

**SUBSTITUTE FOR
HOUSE BILL NO. 4363**

A bill to amend 1978 PA 368, entitled
"Public health code,"
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:

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

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

6 (b) In a will.

7 (c) During a terminal illness or injury of the donor, by any
8 form of communication addressed to at least 2 adults, at least 1 of

1 whom is a disinterested witness. However, the physician who attends
2 the donor during the terminal illness or injury shall not act as a
3 recipient of the communication under this subdivision.

4 (d) As provided in subsection (2).

5 **(e) By completing and filing a donor registry schedule created**
6 **under section 474 of the income tax act of 1967, 1967 PA 281, MCL**
7 **206.474, with the state income tax annual return required under**
8 **part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to**
9 **206.532.**

10 (2) A donor or other person authorized to make an anatomical
11 gift under section 10104 may make a gift by a donor card or other
12 record signed by the donor or other person making the gift or by
13 authorizing that a statement or symbol indicating that the donor
14 has made an anatomical gift be included on a donor registry. If the
15 donor or other person is physically unable to sign a record, the
16 record may be signed by another individual at the direction of the
17 donor or other person and shall meet all of the following
18 requirements:

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

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

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

27 (4) An anatomical gift made by will takes effect upon the
28 donor's death whether or not the will is probated. Invalidation of
29 the will after the donor's death does not invalidate the gift.

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

3 (2) As provided for in section 2 of 1972 PA 222, MCL 28.292,
4 and section 310 of the Michigan vehicle code, 1949 PA 300, MCL
5 257.310, the secretary of state shall inquire of each applicant,
6 licensee, or ~~state~~ identification card holder, in person or by
7 mail, whether the individual agrees to participate in a donor
8 registry as described in this part. The secretary of state shall
9 maintain a record of an individual who indicates a willingness to
10 have his or her name placed on the donor registry. The secretary of
11 state shall maintain the donor registry in a manner that provides
12 electronic access, including, but not limited to, the transfer of
13 data, to the organ procurement organization or its successor
14 organization, tissue banks, and eye banks. The secretary of state
15 shall administer the donor registry in a manner that complies with
16 subsections ~~(3) and (4)~~ and (5).

17 (3) As provided for in section 474 of the income tax act of
18 1967, 1967 PA 281, MCL 206.474, the department of treasury shall
19 transmit to the secretary of state the donor registry schedule
20 filed by each individual who indicates a willingness to have the
21 individual's name placed on the donor registry described under
22 subsection (2). The department of treasury shall transmit the
23 information described under this subsection in the manner and
24 frequency determined by the department of treasury and the
25 secretary of state. The secretary of state shall maintain a record
26 of each donor registry schedule received from the department of
27 treasury and add that individual to the donor registry described
28 under subsection (2).

29 (4) ~~(3)~~ A donor registry under this section ~~shall~~ **must** meet

1 all of the following requirements:

2 (a) Be accessible to a procurement organization to allow it to
3 obtain the name, address, and date of birth of ~~persons~~**individuals**
4 on the donor registry to determine, at or near death of the donor
5 or a prospective donor, whether the donor or prospective donor has
6 made an anatomical gift.

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

11 **(5)** ~~(4)~~ Personally identifiable information on a donor
12 registry about a donor or prospective donor ~~shall~~**must** not be used
13 or disclosed without the express consent of the donor, prospective
14 donor, or person that made the anatomical gift for any purpose
15 other than to determine, at or near death of the donor or
16 prospective donor, whether the donor or prospective donor has made,
17 amended, or revoked an anatomical gift.

18 **(6)** ~~(5)~~ This section does not prohibit any person from
19 creating or maintaining a donor registry that is not established by
20 or under contract with this state. A donor registry that is not
21 established by or under contract with this state shall do all of
22 the following:

23 (a) Comply with subsections ~~(3)~~ and ~~(4)~~ **and (5)**.

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

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

29 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 102nd Legislature are
2 enacted into law:

3 (a) House Bill No. 4362.

4 (b) House Bill No. 4364.