SENATE . . . . . No. 2067

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act adopting the Revised Uniform Anatomical Gift Act.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to to provide for the promotion of organ and tissue donation, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 90 of the General Laws is hereby amended by striking out section 8D, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 8D. The registrar shall include in every notice of license and registration renewal, including an electronic renewal, sent to a person licensed to operate a motor vehicle under this chapter a document or statement containing a summary description and explanation of the donor registry and the anatomical gift act as provided in chapter 113A. The registrar shall affix a suitable symbol to the license of a person who has made an anatomical gift under said chapter 113A.

The registrar may, on behalf of the commonwealth, accept and use gifts of materials to effectuate this section, and may, on behalf of a charitable institution, accept gifts, contributions and bequests of funds from individuals, foundations and from federal or other governmental bodies for the purposes of chapter 113A and may transmit the same to such charitable institution and may make and sign any agreements and may do and perform any acts which may be necessary or desirable to carry out this section.

The registrar shall include on any license renewal form, including any electronic renewal form, an option for the person submitting the form to donate a sum of not less than $2 to the Organ and Tissue Donor Registration Fund established in section 35E1/2 of chapter 10. The

19 registrar shall annually report the total amount designated under this paragraph to the state
20 treasurer who shall credit amounts received for that purpose to the fund.

21 Neither the registrar nor any employee of the commonwealth shall be liable in a suit for
22 damages as a result of any acts or omissions or for any other action under this section.

23 The registrar shall provide to organ procurement organizations, as defined in section 2 of
24 chapter 113A, serving the commonwealth access through electronic transmission to names, dates
25 of birth and other pertinent information of licensed drivers and identification card holders who
26 have registered with the registry as organ and tissue donors for the sole purpose of identifying
27 those drivers as donors in the donor registry pursuant to said chapter 113A. On any form used by
28 the registry for organ and tissue donation, there shall be a disclaimer that informs the donor that
29 certain information shall be provided to organ procurement organizations upon the donor's
30 death.

31 The registrar shall include, in the required driver education and training course as
32 provided for in section 8 and in section 13D of chapter 71, an information session on organ and
33 tissue donation. The information session shall include educational materials to be provided by
34 organ procurement organizations serving the commonwealth.

35 The registrar shall make available in all registry branches educational materials as
36 provided by organ procurement organizations serving the commonwealth.

37 The registrar shall develop a means by which a person licensed by the registrar to operate
38 a motor vehicle or holding an identification card issued under section 8E to register as an organ
39 and tissue donor through the registry's website. The means shall be in addition to and shall
40 contain the same security provisions as provided for the online renewal of licenses and
41 registrations.

42 SECTION 2. Sections 5A to 13, inclusive, of chapter 113 is hereby repealed.

43 SECTION 3. The General Laws are hereby amended by inserting after said chapter 113
44 the following chapter:-

45 CHAPTER 113A

46 UNIFORM ANATOMICAL GIFT ACT

47 Section 1. This act shall be known and may be cited as the "Uniform Anatomical Gift
48 Act".

49 Section 2. For purposes of this chapter, the following words shall have the following
50 meanings:

51 "Adult", an individual who is at least 18 years of age.

52 “Agent”, an individual who is authorized to make health-care decisions on the principal’s
53 behalf by a power of attorney for health care including, but not limited to a health care agent
54 appointed under a health care proxy pursuant to chapter 201D or an individual who is expressly
55 authorized to make an anatomical gift on the principal’s behalf by any other record signed by the
56 principal.

57 “Anatomical gift”, a donation of all or part of a human body to take effect after the
58 donor’s death for the purpose of transplantation, therapy, research or education.

59 “Decedent”, a deceased individual, including a stillborn infant or fetus.

60 “Disinterested witness”, a witness other than the spouse, child, parent, sibling,
61 grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to
62 make an anatomical gift or another adult who exhibited special care and concern for the
63 individual; provided, however, that for the purposes of this definition, “individual” shall not
64 include an individual to whom an anatomical gift could pass under section 11.

65 “Document of gift”, a donor card or other record used to make an anatomical gift;
66 provided, however, that such document may include a statement or symbol on a driver’s license,
67 identification card or an inclusion in a donor registry.

68 “Donor”, an individual whose body or part is the subject of an anatomical gift.

