, (2), and (3) as follows:

15-19-103. Definitions. As used in this ~~article~~ PART 1, unless the context otherwise requires:

(2) "Declarant" means a competent adult who signs a declaration pursuant to the provisions of this ~~article~~ PART 1.

(3) "Declaration" means a written instrument directing the lawful disposition of the declarant's last remains and the ceremonies planned after a declarant's death, in accordance with this ~~article~~ PART 1. A declaration may be made within a will; prepaid funeral, burial, or cremation contract; durable or medical power of attorney; a designated beneficiary agreement as described in article 22 of this ~~title~~ TITLE 15; a federal record of emergency data; or any other written document, including, but not limited to, a document governing the disposition of last remains under part 7 of article 11 of this ~~title~~ TITLE 15.

SECTION 12. In Colorado Revised Statutes, 15-19-104, **amend** (3)(a)(II)(A), (3)(b), and (3)(c) as follows:

15-19-104. Declaration of disposition of last remains.

(3) (a) (II) (A) Notwithstanding the provisions of ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (3)(a)(I) OF THIS SECTION, if the declarant is a member of the United States armed forces or the United States reserve forces or a member of a state National Guard called into federal service and the declarant has executed a federal record of emergency data that is valid and enforceable at the time of the declarant's death, then the federal record of emergency data shall control over any other declaration concerning the person authorized to direct the disposition of the declarant's last remains, even if the federal record of emergency data was executed prior to the execution of the most recent declaration pursuant to this ~~article~~ PART 1. The person authorized to direct disposition of the decedent's last remains pursuant to the federal record of emergency data shall do so in accordance with the provisions for the disposition of the remains and the ceremonial arrangements made by the declarant in his or her most recent declaration concerning ~~such~~ HIS OR HER disposition and ceremonial arrangements.

(b) This ~~article~~ PART 1 shall govern all current and prior declarations.

(c) If article 54 of title 12 ~~C.R.S.~~, conflicts with this ~~article~~ PART 1,

this ~~article~~ PART 1 shall govern.

SECTION 13. In Colorado Revised Statutes, **amend** 15-19-108 as follows:

15-19-108. Interstate effect of declaration. (1) Unless otherwise stated in a declaration, it shall be presumed that the declarant intends to have his or her declaration executed pursuant to this ~~article~~ PART 1 and recognized to the fullest extent possible by other states.

(2) Unless otherwise provided in the declaration, a declaration or similar instrument executed in another state that complies with the requirements of this ~~article~~ PART 1 may, in good faith, be relied upon by a third party in this state if an action requested by ~~such~~ THE declarant does not violate any law of the federal government, Colorado, or a political subdivision.

SECTION 14. In Colorado Revised Statutes, 15-22-105, **amend** (3)(h) as follows:

15-22-105. Effects and applicability of a designated beneficiary agreement. (3) A designated beneficiary agreement shall entitle the parties to exercise the following rights and enjoy the following protections, unless specifically excluded from the designated beneficiary agreement:

(h) The right, with respect to the other designated beneficiary, to act as an agent and to make, revoke, or object to anatomical gifts pursuant to the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S. PART 2 OF ARTICLE 19 OF THIS TITLE 15;~~

SECTION 15. In Colorado Revised Statutes, 15-22-106, **amend** (1) as follows:

15-22-106. Statutory form of a designated beneficiary agreement. (1) The following statutory form shall be the standard form for a designated beneficiary agreement:

DESIGNATED BENEFICIARY AGREEMENT

DISCLAIMER

Warning: While this document may indicate your wishes, certain additional documents may be needed to protect these rights.

This designated beneficiary agreement is operative in the absence of other estate planning documents and will be superseded and set aside to the extent it conflicts with valid instruments such as a will, power of attorney, or beneficiary designation on an insurance policy or pension plan. This designated beneficiary agreement is superseded by such other documents and does not cause any changes to be made to those documents or designations. The parties understand that executing and signing this agreement is not sufficient to designate the other party for purposes of any insurance policy, pension plan, payable upon death designation or manner in which title to property is held and that additional action will be required to make or change such designations. The parties understand that this designated beneficiary agreement may be one component of estate planning instructions and that they are encouraged to consult an attorney to ensure their estate planning wishes are accomplished.

We, _____, (insert full name and address) referred to as party A, and _____, (insert full name and address) referred to as party B, hereby designate each other as the other's designated beneficiary with the following rights and protections, granted or withheld as indicated by our initials:

TO GRANT ONE OR MORE OF THE RIGHTS OR PROTECTIONS SPECIFIED IN THIS FORM, INITIAL THE LINE TO THE LEFT OF EACH RIGHT OR PROTECTION YOU ARE GRANTING. TO WITHHOLD A RIGHT OR PROTECTION, INITIAL THE LINE TO THE RIGHT OF EACH RIGHT OR PROTECTION YOU ARE WITHHOLDING.

