

Colorado Revised Statutes 2017

TITLE 15

PROBATE, TRUSTS, AND FIDUCIARIES

ARTICLE 19

Treatment of Human Bodies After Death

PART 2

REVISED UNIFORM ANATOMICAL GIFT ACT

Editor's note: This part 2 was added with relocations in 2017. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 2, see the comparative tables located in the back of the index.

15-19-201. Short title. The short title of this part 2 is the "Revised Uniform Anatomical Gift Act".

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 538, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-101 as it existed prior to 2017.

15-19-202. Definitions. In this part 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 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 538, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-102 as it existed prior to 2017.

15-19-203. Applicability. This part 2 applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 541, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-103 as it existed prior to 2017.

15-19-204. Who may make anatomical gift before donor's death. Subject to 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 541, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-104 as it existed prior to 2017.

15-19-205. 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 541, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-105 as it existed prior to 2017.

15-19-206. Amending or revoking anatomical gift before donor's death. (a) Subject to section 15-19-208, a donor or other person authorized to make an anatomical gift under 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 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 subsection (b)(1) of this section.

(c) Subject to section 15-19-208, a donor or other person authorized to make an anatomical gift under 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 542, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-106 as it existed prior to 2017.

15-19-207. 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 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 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 543, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-107 as it existed prior to 2017.

15-19-208. 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 15-19-205 or an amendment to an anatomical gift of the donor's body or part under section 15-19-206.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 15-19-206 is not a refusal and does not bar another person specified in section 15-19-204 or 15-19-209 from making an anatomical gift of the donor's body or part under 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 15-19-205 or an amendment to an anatomical gift of the donor's body or part under section 15-19-206, another person may not make, amend, or revoke the gift of the donor's body or part under section 15-19-210.

(d) A revocation of an anatomical gift of a donor's body or part under 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 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 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 15-19-204, an anatomical gift of a part for one or more of the purposes set forth in 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 544, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-108 as it existed prior to 2017.

15-19-209. 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 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 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, 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 544, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-109 as it existed prior to 2017.

15-19-210. 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 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 545, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-110 as it existed prior to 2017.

15-19-211. 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 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 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 15-19-205 or 15-19-210 or if the person knows that the decedent made a refusal under 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 subsection (a)(2) of this section, nothing in this part 2 affects the allocation of organs for transplantation or therapy.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 546, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-111 as it existed prior to 2017.

15-19-212. Search and notification. (Reserved)

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 547, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-112 as it existed prior to 2017.

15-19-213. 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 15-19-211.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 547, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-113 as it existed prior to 2017.

15-19-214. 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 2, at any time after a donor's death, the person to which a part passes under 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 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 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 15-19-211 (i) and 15-19-223, the rights of the person to which a part passes under 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 548 , § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-114 as it existed prior to 2017.

15-19-215. 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 549, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-115 as it existed prior to 2017.

15-19-216. 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 549, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-116 as it existed prior to 2017.

15-19-217. 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 549, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-117 as it existed prior to 2017.

15-19-218. Immunity. (a) A person that acts in accordance with this 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 2, a person may rely upon representations of an individual listed in 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 549, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-118 as it existed prior to 2017.

15-19-219. 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 550, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-119 as it existed prior to 2017.

15-19-220. 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 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 550, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-120 as it existed prior to 2017.

15-19-221. Effect of anatomical gift on advance health-care directive - definitions.

(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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 551, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-121 as it existed prior to 2017.

15-19-222. 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 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 551, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-122 as it existed prior to 2017.

15-19-223. 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 552, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-123 as it existed prior to 2017.

15-19-224. Uniformity of application and construction. In applying and construing this 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.

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 554, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-124 as it existed prior to 2017.

15-19-225. Relation to "Electronic Signatures in Global and National Commerce Act". This 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).

Source: L. 2017: Entire part added with relocations, (SB 17-223), ch. 158, p. 554, § 1, effective August 9.

Editor's note: This section is similar to former § 12-34-125 as it existed prior to 2017.