

Senate Bill 405

By: Senators Balfour of the 9th, Douglas of the 17th, Murphy of the 27th, Cowser of the 46th, Hawkins of the 49th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to  
2 acquisition and loss of property, so as to provide for the enactment of the "Georgia Revised  
3 Uniform Anatomical Gift Act"; to repeal the "Georgia Anatomical Gift Act"; to provide for  
4 a short title; to provide for definitions; to provide for anatomical gifts; to provide for who  
5 may make an anatomical gift; to provide for the manner of making, amending, or revoking  
6 an anatomical gift; to provide for refusal to make an anatomical gift; to provide for  
7 effectiveness; to provide for search and notification; to provide for delivery of document; to  
8 provide for rights and duties of procurement organizations; to provide for coordination of  
9 procurement and use; to prohibit the sale or purchase of body parts; to provide for penalties;  
10 to provide for immunity; to provide for governing law; to provide for a donor registry; to  
11 provide for the effect of an anatomical gift on an advance directive for health care; to provide  
12 for cooperation between coroners and medical examiners and procurement organizations; to  
13 provide for facilitation of an anatomical gift from a decedent; to provide for applicability and  
14 statutory construction; to provide for the continuation of the Advisory Board on Anatomical  
15 Gift Procurement; to provide for its powers and duties; to amend Article 6 of Chapter 12 of  
16 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses relative  
17 to human body trafficking, so as to revise certain provisions relating to buying and selling  
18 the human body or parts; to amend Chapter 23 of Title 31 of the Official Code of Georgia  
19 Annotated, relating to eye banks, so as to repeal a provision relating to removal of eye or  
20 corneal tissue by a coroner, medical examiner, or other individual; to amend the Official  
21 Code of Georgia Annotated, so as to revise various provisions for purposes of conformity;  
22 to provide for related matters; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



- 1 (10) 'Eye bank' means a person that is licensed, accredited, or regulated under federal or  
2 state law to engage in the recovery, screening, testing, processing, storage, or distribution  
3 of human eyes or portions of human eyes.
- 4 (11) 'Guardian' means a person appointed by a court to make decisions regarding the  
5 support, care, education, health, or welfare of an individual. The term does not include  
6 a guardian ad litem.
- 7 (12) 'Hospital' means a facility licensed as a hospital under the law of any state or a  
8 facility operated as a hospital by the United States, a state, or a subdivision of a state.
- 9 (13) 'Identification card' means an identification card for persons without drivers'  
10 licenses issued pursuant to Code Sections 40-5-100 through 40-5-104 by the Department  
11 of Driver Services.
- 12 (14) 'Know' means to have actual knowledge.
- 13 (15) 'Minor' means an individual who is under 18 years of age.
- 14 (16) 'Organ procurement organization' means a person designated by the Secretary of the  
15 United States Department of Health and Human Services as an organ procurement  
16 organization.
- 17 (17) 'Parent' means a parent whose parental rights have not been terminated.
- 18 (18) 'Part' means an organ, an eye, or tissue of a human being. The term does not include  
19 the whole body.
- 20 (19) 'Person' means an individual, corporation, business trust, estate, trust, partnership,  
21 limited liability company, association, joint venture, public corporation, government or  
22 governmental subdivision, agency, or instrumentality, or any other legal or commercial  
23 entity.
- 24 (20) 'Physician' means an individual authorized to practice medicine or osteopathy under  
25 the law of any state.
- 26 (21) 'Procurement organization' means an eye bank, organ procurement organization, or  
27 tissue bank.
- 28 (22) 'Prospective donor' means an individual who is dead or near death and has been  
29 determined by a procurement organization to have a part that could be medically suitable  
30 for transplantation, therapy, research, or education. The term does not include an  
31 individual who has made a refusal.
- 32 (23) 'Reasonably available' means able to be contacted by a procurement organization  
33 without undue effort and willing and able to act in a timely manner consistent with  
34 existing medical criteria necessary for the making of an anatomical gift.
- 35 (24) 'Recipient' means an individual into whose body a decedent's part has been or is  
36 intended to be transplanted.

1 (25) 'Record' means information that is inscribed on a tangible medium or that is stored  
2 in an electronic or other medium and is retrievable in perceivable form.

3 (26) 'Refusal' means a record created under Code Section 44-5-145 that expressly states  
4 an intent to bar other persons from making an anatomical gift of an individual's body or  
5 part.

