

HOUSE BILL No. 1087

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-2-16.1-10.

Synopsis: Organ donation. Provides that an individual may make an anatomical gift to an unspecified individual who is currently on an organ transplant wait list maintained by a hospital located in Indiana. Provides that if the anatomical gift cannot be used for an in-state transplant and there is not a contrary instruction, the gift passes to an appropriate organization.

Effective: July 1, 2020.

Bacon

January 7, 2020, read first time and referred to Committee on Public Health.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1087

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 29-2-16.1-10, AS ADDED BY P.L.147-2007,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 10. (a) An anatomical gift may be made to the
4 following persons named in the document of gift:
5 (1) A hospital.
6 (2) An accredited medical school, dental school, college, or
7 university.
8 (3) An organ procurement organization.
9 (4) An appropriate person for research or education.
10 (5) Subject to subsection (b), an individual designated by the
11 person making the anatomical gift if the individual is the recipient
12 of the part.
13 **(6) Subject to subsection (q), an unspecified individual who is**
14 **currently on an organ transplant wait list maintained by a**
15 **hospital located in Indiana.**
16 ~~(7)~~ (7) An eye bank.
17 ~~(7)~~ **(8)** A tissue bank.



1 (b) If an anatomical gift to an individual under subsection (a)(5)
 2 cannot be transplanted into the individual, the part passes in
 3 accordance with subsection (g) in the absence of an express, contrary
 4 indication by the person making the anatomical gift.

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

9 (1) If the part is an eye and the gift is for the purpose of:

10 (A) transplantation;

11 (B) therapy;

12 (C) education; or

13 (D) research;

14 the gift passes to the appropriate eye bank that has an agreement
 15 to recover donated eyes from patients who die within the hospital.
 16 The eye bank is considered to be the custodian of the donated eye.

17 (2) If the part is tissue and the gift is for the purpose of:

18 (A) transplantation; or

19 (B) therapy;

20 the gift passes to the appropriate tissue bank that has an
 21 agreement to recover donated tissue from patients ~~that~~ **who** die
 22 within the hospital. The tissue bank is considered to be the
 23 custodian of the donated tissue.

24 (3) If the part is an organ and the gift is for the purpose of:

25 (A) transplantation; or

26 (B) therapy;

27 the gift passes to the appropriate organ procurement organization
 28 that has an agreement to recover donated organs from patients
 29 who die within the hospital. The procurement organization is
 30 considered to be the custodian of the donated organs.

31 (4) If the part is an organ, an eye, or tissue from a patient who dies
 32 within a hospital and the gift is for the purpose of research or
 33 education, the gift passes to the appropriate procurement
 34 organization that has an agreement to recover donated organs,
 35 tissue, or eyes from patients who die within the hospital.

36 (d) For the purpose of subsection (c), if there is more than one (1)
 37 purpose of an anatomical gift set forth in the document of gift but the
 38 purposes are not set forth in any priority, the gift must be used for
 39 transplantation or therapy, if suitable. If the gift cannot be used for
 40 transplantation or therapy, the gift may be used for research or
 41 education.

42 (e) If an anatomical gift of one (1) or more specific parts is made in



1 a document of gift that does not name a person described in subsection
 2 (a) and does not identify the purpose of the gift, the gift may be used
 3 only for transplantation, research, or therapy, and the gift passes in
 4 accordance with subsection (g).

5 (f) If a document of gift specifies only a general intent to make an
 6 anatomical gift by words such as "donor", "organ donor", or "body
 7 donor", or by a symbol or statement of similar import, the gift may be
 8 used only for transplantation, research, or therapy, and the gift passes
 9 in accordance with subsection (g).

10 (g) For purposes of subsections (b), (e), ~~and~~ (f), **and (q)**, the
 11 following rules apply:

12 (1) If the part is an eye, the gift passes to the appropriate eye
 13 bank.

14 (2) If the part is tissue, the gift passes to the appropriate tissue
 15 bank.

16 (3) If the part is an organ, the gift passes to the appropriate organ
 17 procurement organization as custodian of the organ.

18 (h) An anatomical gift of an organ for transplantation, therapy, or
 19 research, other than an anatomical gift under subsection (a)(2), passes
 20 to the organ procurement organization as custodian of the organ.

21 (i) If:

22 (1) an anatomical gift does not pass pursuant to subsections (a)
 23 through (h) or **subsection (q); or**

24 (2) the decedent's body or part is not used for transplantation,
 25 therapy, research, or education;

26 custody of the body or part passes to the person under obligation to
 27 dispose of the body or part.

28 (j) A person may not accept an anatomical gift if the person knows
 29 that the:

30 (1) gift was not effectively made under section 4 or 9 of this
 31 chapter; or

32 (2) decedent made a refusal under section 6 of this chapter that
 33 was not revoked.

34 (k) For purposes of subsection (j), if a person knows that an
 35 anatomical gift was made on a document of gift, the person is
 36 considered to know of any amendment or revocation of the gift or any
 37 refusal to make an anatomical gift on the same document of gift.

38 (l) If the gift is made by the donor to a specified donee, the will,
 39 card, or other document, or an executed copy thereof, may be delivered
 40 to the donee to expedite the appropriate procedures immediately after
 41 death. Delivery is not necessary to the validity of the gift. The will,
 42 card, or other document, or an executed copy thereof, may be deposited



1 in any hospital, bank or storage facility, or registry office that accepts
 2 it for safekeeping or for facilitation of procedures after death. On
 3 request of any interested party upon or after the donor's death, the
 4 person in possession shall produce the document for examination.

5 (m) If the will, card, or other document, or executed copy thereof,
 6 has been delivered to a specified donee, the donor may amend or
 7 revoke the gift by:

8 (1) the execution and delivery to the donee of a signed statement;

9 (2) an oral statement made in the presence of two (2) persons and
 10 communicated to the donee;

11 (3) a statement during a terminal illness or injury addressed to an
 12 attending physician and communicated to the donee; or

13 (4) a signed card or document found on the decedent's person or
 14 in the decedent's effects.

15 (n) Any document of gift which has not been delivered to the donee
 16 may be revoked by the donor in the manner set out in subsection (m)
 17 or by destruction, cancellation, or mutilation of the document and all
 18 executed copies thereof.

19 (o) Any gift made by a will may also be amended or revoked in the
 20 manner provided for amendment or revocation of wills, or as provided
 21 in subsection (m).

22 (p) Except as otherwise provided in subsection (a)(2), this chapter
 23 does not affect the allocation of organs for transplantation or therapy.

24 **(q) If an anatomical gift to an individual under subsection (a)(6)**
 25 **cannot be transplanted into the individual currently on an organ**
 26 **transplant wait list maintained by a hospital in Indiana, the gift**
 27 **passes in accordance with subsection (g) in the absence of an**
 28 **express, contrary indication by the person making the anatomical**
 29 **gift.**