A DESIGNATED BENEFICIARY AGREEMENT SHALL BE PRESUMED TO GRANT ALL OF THE RIGHTS AND

PROTECTIONS LISTED IN THIS FORM UNLESS THE
PARTIES WITHHOLD A RIGHT OR PROTECTION IN
THE MANNER SET FORTH IMMEDIATELY ABOVE.
~~TO GRANT A RIGHT TO WITHHOLD A RIGHT OR PROTECTION
OR PROTECTION~~
INITIAL _____ INITIAL

TO GRANT A RIGHT
OR PROTECTION
INITIAL
Party A Party B

TO WITHHOLD A RIGHT
OR PROTECTION
INITIAL
Party A Party B

- | | | | | |
|-----|-----|--|-----|-----|
| ___ | ___ | The right to acquire, hold title to, own jointly, or transfer inter vivos or at death real or personal property as a joint tenant with me with right of survivorship or as a tenant in common with me; | ___ | ___ |
| ___ | ___ | The right to be designated by me as a beneficiary, payee, or owner as a trustee named in an inter vivos or testamentary trust for the purposes of a nonprobate transfer on death; | ___ | ___ |
| ___ | ___ | The right to be designated by me as a beneficiary and recognized as a dependent in an insurance policy for life insurance; | ___ | ___ |
| ___ | ___ | The right to be designated by me as a beneficiary and recognized as a dependent in a health insurance policy if my employer elects to provide health insurance coverage for designated beneficiaries; | ___ | ___ |
| ___ | ___ | The right to be designated by me as a beneficiary in a retirement or pension plan; | ___ | ___ |
| ___ | ___ | The right to petition for and have priority for appointment as a conservator, guardian, or personal representative for me; | ___ | ___ |
| ___ | ___ | The right to visit me in a hospital, nursing home, hospice, or similar health care facility in which a party to a designated beneficiary agreement resides or is receiving care; | ___ | ___ |
| ___ | ___ | The right to initiate a formal complaint regarding alleged violations of my rights as a | ___ | ___ |

- _____ nursing home patient as provided in section 25-1-120, Colorado Revised Statutes;

_____ The right to act as a proxy decision-maker or surrogate decision-maker to make medical care decisions for me pursuant to section 15-18.5-103 or 15-18.5-104, Colorado Revised Statutes;

_____ The right to notice of the withholding or withdrawal of life-sustaining procedures for me pursuant to section 15-18-107, Colorado Revised Statutes;

_____ The right to challenge the validity of a declaration as to medical or surgical treatment of me pursuant to section 15-18-108, Colorado Revised Statutes;

_____ The right to act as my agent to make, revoke, or object to anatomical gifts involving my person pursuant to the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12~~ PART 2 OF ARTICLE 19 OF TITLE 15, Colorado Revised Statutes;

_____ The right to inherit real or personal property from me through intestate succession;

_____ The right to have standing to receive benefits pursuant to the "Workers' Compensation Act of Colorado", article 40 of title 8, Colorado Revised Statutes, in the event of my death on the job;

_____ The right to have standing to sue for wrongful death in the event of my death; and

_____ The right to direct the disposition of my last remains pursuant to article 19 of title 15, Colorado Revised Statutes.

THIS DESIGNATED BENEFICIARY AGREEMENT IS EFFECTIVE WHEN RECEIVED FOR RECORDING BY THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH ONE OF THE DESIGNATED BENEFICIARIES RESIDES. THIS DESIGNATED BENEFICIARY AGREEMENT WILL CONTINUE IN EFFECT UNTIL ONE OF THE DESIGNATED BENEFICIARIES REVOKES THIS

AGREEMENT BY RECORDING A REVOCATION OF DESIGNATED BENEFICIARY FORM WITH THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THIS AGREEMENT WAS RECORDED OR UNTIL THIS AGREEMENT IS SUPERSEDED IN PART OR IN WHOLE BY A SUPERSEDING LEGAL DOCUMENT.

Signature of designated beneficiary

Signature of designated beneficiary

STATE OF COLORADO

County of _____

This document was acknowledged before me on _____ date
by

My commission expires _____

[Seal]

Notary Public

SECTION 16. In Colorado Revised Statutes, 19-1-307, **amend** (2)(c) as follows:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) Records and reports - access to certain persons - agencies. Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to child abuse or neglect records and reports:

(c) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, legal custodian, or other person who is responsible for the child's health or welfare, including, in the case of an anatomical gift, a coroner and a procurement organization, as those terms are defined in

~~section 12-34-102, C.R.S.~~ SECTION 15-19-202;

SECTION 17. In Colorado Revised Statutes, 24-72-204, **amend** (7)(b) introductory portion and (7)(b)(XV) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (7) (b) Notwithstanding ~~paragraph (a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION, only upon obtaining a completed requester release form under section 42-1-206 (1)(b), C.R.S.; the department may allow inspection of the information referred to in ~~paragraph (a) of this subsection (7)~~ SUBSECTION (7)(a) OF THIS SECTION for the following uses:

(XV) For use by the federally designated organ procurement organization for the purposes of creating and maintaining the organ and tissue donor registry authorized in ~~section 12-34-120, C.R.S.~~ SECTION 15-19-220.