6 (27) 'Sign' means, with the present intent to authenticate or adopt a record:

7 (A) To execute or adopt a tangible symbol; or

8 (B) To attach to or logically associate with the record an electronic symbol, sound, or  
9 process.

10 (28) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the  
11 United States Virgin Islands, or any territory or insular possession subject to the  
12 jurisdiction of the United States.

13 (29) 'Technician' means an individual determined to be qualified to remove or process  
14 parts by an appropriate organization that is licensed, accredited, or regulated under  
15 federal or state law. The term includes an individual who is authorized to remove eyes,  
16 known as an enucleator.

17 (30) 'Tissue' means a portion of the human body other than an organ or an eye. The term  
18 does not include blood unless the blood is donated for the purpose of research or  
19 education.

20 (31) 'Tissue bank' means a person that is licensed, accredited, or regulated under federal  
21 or state law to engage in the recovery, screening, testing, processing, storage, or  
22 distribution of tissue.

23 (32) 'Transplant hospital' means a hospital that furnishes organ transplants and other  
24 medical and surgical specialty services required for the care of transplant patients.

25 44-5-142.

26 Subject to Code Section 44-5-146, an anatomical gift of a donor's body or part may be  
27 made during the life of the donor for the purpose of transplantation, therapy, research, or  
28 education in the manner provided in Code Section 44-5-143 by:

29 (1) The donor, if the donor is an adult or if the donor is a minor and is:

30 (A) Emancipated; or

31 (B) Authorized under state law to apply for a driver's license because the donor is at  
32 least 16 years of age;

33 (2) An agent of the donor, unless the advance directive for health care or durable power  
34 of attorney for health care prohibits the agent from making an anatomical gift;

35 (3) A parent of the donor, if the donor is an unemancipated minor; or

36 (4) The donor's guardian.

1 44-5-143.

2 (a) A donor may make an anatomical gift:

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

5 (2) In a will;

6 (3) During a terminal illness or injury of the donor, by any form of communication  
7 addressed to at least two adults, at least one of whom is a disinterested witness; or

8 (4) As provided in subsection (b) of this Code section.

9 (b) A donor or other person authorized to make an anatomical gift under Code Section  
10 44-5-142 may make a gift by a donor card or other record signed by the donor or other  
11 person making the gift or by authorizing that a statement or symbol indicating that the  
12 donor has made an anatomical gift be included on a donor registry. If the donor or other  
13 person is physically unable to sign a record, the record may be signed by another individual  
14 at the direction of the donor or other person and shall:

15 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
16 who have signed at the request of the donor or the other person; and

17 (2) State that it has been signed and witnessed as provided in paragraph (1) of this  
18 subsection.

19 (c) Revocation, suspension, expiration, or cancellation of a driver's license or  
20 identification card upon which an anatomical gift is indicated does not invalidate the gift.

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

23 44-5-144.

24 (a) Subject to Code Section 44-5-146, a donor or other person authorized to make an  
25 anatomical gift under Code Section 44-5-142 may amend or revoke an anatomical gift by:

26 (1) A record signed by:

27 (A) The donor;

28 (B) The other person; or

29 (C) Subject to subsection (b) of this Code section, another individual acting at the  
30 direction of the donor or the other person if the donor or other person is physically  
31 unable to sign; or

32 (2) A later-executed document of gift that amends or revokes a previous anatomical gift  
33 or portion of an anatomical gift, either expressly or by inconsistency.

34 (b) A record signed pursuant to subparagraph (a)(1)(C) of this Code section shall:

35 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
36 who have signed at the request of the donor or the other person; and

- 1 (2) State that it has been signed and witnessed as provided in paragraph (1) of this  
2 subsection.
- 3 (c) Subject to Code Section 44-5-146, a donor or other person authorized to make an  
4 anatomical gift under Code Section 44-5-142 may revoke an anatomical gift by the  
5 destruction or cancellation of the document of gift, or the portion of the document of gift  
6 used to make the gift, with the intent to revoke the gift.
- 7 (d) A donor may amend or revoke an anatomical gift that was not made in a will by any  
8 form of communication during a terminal illness or injury addressed to at least two adults,  
9 at least one of whom is a disinterested witness.
- 10 (e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the  
11 manner provided for amendment or revocation of wills under Chapter 4 of Title 53 or as  
12 provided in subsection (a) of this Code section.

13 44-5-145.

