

LEGISLATIVE BILL 246

Approved by the Governor February 7, 2008

Introduced by Johnson, 37; Aguilar, 35; McDonald, 41

FOR AN ACT relating to coroners; to provide requirements for procurement of anatomical gifts as prescribed; to state intent; to define terms; to provide powers and duties; to provide for criminal immunity as prescribed; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares that it is in the public interest to facilitate organ and tissue donations pursuant to the Uniform Anatomical Gift Act and thereby to increase the availability of organs and tissues for medical transplantation. To accomplish these purposes, the following constitutes the procedure to facilitate the recovery of organs and tissues from donors under the jurisdiction of a coroner within a time period compatible with the preservation of such organ or tissue for the purpose of transplantation.

Sec. 2. For purposes of sections 1 to 8 of this act:

(1) Coroner means a coroner or his or her designated representative;

(2) Decedent means an individual with respect to whom a determination of death has been made pursuant to section 71-7202;

(3) Donor means a decedent (a) who is a donor of all or part of his or her body pursuant to subsection (1) of section 71-4802 or (b) for whom an anatomical gift has been made pursuant to subsection (2) of section 71-4802; and

(4) Preliminary investigation means an inquiry into whether any organs or tissues are necessary to determine the proximate cause or means of death.

Sec. 3. (1) A coroner shall conduct a preliminary investigation of a decedent within the coroner's jurisdiction as soon as possible after notification by the hospital in which such decedent is located or the hospital to which such decedent is being transported. The coroner may designate the coroner's physician or another physician to conduct the preliminary investigation.

(2) The preliminary investigation shall be completed within a time period that is compatible with the preservation and recovery of organs or tissues for the purpose of transplantation.

(3) The coroner may request and shall have access to all necessary information including copies of medical records, laboratory test results, X-rays, and other diagnostic results. The information shall be provided as expeditiously as possible, through reasonable means, to permit the preliminary investigation to be completed within a time period compatible with the preservation and recovery of organs or tissues for the purpose of transplantation.

(4) Upon completion of the preliminary investigation, the coroner shall release all organs or tissues which have been donated or may yet be donated pursuant to the Uniform Anatomical Gift Act except those that the coroner reasonably believes contain evidence of the proximate cause or means of death. If the coroner reasonably believes that a specific organ or tissue contains evidence of the proximate cause or means of death and the organ or tissue is otherwise subject to recovery as a donated organ or tissue pursuant to the Uniform Anatomical Gift Act, the coroner or his or her designee shall be present for the removal procedure (a) to make a final determination that allows the recovery of the organs and tissues to proceed, (b) to request a biopsy, or (c) to deny removal of such organ or tissue if the coroner determines such organ or tissue contains evidence of the proximate cause or means of death. After a preliminary investigation is completed under this section, all organs or tissues compatible for transplantation, except any organs or tissues for which the coroner has denied recovery, may be recovered pursuant to the Uniform Anatomical Gift Act.

Sec. 4. If the coroner, coroner's physician, or other physician designated by the coroner fails to complete the preliminary investigation required under section 3 of this act, or if the coroner fails to designate the coroner's physician or another physician to conduct and complete the preliminary investigation, within a time period compatible with the preservation of the organs and tissues for the purpose of transplantation, or if the coroner declines to conduct the preliminary investigation, any organ or tissue that is compatible for transplantation may be recovered pursuant to the Uniform Anatomical Gift Act as though the donor was not within the coroner's

jurisdiction.

Sec. 5. If the coroner denies recovery of an organ or tissue, the coroner shall state in a written report the reasons such recovery was denied and provide the report within ten days to the federally designated organ procurement organization in Nebraska.

Sec. 6. (1) If the coroner releases any organ or tissue for recovery, he or she may request that a blood sample, a sample of catheterized urine, a sample of bile if the liver is recovered for the purpose of transplantation, a biopsy specimen in fixative of the organ or tissue procured, and copies of any photographs, pictures, or other diagrams of the organ or tissue made at the time of recovery be delivered to the coroner.

(2) A coroner shall have access to medical records, pathology reports, and the body of the donor following the recovery of any organ or tissue allowed under section 3 or 4 of this act.

Sec. 7. Any physician or designated recovery personnel authorized by the federally designated organ procurement organization in Nebraska to recover any organ or tissue pursuant to section 3 or 4 of this act shall provide to the coroner a report detailing the recovery of such organ or tissue and any known relationship to the proximate cause or means of death. If appropriate, such report shall include a biopsy or medically approved sample from the recovered organ or tissue and the results of any diagnostic testing performed upon the recovered organ or tissue. Such report shall become part of the coroner's or coroner's physician's report.

Sec. 8. Any coroner, coroner's designee, coroner's physician or his or her designee, facility at which an organ or tissue recovery took place pursuant to sections 1 to 8 of this act, authorized recovery personnel, or other person who acts in good faith in compliance with sections 1 to 8 of this act shall be immune from criminal liability for recovery of any organ or tissue.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.