

Act No. 101
Public Acts of 2023
Approved by the Governor
July 18, 2023
Filed with the Secretary of State
July 19, 2023
EFFECTIVE DATE: July 19, 2023

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Neeley, Liberati, Haadsma, Rheingans, Byrnes, Brenda Carter, Hope, MacDonell, Tyrone Carter, Coffia, Breen, Price, Young, Rogers, Hood, Paiz, Tsernoglou, Churches, Skaggs, Brabec, Whitsett and Aiyash

ENROLLED HOUSE BILL No. 4363

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 10105 and 10120 (MCL 333.10105 and 333.10120), section 10105 as amended and section 10120 as added by 2008 PA 39.

The People of the State of Michigan enact:

Sec. 10105. (1) A donor may make an anatomical gift by doing any of the following:

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

(b) In a will.

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least 1 of whom is a disinterested witness. However, the physician who attends the donor during the terminal illness or injury shall not act as a recipient of the communication under this subdivision.

(d) As provided in subsection (2).

(e) By completing and filing a donor registry schedule created under section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, with the state income tax annual return required under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(2) A donor or other person authorized to make an anatomical gift under section 10104 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 shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

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

(4) 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.

Sec. 10120. (1) The organ procurement organization may establish or contract for the establishment of a donor registry.

(2) As provided for in section 2 of 1972 PA 222, MCL 28.292, and section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, the secretary of state shall inquire of each applicant, licensee, or identification card holder, in person or by mail, whether the individual agrees to participate in a donor registry as described in this part. The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry. The secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data, to the organ procurement organization or its successor organization, tissue banks, and eye banks. The secretary of state shall administer the donor registry in a manner that complies with subsections (4) and (5).

(3) As provided for in section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, the department of treasury shall transmit to the secretary of state the donor registry schedule filed by each individual who indicates a willingness to have the individual's name placed on the donor registry described under subsection (2). The department of treasury shall transmit the information described under this subsection in the manner and frequency determined by the department of treasury and the secretary of state. The secretary of state shall maintain a record of each donor registry schedule received from the department of treasury and add that individual to the donor registry described under subsection (2).

(4) A donor registry under this section must meet all of the following requirements:

(a) Be accessible to a procurement organization to allow it to obtain the name, address, and date of birth of individuals 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 an anatomical gift.

(b) Provide electronic access, including, but not limited to, the transfer of data for purposes of subdivision (a) on a 7-day-a-week, 24-hour-a-day basis at no cost to the procurement organization.

(5) Personally identifiable information on a donor registry about a donor or prospective donor must 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.

(6) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with this state. A donor registry that is not established by or under contract with this state shall do all of the following:

(a) Comply with subsections (4) and (5).

(b) Within 30 days of its establishment, notify the organ procurement organization of its establishment.

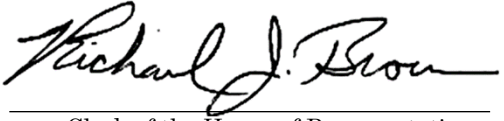
(c) Within 30 days of its establishment, give the organ procurement organization full access to its records of anatomical gifts and amendments to or revocations of anatomical gifts.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 102nd Legislature are enacted into law:

(a) House Bill No. 4362.

(b) House Bill No. 4364.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 4362, referred to in enacting section 1, was filed with the Secretary of State July 19, 2023, and became 2023 PA 100, Imd. Eff. July 19, 2023.

House Bill No. 4364, also referred to in enacting section 1, was filed with the Secretary of State July 19, 2023, and became 2023 PA 102, Imd. Eff. July 19, 2023.