- 14 (a) An individual may refuse to make an anatomical gift of the individual's body or part  
15 by:

16 (1) A record signed by:

17 (A) The individual; or

18 (B) Subject to subsection (b) of this Code section, another individual acting at the  
19 direction of the individual if the individual is physically unable to sign;

20 (2) The individual's will, whether or not the will is admitted to probate or invalidated  
21 after the individual's death; or

22 (3) Any form of communication made by the individual during the individual's terminal  
23 illness or injury addressed to at least two adults, at least one of whom is a disinterested  
24 witness.

25 (b) A record signed pursuant to subparagraph (a)(1)(B) of this Code section shall:

26 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
27 who have signed at the request of the individual; and

28 (2) State that it has been signed and witnessed as provided in paragraph (1) of this  
29 subsection.

30 (c) An individual who has made a refusal may amend or revoke the refusal:

31 (1) In the manner provided in subsection (a) of this Code section for making a refusal;

32 (2) By subsequently making an anatomical gift pursuant to Code Section 44-5-143 that  
33 is inconsistent with the refusal; or

34 (3) By destroying or canceling the record evidencing the refusal, or the portion of the  
35 record used to make the refusal, with the intent to revoke the refusal.

1 (d) Except as otherwise provided in subsection (h) of Code Section 44-5-146, in the  
2 absence of an express, contrary indication by the individual set forth in the refusal, an  
3 individual's unrevoked refusal to make an anatomical gift of the individual's body or part  
4 bars all other persons from making an anatomical gift of the individual's body or part.

5 44-5-146.

6 (a) Except as otherwise provided in subsection (g) of this Code section and subject to  
7 subsection (f) of this Code section, in the absence of an express, contrary indication by the  
8 donor, a person other than the donor is barred from making, amending, or revoking an  
9 anatomical gift of a donor's body or part if the donor made an anatomical gift of the  
10 donor's body or part under Code Section 44-5-143 or an amendment to an anatomical gift  
11 of the donor's body or part under Code Section 44-5-144.

12 (b) A donor's revocation of an anatomical gift of the donor's body or part under Code  
13 Section 44-5-144 is not a refusal and does not bar another person specified in Code  
14 Sections 44-5-142 and 44-5-147 from making an anatomical gift of the donor's body or  
15 part under Code Section 44-5-143 or 44-5-148.

16 (c) If a person other than the donor makes an unrevoked anatomical gift of the donor's  
17 body or part under Code Section 44-5-143 or an amendment to an anatomical gift of the  
18 donor's body or part under Code Section 44-5-144, another person may not make, amend,  
19 or revoke the gift of the donor's body or part under Code Section 44-5-148.

20 (d) A revocation of an anatomical gift of a donor's body or part under Code Section  
21 44-5-144 by a person other than the donor does not bar another person from making an  
22 anatomical gift of the body or part under Code Section 44-5-143 or 44-5-148.

23 (e) In the absence of an express, contrary indication by the donor or other person  
24 authorized to make an anatomical gift under Code Section 44-5-142, an anatomical gift of  
25 a part is neither a refusal to give another part nor a limitation on the making of an  
26 anatomical gift of another part at a later time by the donor or another person.

27 (f) In the absence of an express, contrary indication by the donor or other person  
28 authorized to make an anatomical gift under Code Section 44-5-142, an anatomical gift of  
29 a part for one or more of the purposes set forth in Code Section 44-5-142 is not a limitation  
30 on the making of an anatomical gift of the part for any of the other purposes by the donor  
31 or any other person under Code Section 44-5-143 or 44-5-148.

32 (g) If a donor who is an unemancipated minor dies, a parent of the donor who is  
33 reasonably available may revoke or amend an anatomical gift of the donor's body or part.

34 (h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is  
35 reasonably available may revoke the minor's refusal.

1 44-5-147.

2 (a) Subject to subsections (b) and (c) of this Code section and unless barred by Code  
3 Section 44-5-145 or 44-5-146, an anatomical gift of a decedent's body or part for the  
4 purpose of transplantation, therapy, research, or education may be made by any member  
5 of the following classes of persons who is reasonably available, in the order of priority  
6 listed:

7 (1) An agent of the decedent at the time of death who could have made an anatomical  
8 gift under paragraph (2) of Code Section 44-5-142 immediately before the decedent's  
9 death;

10 (2) The spouse of the decedent;

11 (3) Adult children of the decedent;

12 (4) Parents of the decedent;

13 (5) Adult siblings of the decedent;

14 (6) Adult grandchildren of the decedent;

15 (7) Grandparents of the decedent;

16 (8) An adult who exhibited special care and concern for the decedent;

17 (9) The persons who were acting as the guardians of the person of the decedent at the  
18 time of death;

19 (10) Any other person having the authority to dispose of the decedent's body; and

20 (11) A representative ad litem who shall be appointed by a court of competent  
21 jurisdiction forthwith upon a petition heard ex parte filed by any person, which  
22 representative ad litem shall ascertain that no person of higher priority exists who objects  
23 to the gift of all or any part of the decedent's body and that no evidence exists of the  
24 decedent's having made a communication expressing a desire that his or her body or body  
25 parts not be donated upon death.

