

LEGISLATIVE BILL 115

Approved by the Governor March 3, 1977

Introduced by Stoney, 4

AN ACT to amend sections 71-4802 and 71-4804, Revised Statutes Supplement, 1976, relating to the Uniform Anatomical Gift Act; to change the age of persons who may execute anatomical gifts; to provide for the execution of anatomical gifts through motor vehicle operators' licenses; to provide duties of the county treasurers and the Director of Motor Vehicles; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-4802, Revised Statutes Supplement, 1976, be amended to read as follows:

71-4802. (1) Any individual of sound mind and twenty nineteen years of age or more may give all or any part of his body for any purposes specified in section 71-4803, the gift to take effect upon death.

(2) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in section 71-4803:

- (a) The spouse,
- (b) An adult son or daughter,
- (c) Either parent,
- (d) An adult brother or sister,
- (e) A guardian of the person of the decedent at the time of his death, and
- (f) Any other person authorized or under obligation to dispose of the body.

The persons authorized by this subsection may make the gift after death or immediately before death.

(3) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior

class, the donee shall not accept the gift.

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

(5) The rights of the donee created by the gift are paramount to the rights of others except as provided by subdivision (4) of section 71-4807.

Sec. 2. That section 71-4804, Revised Statutes Supplement, 1976, be amended to read as follows:

71-4804. (1) A gift of all or part of the body under subdivision (1) of section 71-4802 may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under subdivision (1) of section 71-4802 may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) A gift of all or part of the body under subdivision (1) of section 71-4802 may also be made by an indication on a motor vehicle operator's license pursuant to sections 3 to 5 of this act. The gift shall become effective upon the death of the owner.

~~(3)~~ (4) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. Any physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting any part of the body, except as provided in subsection (2) of section 71-4807.

~~(4)~~ (5) Notwithstanding subdivision (2) of section 71-4807, the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(5) (6) Any gift by a person designated in subdivision (2) of section 71-4802 shall be made by a document signed by him, or made by his telegraphic, recorded telephonic or other recorded message.

Sec. 3. Each county treasurer, when issuing a license to operate a motor vehicle, shall include with such license a document containing a summary description and explanation of the Uniform Anatomical Gift Act and a donor card suitable for use by a person wishing to donate all or part of his body pursuant to such act. Such donor card shall state which individuals would be qualified donees. The donor card shall be signed by the person licensed to operate a motor vehicle in the presence of two witnesses, who shall sign the card in the presence of the donor. Delivery of the donor card during the donor's lifetime is not necessary to make the gift valid.

Sec. 4. Each county treasurer shall make available a suitable decal to be affixed to the license of a person who has signified his intention to make an anatomical gift under the Uniform Anatomical Gift Act. The gift shall become invalidated upon the expiration of the license. Cancellation, revocation, or suspension of the license will not invalidate the gift. The gift must be renewed upon renewal of each license.

Sec. 5. The Director of Motor Vehicles shall adopt such rules and regulations and prepare and furnish all forms and information necessary to carry out this act.

Sec. 6. That original sections 71-4802 and 71-4804, Revised Statutes Supplement, 1976, are repealed.