

HOUSE BILL NO. 4363

April 11, 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 and referred to the Committee on Health Policy.

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

1 driver license or identification card.

2 (b) In a will.

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

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

9 **(e) By completing and filing a donor registry schedule created**
10 **under section 474 of the income tax act of 1967, 1967 PA 281, MCL**
11 **206.474, with the state income tax annual return required under**
12 **part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to**
13 **206.532.**

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

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

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

28 (3) Revocation, suspension, expiration, or cancellation of a
29 driver license or identification card upon which an anatomical gift

1 is indicated does not invalidate the gift.

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

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

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

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

1 **department of treasury and add that individual to the donor**
2 **registry described under subsection (2).**

3 (4) ~~(3)~~—A donor registry under this section ~~shall~~**must** meet
4 all of the following requirements:

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

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

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

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

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

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

29 (c) Within 30 days of its establishment, give the organ

1 procurement organization full access to its records of anatomical
2 gifts and amendments to or revocations of anatomical gifts.

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

6 (a) Senate Bill No. _____ or House Bill No. 4362 (request no.
7 00530'23).

8 (b) Senate Bill No. _____ or House Bill No. 4364 (request no.
9 00530'23 a).