SECTION 18. In Colorado Revised Statutes, 42-2-107, **amend** (4)(b)(I)(A), (4)(b)(I)(B), (4)(b)(III) introductory portion, (4)(b)(III)(D), and (4)(b)(V) as follows:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Maureen Ellen Keyes organ and tissue donation awareness fund - legislative declaration - rules - repeal. (4) (b) (I) (A) The general assembly hereby finds, determines, and declares that the availability of human organs and tissue by voluntary designation of donors under the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ PART 2 OF ARTICLE 19 OF TITLE 15, is critical for advancements in medical science to occur and for the successful use of various medical treatments to save and prolong lives.

(B) The general assembly further finds, determines, and declares that state government should play a role in increasing the availability of human organs and tissue to procurement organizations, as defined in ~~section 12-34-102, C.R.S.~~ SECTION 15-19-202, by acting as a conduit to make ~~moneys~~ MONEY available for promoting organ and tissue donation and that this role constitutes a public purpose.

(III) At least quarterly, the state treasurer shall transfer all available

~~moneys~~ MONEY from the Emily Maureen Ellen Keyes organ and tissue donation awareness fund:

(D) To donor alliance, inc., or its successor organization, for the costs associated with educating the public about the organ and tissue donor registry pursuant to ~~section 12-34-120, C.R.S.~~ SECTION 15-19-220.

(V) An applicant may make a donation of one dollar or more to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund, created in ~~subparagraph (H) of this paragraph (b)~~ SUBSECTION (4)(b)(II) OF THIS SECTION, to promote the donation of organs and tissues under the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S.~~ PART 2 OF ARTICLE 19 OF TITLE 15. The department shall collect ~~such~~ THE donations and transmit them to the state treasurer, who shall credit the same to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund. The donation prescribed in this ~~subparagraph (V)~~ SUBSECTION (4)(b)(V) is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants as designed and approved by the advisory body created under ~~sub-subparagraph (A) of subparagraph (H) of this paragraph (b)~~ SUBSECTION (4)(b)(III)(A) OF THIS SECTION. The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations. The department shall also provide written information designed and approved by the advisory body created under ~~sub-subparagraph (A) of subparagraph (H) of this paragraph (b)~~ SUBSECTION (4)(b)(III)(A) OF THIS SECTION to each applicant volunteering to become an organ and tissue donor. The written information shall disclose that the applicant's name shall be transmitted to the organ and tissue donor registry authorized in ~~section 12-34-120, C.R.S.~~ SECTION 15-19-220, and that the applicant shall notify the federally designated organ procurement organization of any changes to the applicant's donor status.

SECTION 19. In Colorado Revised Statutes, 42-2-118, **amend** (1)(a)(II)(A) as follows:

42-2-118. Renewal of license in person or by mail - donations to Emily Maureen Ellen Keyes organ and tissue donation awareness fund

- **repeal.** (1) (a) (II) (A) An applicant may make a donation of one dollar or more to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund, created in section 42-2-107 (4)(b)(II), to promote the donation of organs and tissues under the provisions of the "Revised Uniform Anatomical Gift Act", ~~part 1 of article 34 of title 12, C.R.S. PART 2 OF ARTICLE 19 OF TITLE 15.~~ The department shall collect ~~such~~ THE donations and transmit them to the state treasurer, who shall credit the same to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund. The donation prescribed in this ~~sub-subparagraph (A)~~ SUBSECTION (1)(a)(II)(A) is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants as designed and approved by the advisory body created under section 42-2-107 (4)(b)(III)(A). The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations by having a "Y" placed in the donor field on the front of the document. The department shall also advise each applicant volunteering to become an organ and tissue donor that the applicant's name shall be transmitted to the organ and tissue donor registry authorized in ~~section 12-34-120, C.R.S.~~ SECTION 15-19-220, and that the applicant shall notify the federally designated organ procurement organization of any changes to the applicant's donation.

SECTION 20. In Colorado Revised Statutes, 42-2-121, **amend** (6) as follows:

42-2-121. Records to be kept by department - admission of records in court. (6) The department shall electronically transmit the name, address, telephone number, date of birth, and gender of each individual who has volunteered to donate organs or tissue upon death on an instructional permit, a minor driver's license, a driver's license, an identification card, or any other license application received by it to the organ and tissue donor registry authorized in ~~section 12-34-120, C.R.S.~~ SECTION 15-19-220.

SECTION 21. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** article 34 of title 12.

SECTION 22. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO