

ANATOMICAL GIFTS

House Bills 4383 and 4384

Sponsor: Rep. Lynne Martinez

Committee: Health Policy

Complete to 3-24-99

A SUMMARY OF HOUSE BILLS 4383 AND 4384 AS INTRODUCED 3-9-99

The bills would amend laws pertaining to making anatomical gifts and are tie-barred to each other. Specifically, the bills would do the following:

House Bill 4383 would amend provisions of the Public Health Code (MCL 333.10102 and 333.10104) regarding how a person may signify his or her intent to make an anatomical gift. Currently, a person may make an anatomical gift by will or by another document, provided that the document is signed by or for the donor in the presence of two or more witnesses who must also sign the document or by a uniform donor card or substantially similar document. Under the bill, the required witness signatures would be reduced from two to at least one. The bill would further specify that a personal identification card, or an operator's or chauffeur's license, that contained a statement that the person was an organ and tissue donor, along with the person's signature and the signature of at least one witness, would constitute a document of gift for organ donation. Unless the person specified on the back of his or her license or identification card that he or she intended to make a gift of his or her entire body, the gift would be limited to parts of the body and not the whole. If a would-be donor were unable to sign a gift document, he or she could direct it to be signed on his or her behalf, in his or her presence and the presence of at least one witness who would also have to sign the document. A person's decision to make an anatomical gift of part or all of his or her body either by will or by a document of gift would not be revocable after the person's death.

The bill would also amend these provisions to more clearly prioritize the list of relatives and others who might be decision-makers on behalf of the decedent donor (unless the donor has expressed an unwillingness to make a gift): first the spouse; then a patient advocate designated before April 1, 2000, under the revised Probate Code or designated on or after April 1, 2000 under the Estates and Protected Individuals Code; followed by an adult son or daughter; then either parent; and continuing with an adult brother or sister; guardian of the decedent; or, one authorized to dispose of the body. A decision to donate the organs of the decedent made under this provision could not be revoked by a person who had less priority.

House Bill 4384 would amend the Estates and Protected Individuals Code (MCL 700.1106 et al.), which will take effect on April 1, 2000, to specify that a patient advocate or other person could be authorized to donate the organs of an individual making the authorization. (The Estates and Protected Individuals Code, created by Public Act 386 of 1998, will repeal and replace the Revised Probate Code.) As written, the act allows any person over 18 years of age to authorize

another individual over the age of 18, in writing, to exercise powers concerning his or her care, custody, and medical treatment decisions. The bill would specify that a person could also include authorization for the individual to make an anatomical gift of all or part of his or her body. A statement would have to be included specifying that the authority to donate another's body would only be exercisable when the patient was dead or when death was imminent and inevitable. Patient advocates could also be designated to authorize the donation of a patient's body, and would be held to the same restriction as to when the authority to make such a decision could be exercised. Currently, a patient advocate designation is revoked upon a patient's death. However, the bill would specify that a patient's death would not nullify the part of the designation authorizing a patient advocate to make an anatomical gift of the patient's body.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.