69 “Donor registry”, the donor registry established in section 20 or any other database that
70 identifies donors and complies with said section 20.

71 “Driver’s license” , a license or permit issued by the registry of motor vehicles to an
72 individual to operate a vehicle, whether or not conditions are attached to the license or permit.

73 “Eye bank”, a person that is licensed, accredited or regulated under federal or state law to
74 engage in the recovery, screening, testing, processing, storage or distribution of human eyes or
75 portions of human eyes.

76 “Guardian”, an individual appointed by a court to make decisions regarding the support,
77 care, education, health or welfare of another individual; provided, however, that “guardian” shall
78 not include a guardian ad litem.

79 “Hospital”, a facility licensed as a hospital under the laws of any state or a facility
80 operated as a hospital by the United States, a state or a subdivision of a state.

81 “Identification card”, an identification card issued by the registry of motor vehicles.

82 “Know”, to have actual knowledge.

83 “Minor”, an individual who is under 18 years of age.

84 “Organ procurement organization”, an entity designated as such by the secretary of the
85 United States Department of Health and Human Services.

86 “Parent”, either parent whose parental rights have not been terminated, regardless of
87 whether the parents are married, divorced, separated or never married to each other.

88 “Part”, an organ, eye or tissue of a human being; provided, however, that “part” shall not
89 include the whole body or a gamete as defined in section 2 of chapter 111L, which shall be
90 donated in accordance with chapter 111L.

91 “Person”, an individual, corporation, business trust, estate, trust, partnership, limited
92 liability company, association, joint venture, public corporation, government or governmental
93 subdivision, agency or instrumentality or any other legal or commercial entity.

94 “Physician”, an individual authorized to practice medicine or osteopathy under the laws
95 of any state.

96 “Procurement organization”, an eye bank, organ procurement organization or tissue bank.

97 “Prospective donor”, an individual who is deceased or near death and has been
98 determined by a procurement organization to have a part that could be medically suitable for
99 transplantation, therapy, research or education; provided, however, that “prospective donor” shall
100 not include an individual who has made a refusal to become a donor.

101 “Reasonably available”, able to be contacted by a procurement organization without
102 undue effort and willing and able to act in a timely manner consistent with existing medical
103 criteria necessary for the making of an anatomical gift.

104 “Recipient”, an individual into whose body a decedent’s part has been or is intended to be
105 transplanted.

106 “Record”, information that is inscribed on a tangible medium or that is stored in an
107 electronic or other medium and is retrievable in perceivable form.

108 “Refusal”, a record created under section 7 that expressly states an intent to bar other
109 persons from making an anatomical gift of an individual’s body or part.

110 “Sign”, with the present intent to authenticate or adopt a record, to execute or adopt a
111 tangible symbol or to attach to or logically associate with the record an electronic symbol, sound
112 or process.

113 “State”, a state of the United States, the District of Columbia, Puerto Rico, the United
114 States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
115 United States.

116 “Technician”, an individual, including an enucleator, determined to be qualified to
117 remove or process parts by an appropriate organization that is licensed, accredited or regulated
118 under federal or state law.

119 “Tissue”, a portion of the human body other than an organ or an eye, but not including
120 blood unless the blood is donated for the purpose of research or education.

121 “Tissue bank”, a person that is licensed, accredited or regulated under federal or state
122 law to engage in the recovery, screening, testing, processing, storage or distribution of tissue.

123 “Transplant hospital”, a hospital that furnishes organ transplants and other medical and
124 surgical specialty services required for the care of transplant patients.

125 Section 3. This chapter shall apply to an anatomical gift or amendment to, revocation of
126 or refusal to make an anatomical gift, whenever made.

127 Section 4. Subject to section 8, an anatomical gift of a donor’s body or part may be made
128 during the life of the donor for the purpose of transplantation, therapy, research or education in
129 the manner provided in section 5 by:

130 (1) the donor, if the donor is an adult or if the donor is a minor and is: (i) emancipated; or

131 (ii) authorized under state law to apply for a driver’s license or identification card;

132 (2) an agent of the donor including, but not limited to, a health care agent appointed
133 under a health care proxy pursuant to chapter 201D, unless the power of attorney for health care
134 or other record prohibits the agent from making an anatomical gift;

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

136 (4) the donor’s guardian.

137 Section 5. (a) A donor may make an anatomical gift:

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

140 (2) by a will;

141 (3) during a terminal illness or injury of the donor, by any form of communication
142 addressed to at least 2 adults, at least 1 of whom shall be a disinterested witness; or

143 (4) as provided in subsection (b).

144 (b) A donor or other individual authorized to make an anatomical gift under section 4
145 may make a gift by a donor card or other record signed by the donor or other individual making

146 the gift or by authorizing a statement or symbol indicating that the donor has made an anatomical
147 gift to be included on a donor registry. If the donor or other individual is physically unable to
148 sign a record, the record may be signed by another individual at the direction of the donor or
149 other individual and such record shall:

150 (1) be witnessed by at least 2 adults, at least 1 of whom shall be a disinterested
151 witness, who have signed at the request of the donor or other individual; and

152 (2) state that it has been signed and witnessed as provided in clause (1).

153 (c) Revocation, suspension, expiration or cancellation of a driver's license or
154 identification card upon which an anatomical gift has been indicated shall not invalidate the gift.

155 (d) An anatomical gift made by will shall take effect upon the donor's death whether or
156 not the will is probated. Invalidation of the will after the donor's death shall not invalidate the
157 gift.

158 Section 6. (a) Subject to section 8, a donor or other individual authorized to make an
159 anatomical gift under section 4 may amend or revoke an anatomical gift by:

160 (1) a record signed by:

161 (i) the donor;

162 (ii) the other individual; or

163 (iii) subject to subsection (b), another individual acting at the direction of
164 the donor or other individual if such donor or other individual is physically unable to sign; or

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

167 (b) A record signed pursuant to subclause (iii) of clause (1) of subsection (a) shall:

168 (1) be witnessed by at least 2 adults, at least 1 of whom shall be a disinterested
169 witness, who have signed at the request of the donor or other individual; and

170 (2) state that it has been signed and witnessed as provided in clause (1).

171 (c) Subject to section 8, a donor or other individual authorized to make an anatomical gift
172 under section 4 may revoke an anatomical gift by the destruction or cancellation of the document
173 of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the
174 gift.

175 (d) A donor may amend or revoke an anatomical gift that was not made in a will by any
176 form of communication during a terminal illness or injury addressed to at least 2 adults, at least 1
177 of whom shall be a disinterested witness.

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

180 Section 7. (a) An individual may refuse to make an anatomical gift of the individual's
181 body or part by:

182 (1) a record signed by: (i) the individual; or (ii) subject to subsection (b), another
183 individual acting at the direction of the individual if the individual is physically unable to sign;

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

186 (3) any form of communication made by the individual during the individual's
187 terminal illness or injury addressed to at least 2 adults, at least 1 of whom shall be a disinterested
188 witness.

189 (b) A record signed pursuant to subclause (ii) of clause (1) of subsection (a) shall:

190 (1) be witnessed by at least 2 adults, at least 1 of whom shall be a disinterested
191 witness, who have signed at the request of the individual; and

192 (2) state that it has been signed and witnessed as provided in clause (1).

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

194 (1) in the manner provided in subsection (a) for making a refusal;

195 (2) by subsequently making an anatomical gift pursuant to section 5 that is
196 inconsistent with the refusal; or

197 (3) by destroying or canceling the record or portion thereof evidencing the refusal,
198 with the intent to revoke the refusal.

199 (d) Except as otherwise provided in subsection (h) of section 8, in the absence of an
200 express, contrary indication by the individual set forth in the refusal, an individual's unrevoked
201 refusal to make an anatomical gift of the individual's body or part shall bar all other persons
202 from making an anatomical gift of that individual's body or part.

203 Section 8. (a) Except as otherwise provided in subsection (g) and subject to subsection
204 (f), in the absence of an express, contrary indication by the donor, a person other than the donor
205 shall be barred from making, amending or revoking an anatomical gift of a donor's body or part

206 if the donor made an anatomical gift of the donor's body or part under section 5 or an
207 amendment to an anatomical gift of the donor's body or part under section 6.

208 (b) A donor's revocation of an anatomical gift of the donor's body or part under section
209 6 shall not be a refusal and shall not bar another person specified in section 4 or 9 from making
210 an anatomical gift of the donor's body or part under section 5 or 10.

211 (c) If an individual other than the donor makes an unrevoked anatomical gift of the
212 donor's body or part under section 5 or an amendment to an anatomical gift of the donor's body
213 or part under section 6, no other individual may make, amend or revoke the gift of the donor's
214 body or part under section 10.

215 (d) A revocation of an anatomical gift of a donor's body or part under section 6 by a
216 person other than the donor shall not bar another person from making an anatomical gift of the
217 body or part under section 5 or 10.

218 (e) In the absence of an express, contrary indication by the donor or other person
219 authorized to make an anatomical gift under section 4, an anatomical gift of a part is neither a
220 refusal to give another part nor a limitation on the making of an anatomical gift of another part at
221 a later time by the donor or another person.

222 (f) In the absence of an express, contrary indication by the donor or other individual
223 authorized to make an anatomical gift under section 4, an anatomical gift of a part for 1 or more
224 of the purposes set forth in said section 4 shall not operate as a limitation on the making of an
225 anatomical gift of the part for any of the other purposes in said section 4 by the donor or other
226 individual under section 5 or 10.

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

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

231 Section 9 (a) Subject to subsections (b) and (c) and unless otherwise prohibited by section
232 7 or 8, an anatomical gift of a decedent's body or part for transplantation, therapy, research or
233 education may be made by any member of any of the following classes of individuals who is
234 reasonably available, in the order of priority as specified below:

235 (1) an agent of the decedent at the time of death who could have made an
236 anatomical gift under clause (2) of section 4 immediately before the decedent's death;

237 (2) the spouse of the decedent;

238 (3) an adult child of the decedent;

239 (4) a parent of the decedent;

240 (5) an adult sibling of the decedent;

241 (6) an adult grandchild of the decedent;

242 (7) a grandparent of the decedent;

243 (8) an adult who exhibited special care and concern for the decedent;

244 (9) a person who was acting as a guardian of the person of the decedent at the
245 time of death; and

246 (10) any other person having the authority to dispose of the decedent's body.

247 (b) If there is more than 1 member of a class listed in clause (1), (3), (4), (5), (6), (7), (9)
248 or (10) of subsection (a) who is entitled to make an anatomical gift, an anatomical gift may be
249 made by a member of the class unless that member or a person to whom the gift may pass under
250 section 11 knows of an objection by another member of the class. If an objection is known, the
251 gift shall be made by a majority of the members of the class who are reasonably available.

252 (c) An individual shall not make an anatomical gift if, at the time of the decedent's death,
253 an individual in a prior class under subsection (a) is reasonably available to make or object to the
254 making of an anatomical gift

255 Section 10. (a) An individual authorized to make an anatomical gift under section 9 may
256 make an anatomical gift by a document of gift signed by the individual making the gift or by that
257 individual's oral communication that is electronically recorded or is contemporaneously reduced
258 to a record and signed by the individual receiving the oral communication.

259 (b) Subject to subsection (c), an anatomical gift by a person authorized in section 9 may
260 be amended or revoked orally or in a record by any member of a prior class who is or becomes
261 reasonably available after the execution of the document of gift. If more than 1 member of the
262 prior class is or becomes reasonably available after the document of gift was executed, the gift
263 made by an individual authorized under section 9 may be:

264 (1) amended only if a majority of the reasonably available members agree to
265 amend of the gift; or

266 (2) revoked if a majority of the reasonably available members agree to the
267 revoking of the gift or if the available members are equally divided as to whether to revoke the
268 gift.

269 (c) A revocation under subsection (b) shall be effective only if the procurement
270 organization, transplant hospital, physician or technician knows of the revocation before an

271 incision has been made to remove a part from the donor's body or before an invasive procedure
272 has begun to prepare the recipient.

273 Section 11. (a) An anatomical gift may be made to the following persons named in the
274 document of gift:

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

277 (2) subject to subsection (b), an individual designated by the person making the
278 anatomical gift if the individual is designated as the recipient of the part;

279 (3) an eye bank or tissue bank.

280 (b) If an anatomical gift to an individual under clause (2) of subsection (a) cannot be
281 transplanted into the individual, the part shall pass in accordance with subsection (g) in the
282 absence of an express, contrary indication by the person making the anatomical gift.