26 (b) If there is more than one member of a class listed in paragraph (1), (3), (4), (5), (6), (7),  
27 or (9) of subsection (a) of this Code section entitled to make an anatomical gift, an  
28 anatomical gift may be made by a member of the class unless that member or a person to  
29 which the gift may pass under Code Section 44-5-149 knows of an objection by another  
30 member of the class. If an objection is known, the gift may be made only by a majority of  
31 the members of the class who are reasonably available.

32 (c) A person may not make an anatomical gift if, at the time of the decedent's death, a  
33 person in a prior class under subsection (a) of this Code section is reasonably available to  
34 make or to object to the making of an anatomical gift.

1 44-5-148.

2 (a) A person authorized to make an anatomical gift under Code Section 44-5-147 may  
3 make an anatomical gift by a document of gift signed by the person making the gift or by  
4 that person's oral communication that is electronically recorded or is contemporaneously  
5 reduced to a record and signed by the individual receiving the oral communication.

6 (b) Subject to subsection (c) of this Code section, an anatomical gift by a person  
7 authorized under Code Section 44-5-147 may be amended or revoked orally or in a record  
8 by any member of a prior class who is reasonably available. If more than one member of  
9 the prior class is reasonably available, the gift made by a person authorized under Code  
10 Section 44-5-147 may be:

11 (1) Amended only if a majority of the reasonably available members agree to the  
12 amending of the gift; or

13 (2) Revoked only if a majority of the reasonably available members agree to the  
14 revoking of the gift or if they are equally divided as to whether to revoke the gift.

15 (c) A revocation under subsection (b) of this Code section is effective only if, before an  
16 incision has been made to remove a part from the donor's body or before invasive  
17 procedures have begun to prepare the recipient, the procurement organization, transplant  
18 hospital, or physician or technician knows of the revocation.

19 44-5-149.

20 (a) An anatomical gift may be made to the following persons named in the document of  
21 gift:

22 (1) A hospital; accredited medical school, dental school, college, or university; organ  
23 procurement organization; or other appropriate person, for research or education;

24 (2) Subject to subsection (b) of this Code section, an individual designated by the person  
25 making the anatomical gift if the individual is the recipient of the part; or

26 (3) An eye bank or tissue bank.

27 (b) If an anatomical gift to an individual under paragraph (2) of subsection (a) of this Code  
28 section cannot be transplanted into the individual, the part passes in accordance with  
29 subsection (g) of this Code section in the absence of an express, contrary indication by the  
30 person making the anatomical gift.

31 (c) If an anatomical gift of one or more specific parts or of all parts is made in a document  
32 of gift that does not name a person described in subsection (a) of this Code section but  
33 identifies the purpose for which an anatomical gift may be used, the following rules apply:

34 (1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the  
35 gift passes to the appropriate eye bank;

- 1 (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift  
2 passes to the appropriate tissue bank;
- 3 (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the  
4 gift passes to the appropriate organ procurement organization as custodian of the organ;  
5 and
- 6 (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or  
7 education, the gift passes to the appropriate procurement organization.
- 8 (d) For the purpose of subsection (c) of this Code section, if there is more than one purpose  
9 of an anatomical gift set forth in the document of gift but the purposes are not set forth in  
10 any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift  
11 cannot be used for transplantation or therapy, the gift may be used for research or  
12 education.
- 13 (e) If an anatomical gift of one or more specific parts is made in a document of gift that  
14 does not name a person described in subsection (a) of this Code section and does not  
15 identify the purpose of the gift, the gift may be used only for transplantation or therapy, and  
16 the gift passes in accordance with subsection (g) of this Code section.
- 17 (f) If a document of gift specifies only a general intent to make an anatomical gift by  
18 words such as 'donor,' 'organ donor,' or 'body donor,' or by a symbol or statement of similar  
19 import, the gift may be used only for transplantation or therapy, and the gift passes in  
20 accordance with subsection (g) of this Code section.
- 21 (g) For purposes of subsections (b), (e), and (f) of this Code section, the following rules  
22 apply:
- 23 (1) If the part is an eye, the gift passes to the appropriate eye bank;
- 24 (2) If the part is tissue, the gift passes to the appropriate tissue bank; and
- 25 (3) If the part is an organ, the gift passes to the appropriate organ procurement  
26 organization as custodian of the organ.
- 27 (h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical  
28 gift under paragraph (2) of subsection (a) of this Code section, passes to the organ  
29 procurement organization as custodian of the organ.
- 30 (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this Code  
31 section or the decedent's body or part is not used for transplantation, therapy, research, or  
32 education, custody of the body or part passes to the person under obligation to dispose of  
33 the body or part.
- 34 (j) A person may not accept an anatomical gift if the person knows that the gift was not  
35 effectively made under Code Sections 44-5-143 and 44-5-148 or if the person knows that  
36 the decedent made a refusal under Code Section 44-5-145 that was not revoked. For  
37 purposes of this subsection, if a person knows that an anatomical gift was made on a

1 document of gift, the person is deemed to know of any amendment or revocation of the gift  
2 or any refusal to make an anatomical gift on the same document of gift.

3 (k) Except as otherwise provided in paragraph (2) of subsection (a) of this Code section,  
4 nothing in this article affects the allocation of organs for transplantation or therapy.

5 44-5-150.

6 (a) The following persons shall make a reasonable search of an individual who the person  
7 reasonably believes is dead or near death for a document of gift or other information  
8 identifying the individual as a donor or as an individual who made a refusal:

9 (1) A law enforcement officer, firefighter, paramedic, emergency medical technician, or  
10 other first responder finding the individual, in accordance with subsection (b.1) of Code  
11 Section 17-6-11; and

12 (2) If no other source of the information is immediately available, a hospital, as soon as  
13 practical after the individual's arrival at the hospital.

14 (b) If a document of gift or a refusal to make an anatomical gift is located by the search  
15 required by subsection (a) of this Code section and the individual or deceased individual  
16 to whom it relates is taken to a hospital, the person responsible for conducting the search  
17 shall send the document of gift or refusal to the hospital.

18 (c) A person is not subject to criminal or civil liability for failing to discharge the duties  
19 imposed by this Code section but may be subject to administrative sanctions.

20 44-5-151.

21 (a) A document of gift need not be delivered during the donor's lifetime to be effective.

22 (b) Upon or after an individual's death, a person in possession of a document of gift or a  
23 refusal to make an anatomical gift with respect to the individual shall allow examination  
24 and copying of the document of gift or refusal by a person authorized to make or object to  
25 the making of an anatomical gift with respect to the individual or by a person to which the  
26 gift could pass under Code Section 44-5-149.

27 44-5-152.

28 (a) When a hospital refers an individual at or near death to a procurement organization, the  
29 organization shall make a reasonable search of the records of the Department of Driver  
30 Services and any donor registry that it knows exists for the geographical area in which the  
31 individual resides to ascertain whether the individual has made an anatomical gift.

32 (b) A procurement organization shall be allowed reasonable access to information in the  
33 records of the Department of Driver Services to ascertain whether an individual at or near  
34 death is a donor.

1 (c) When a hospital refers an individual at or near death to a procurement organization, the  
2 organization may conduct any reasonable examination necessary to ensure the medical  
3 suitability of a part that is or could be the subject of an anatomical gift for transplantation,  
4 therapy, research, or education from a donor or a prospective donor. During the  
5 examination period, measures necessary to ensure the medical suitability of the part may  
6 not be withdrawn unless the hospital or procurement organization knows that the individual  
7 expressed a contrary intent.

8 (d) Unless prohibited by law other than this article, at any time after a donor's death, the  
9 person to which a part passes under Code Section 44-5-149 may conduct any reasonable  
10 examination necessary to ensure the medical suitability of the body or part for its intended  
11 purpose.

12 (e) Unless prohibited by law other than this article, an examination under subsection (c)  
13 or (d) of this Code section may include an examination of all medical and dental records  
14 of the donor or prospective donor.

15 (f) Upon the death of a minor who was a donor or had signed a refusal, unless a  
16 procurement organization knows the minor is emancipated, the procurement organization  
17 shall conduct a reasonable search for the parents of the minor and provide the parents with  
18 an opportunity to revoke or amend the anatomical gift or revoke the refusal.

