

HOUSE BILL REPORT

SHB 1012

As Passed Legislature
April 19, 1993

Title: An act relating to anatomical gifts.

Brief Description: Adopting the uniform anatomical gift act.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Appelwick, King and Jacobsen.)

Brief History:

Reported by House Committee on:
Health Care, February 12, 1993, DPS;
Passed House, March 9, 1993, 97-0;
Amended by Senate;
Passed Legislature, April 19, 1993, 96-0.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Appelwick; Campbell; Conway; Cooke; Flemming; R. Johnson; Lisk; Morris; Thibaudeau; and Veloria.

Staff: John Welsh (786-7133).

Background: Nationally, the demand for donor organs and body parts far exceeds the supply. It is estimated that from 8,000 to 10,000 people are waiting for a transplant organ. This predicament raises concerns from the patients who need new organs and body parts, as well as from physicians and health facilities providing transplantation services.

The Uniform Anatomical Gift Act, drafted and recommended to the states by the Commission on Uniform State Laws, was enacted in Washington in 1969. In view of the increasing demand for organs, the commission revised the act in 1988 in several respects.

There is a requirement in current law for the signature of two witnesses on a document for an anatomical gift.

Absent consent of a donor to make an anatomical gift, other persons may make such a gift upon the decease of the donor.

These include the surviving spouse, children, parents and siblings of the decedent in this order. There is no provision for the grandparents, guardian or a person authorized pursuant to a durable power of attorney to consent to anatomical gifts of a deceased donor.

There is no requirement on the part of a hospital to make an inquiry of a patient as to whether the patient may be a donor.

There is no penalty provided for the sale or purchase of a donor's body part.

Summary of Bill: There is a statement of legislative intent with findings that organ donations are needed; that discussions about advanced directives and organ donations should occur in office visits with primary care providers; and that sensitivity and discretion should be used when discussing organ donations with prospective donors. Legislative declarations are made that a program that increases the number of anatomical gifts is in the best interest of Washington citizens, and that wherever possible policies and procedures should be consistent with federal law.

The signature of two witnesses is no longer a requirement for evidencing an anatomical gift by a donor. However, where the donor is unable to sign the document of gift, it must be signed by another person in the presence of the donor and two witnesses.

The persons who may consent to an anatomical gift of a deceased donor, in the absence of any document evidencing a refusal to make a gift, include a guardian, a person authorized pursuant to a durable power of attorney, the surviving spouse, children, parents, siblings, or grandparents, in this order.

Hospitals are required to ask patients upon admission if they are organ donors, and provide non-donors with information about the right to make an anatomical gift and ask them if they want to become donors. The answer is documented in the patient's medical record. If the answer is in the affirmative, the hospital must provide a document of gift. Hospitals are also required to adopt policies to implement their responsibilities.

The selling or buying of organ or body parts of another is declared to be a felony punishable by a fine of up to \$50,000 or imprisonment for up to five years.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: State law should be updated to reflect the changes made in the Uniform Anatomical Gift Act nationally, which parallels state law. There is a critical need for organs for transplantation, and efforts to enhance the ability of individuals to make donations through procedures in this law should be encouraged, as it will help patients obtain needed organs.

Testimony Against: Hospitals are reluctant to bother patients, already worried over their own health problems, with lugubrious questions about organ donations.

Witnesses: Christopher Blagg, Northwest Kidney Center (pro); Beverly Jacobson, Washington State Hospital Association (pro); Donna Oilano, Lions Eye Bank (pro); and Dr. Barbara Andersen, Island County Coroner (pro).