283 (c) If an anatomical gift of 1 or more specific parts or of all parts is made in a document
284 of gift that does not name a person described in subsection (a) but identifies the purpose for
285 which an anatomical gift may be used, the following rules shall apply:

286 (1) if the part is an eye and the gift is for transplantation or therapy, the gift shall
287 pass to the appropriate eye bank;

288 (2) if the part is tissue and the gift is for transplantation or therapy, the gift shall
289 pass to the appropriate tissue bank;

290 (3) if the part is an organ and the gift is for transplantation or therapy, the gift
291 shall pass to the appropriate organ procurement organization as custodian of the organ; and

292 (4) if the part is an organ, an eye, or tissue and the gift is for research or
293 education, the gift shall pass to the appropriate procurement organization.

294 (d) For the purpose of subsection (c), if there is more than 1 purpose of an anatomical gift
295 set forth in the document of gift but the purposes are not set forth in any priority, then the gift
296 shall be used for transplantation or therapy, if suitable for such purposes. If the gift cannot be
297 used for transplantation or therapy, the gift may be used for research or education.

298 (e) If an anatomical gift of 1 or more specific parts is made in a document of gift that
299 does not name a person described in subsection (a) and does not identify the purpose of the gift,
300 the gift shall pass in accordance with subsection (g) and the parts shall be used for
301 transplantation or therapy if suitable but, if not suitable for those purposes, the parts may be used
302 for research or education.

303 (f) If a document of gift specifies only a general intent to make an anatomical gift by
304 words such as “donor”, “organ donor”, “body donor” or by a symbol or statement of similar
305 import, the gift shall pass in accordance with subsection (g) and the parts shall be used for
306 transplantation or therapy if suitable but, if not suitable for those purposes, the parts may be used
307 for research or education.

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

309 (1) if the part is an eye, the gift shall pass to the appropriate eye bank;

310 (2) if the part is tissue, then the gift shall pass to the appropriate tissue bank;

311 (3) if the part is an organ, the gift shall pass to the appropriate organ procurement
312 organization as custodian of the organ.

313 (h) An anatomical gift of an organ for transplantation or therapy, other than an
314 anatomical gift under clause (2) of subsection (a), shall pass to the organ procurement
315 organization as custodian of the organ.

316 (i) If an anatomical gift does not pass pursuant to subsections (a) to (h), inclusive, or the
317 decedent’s body or part is not used for transplantation, therapy, research or education, custody of
318 the body or part shall pass to the person under obligation to dispose of the body or part.

319 (j) A person shall not accept an anatomical gift if the person knows that the gift was not
320 effectively made under section 5 or 10 or if the person knows that the decedent made a refusal
321 under section 7 that was not revoked. For the purposes of this subsection, if a person knows that
322 an anatomical gift was made on a document of gift, that person shall be deemed to know of any
323 amendment or revocation of the gift or any refusal to make an anatomical gift on the same
324 document of gift.

325 (k) Except as otherwise provided in clause (2) of subsection (a), nothing in this act shall
326 affect the allocation of organs for transplantation or therapy.

327 Section 12. (a) The following persons shall make a reasonable search of an individual
328 whom the person reasonably believes to be dead or near death for a document of gift or other
329 information identifying the individual as a donor or as an individual who made a refusal:

330 (1) a law enforcement officer, firefighter, paramedic or other emergency
331 personnel finding the individual; and

332 (2) if no other source of the information is immediately available, a hospital, as
333 soon as practical after the individual’s arrival at the hospital.

334 (b) If a document of gift or a refusal to make an anatomical gift is located by the search
335 required by clause (1) of subsection (a) and the individual or deceased individual to whom it

336 relates is taken to a hospital, the person responsible for conducting the search shall send the
337 document of gift or refusal to the hospital.

338 (c) A person shall not be subject to criminal or civil liability for failing to discharge the
339 duties imposed by this section.

340 Section 13. (a) A document of gift need not be delivered during the donor's lifetime to
341 be effective.

342 (b) Upon or after an individual's death, a person in possession of a document of gift or a
343 refusal to make an anatomical gift with respect to the individual shall allow examination and
344 copying of the document of gift or refusal by a person authorized to make or object to the
345 making of an anatomical gift with respect to the individual or by a person to whom the gift could
346 pass under section 11.

347 Section 14. (a) When a hospital refers an individual at or near death to a procurement
348 organization, the organization shall make a reasonable search of the records of the Massachusetts
349 Donor Registry and any other donor registry that it knows exists for the geographical area in
350 which the individual resides to ascertain whether the individual has made an anatomical gift.

351 (b) Pursuant to section 20, a procurement organization shall be allowed reasonable access
352 to information in the records of the registry of motor vehicles through the donor registry as set
353 forth in section 8D of chapter 90 to ascertain whether an individual at or near death is a donor.

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

361 (d) Unless prohibited by any other law, at any time after a donor's death, the person to
362 whom a part shall pass under section 11 may conduct any reasonable examination necessary to
363 assess the medical suitability of the body or part for its intended purpose.

364 (e) Unless prohibited by any other law,an examination under subsection (c) or (d) may
365 include, but shall not be limited, to premortem and postmortem serological and blood and tissue
366 compatibility testing and an examination of all medical and dental records of the donor or
367 prospective donor.

368 (f) Upon the death of a minor who was a donor or who had signed a refusal, the
369 procurement organization shall conduct a reasonable search for the parents of the minor and

370 provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the
371 refusal unless the procurement organization knows the minor was emancipated.

372 (g) Upon referral by a hospital under subsection (a), a procurement organization shall
373 make a reasonable search for any person listed in section 9 having priority to make an anatomical
374 gift on behalf of a prospective donor. If a procurement organization receives information that an
375 anatomical gift to another person was made, amended or revoked, it shall promptly advise the
376 other person of all relevant information.

377 (h) Subject to subsection (i) of section 11 and section 22, the rights of the person to
378 whom a part shall pass under section 11 shall be superior to the rights of all others with respect
379 to the part. That person may accept or reject an anatomical gift in whole or in part. Subject to the
380 terms of the document of gift and this chapter, a person who accepts an anatomical gift of an
381 entire body may allow embalming, burial or cremation and the use of remains in a funeral
382 service. Upon the death of the donor and before embalming, burial or cremation, the person to
383 whom a part shall pass under section 11 shall cause the part to be removed without unnecessary
384 mutilation.

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

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

390 Section 15. Each hospital shall enter into agreements or affiliations with procurement
391 organizations for coordination of procurement and use of anatomical gifts.

392 Section 16. (a) Except as otherwise provided in subsection (b), a person who for valuable
393 consideration, knowingly purchases or sells a part for transplantation or therapy if removal of
394 such part from an individual is intended to occur after the individual's death shall be punished by
395 imprisonment in the state prison for not more than 5 years or in the house of correction for not
396 more than 2 ½ years, or by a fine of not more than $50,000 or by both such fine and
397 imprisonment.

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

400 Section 17. A person who, in order to obtain a financial gain, intentionally falsifies,
401 forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a
402 document of gift or a refusal to make a gift shall be punished by imprisonment in the state prison
403 for not more than 5 years or in a house of correction for not more than 2 ½ years or by a fine of
404 not more than $50,000 or by both such fine and imprisonment.

405 Section 18. (a) A person who acts in accordance with this chapter or with the applicable
406 anatomical gift law of another state or who attempts in good faith to do so, shall not be liable for
407 the act in a civil action, criminal prosecution or administrative proceeding. Following a donor's
408 designation in a donor registry, a signed statement by a donor in an advanced directive or donor
409 card shall be prima facie evidence of good faith.

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

412 (c) In determining whether an anatomical gift has been made, amended or revoked under
413 this chapter, a person may rely upon representations of an individual listed in subsection (a) of
414 section 9 relating to the individual's relationship to the donor or prospective donor unless the
415 person knows that the representation is false.

416 Section 19. (a) A document of gift shall be valid if executed in accordance with:

417 (1) this chapter;

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

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

422 (b) If a document of gift is valid under this section, then this chapter shall govern the
423 interpretation of the document of gift.

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

426 Section 20. (a) The registry of motor vehicles shall maintain the donor registry as set
427 forth in section 8D of chapter 90 to identify individuals who have authorized an anatomical gift
428 at the time of issuance of drivers' licenses, identification cards or renewals. The registrar may
429 contract with qualified entities to assist with the continued development and maintenance of the
430 donor registry and to secure grants from public and private sources and to receive and disburse
431 funds which are assigned, donated or bequeathed to the registry of motor vehicles to cover the
432 costs of the donor registry.

433 (b) A donor registry shall:

434 (1) provide a database that includes donors who have made anatomical gifts;

435 (2) provide a mechanism for an anatomical gift to be removed from the database;

436 (3) be accessible to a procurement organization to allow it to obtain relevant
437 information on the donor registry to determine, at or near the death of the donor or a prospective
438 donor, whether the donor or prospective donor has made an anatomical gift; and

439 (4) be accessible for purposes of clauses (1) to (3), inclusive, 7 days a week on a
440 24-hour basis.

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

446 (d) This section shall not prohibit a person from creating or maintaining a donor registry
447 that is not established by or under contract with the commonwealth; provided, however, that any
448 such registry shall comply with subsections (b) and (c).

449 Section 21. (a) The chief medical examiner and the district attorneys shall cooperate with
450 procurement organizations to maximize the opportunity to recover anatomical gifts for
451 transplantation, therapy, research or education.

452 (b) The procurement organization authorized to remove an anatomical gift from a donor
453 whose death is under investigation shall remove the donated part from the donor's body after
454 giving notice to the chief medical examiner and the appropriate district attorney, or their
455 respective designees, subject to this section. The chief medical examiner and the district attorney,
456 or their respective designees, shall approve or deny removal of the anatomical gift within a time
457 period that ensures the preservation of the anatomical gift for transplantation. Unless the district
458 attorney objects, the procurement organization may transport the donor’s body for the removal of
459 the anatomical gift consistent with this subsection; provided, however, that the procurement
460 organization shall transport the donor’s body to the medical examiner’s facilities after removal of
461 the anatomical gift when required. The chief medical examiner, or his designee, may permit the
462 removal of the anatomical gift at the medical examiner's office. The chief medical examiner or
463 district attorney, or their respective designees, shall be present during the removal of the
464 anatomical gift if in their judgment such attendance would facilitate a donation that would
465 otherwise be denied. In that case, the chief medical examiner or district attorney, or their
466 respective designees, may request a biopsy or deny removal of the anatomical gift and shall
467 explain the reasons for determining that those tissues or organs may be involved in the cause of
468 death.

469 (c) No medical examiner, physician, procurement organization who acts or attempts to
470 act in good faith in accordance with this section shall be liable for that act in a civil action or
471 criminal proceeding.

472 Section 22. (a) The chief medical examiner shall release to the procurement organization
473 such information as may be necessary to facilitate organ and tissue donation including, but not
474 limited to, the name, contact information and available medical and social history of a decedent
475 whose death has been reported pursuant to chapter 38. If the decedent's body or part is
476 medically suitable for transplantation or therapy, the medical examiner shall release the autopsy
477 reports to the procurement organization; provided, however, that in the case of a suspicious death
478 where the district attorney is controlling the investigation pursuant to said chapter 38, the chief
479 medical examiner or his designee shall not release an autopsy report unless informed by the
480 district attorney that the autopsy report may be released. The procurement organization may
481 make a subsequent disclosure of the postmortem examination results or other information
482 received from the medical examiner only as necessary to facilitate transplantation or therapy.

483 (b) The medical examiner may conduct a medicolegal examination by reviewing all
484 medical records, laboratory test results, xrays, other diagnostic results and other information that
485 any person may possess about a donor or prospective donor whose death has been reported
486 pursuant to chapter 38 which the medical examiner determines may be relevant to the
487 investigation.

488 (c) A person that has any information requested by a medical examiner pursuant to
489 subsection (b) shall provide that information as expeditiously as possible to allow the medical
490 examiner to conduct the medicolegal investigation within a period compatible with the
491 preservation of parts for transplantation, therapy, research or education.

492 Section 23. An individual's decision to make a donation of that individual's own organ
493 or tissue after death shall be complied with and shall not require the consent or concurrence of
494 any other individual after the donor's death. In the absence of a revocation or amendment, health
495 care providers and procurement organizations shall act in accordance with the donor's decision
496 and may take such appropriate actions as necessary to effect the anatomical gift.

497 Section 24. In applying and construing this chapter, consideration shall be given
498 to the need to promote uniformity of the law with respect to its subject matter among states that
499 have the uniform act or a similar law.

500 Section 25. Whenever authorized by federal law and as required by this chapter, this
501 chapter shall modify, limit and supersede the Electronic Signatures in Global and National
502 Commerce Act, 15 U.S.C. §7001 et seq., except 15 U.S.C. §7001(a); provided, however, that
503 nothing in this chapter shall authorize electronic delivery of any of the notices described in 15
504 U.S.C. §7003(b).