19 (g) Upon referral by a hospital under subsection (a) of this Code section, a procurement  
20 organization shall make a reasonable search for any person listed in Code Section 44-5-147  
21 having priority to make an anatomical gift on behalf of a prospective donor. If a  
22 procurement organization receives information that an anatomical gift to any other person  
23 was made, amended, or revoked, it shall promptly advise the other person of all relevant  
24 information.

25 (h) Subject to subsection (i) of Code Section 44-5-149 and Code Section 44-5-151, the  
26 rights of the person to which a part passes under Code Section 44-5-149 are superior to the  
27 rights of all others with respect to the part. The person may accept or reject an anatomical  
28 gift in whole or in part. Subject to the terms of the document of gift and this article, a  
29 person that accepts an anatomical gift of an entire body may allow embalming, burial, or  
30 cremation and use of remains in a funeral service. If the gift is of a part, the person to  
31 which the part passes under Code Section 44-5-149, upon the death of the donor and before  
32 embalming, burial, or cremation, shall cause the part to be removed without unnecessary  
33 mutilation.

34 (i) Neither the physician who attends the decedent at death nor the physician who  
35 determines the time of the decedent's death may participate in the procedures for removing  
36 or transplanting a part from the decedent.

1 (j) A physician or technician may remove a donated part from the body of a donor that the  
2 physician or technician is qualified to remove.

3 44-5-153.

4 Each hospital in this state shall enter into agreements or affiliations with procurement  
5 organizations for coordination of procurement and use of anatomical gifts.

6 44-5-154.

7 (a) Except as otherwise provided in subsection (b) of this Code section, a person that for  
8 valuable consideration knowingly purchases or sells a part for transplantation or therapy  
9 if removal of a part from an individual is intended to occur after the individual's death  
10 commits a felony and upon conviction is subject to a fine not exceeding \$50,000.00 or  
11 imprisonment not exceeding five years, or both.

12 (b) A person may charge a reasonable amount for the removal, processing, preservation,  
13 quality control, storage, transportation, implantation, or disposal of a part.

14 44-5-155.

15 A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals,  
16 defaces, or obliterates a document of gift, an amendment or revocation of a document of  
17 gift, or a refusal commits a felony and upon conviction is subject to a fine not exceeding  
18 \$50,000.00 or imprisonment not exceeding five years, or both.

19 44-5-156.

20 (a) A person that acts in accordance with this article or with the applicable anatomical gift  
21 law of another state, or attempts in good faith to do so, is not liable for the act in a civil  
22 action, criminal prosecution, or administrative proceeding.

23 (b) Neither the person making an anatomical gift nor the donor's estate is liable for any  
24 injury or damage that results from the making or use of the gift.

25 (c) In determining whether an anatomical gift has been made, amended, or revoked under  
26 this article, a person may rely upon representations of an individual listed in paragraph (2),  
27 (3), (4), (5), (6), (7), or (8) of subsection (a) of Code Section 44-5-147 relating to the  
28 individual's relationship to the donor or prospective donor unless the person knows that the  
29 representation is untrue.

30 44-5-157.

31 (a) A document of gift is valid if executed in accordance with:

32 (1) This article;

1 (2) The laws of the state or country where it was executed; or

2 (3) The laws of the state or country where the person making the anatomical gift was  
3 domiciled, has a place of residence, or was a national at the time the document of gift was  
4 executed.

5 (b) If a document of gift is valid under this Code section, the law of this state governs the  
6 interpretation of the document of gift.

7 (c) A person may presume that a document of gift or amendment of an anatomical gift is  
8 valid unless that person knows that it was not validly executed or was revoked.

9 44-5-158.

10 (a) The Department of Human Resources may establish or contract for the establishment  
11 of a donor registry.

12 (b) The Department of Human Resources shall cooperate with a person that administers  
13 any donor registry that this state establishes, contracts for, or recognizes for the purpose of  
14 transferring to the donor registry all relevant information regarding a donor's making,  
15 amendment to, or revocation of an anatomical gift.

16 (c) A donor registry shall:

17 (1) Allow a donor or other person authorized under Code Section 44-5-142 to include  
18 on the donor registry a statement or symbol that the donor has made, amended, or  
19 revoked an anatomical gift;

20 (2) Be accessible to a procurement organization to allow it to obtain relevant information  
21 on the donor registry to determine, at or near death of the donor or a prospective donor,  
22 whether the donor or prospective donor has made, amended, or revoked an anatomical  
23 gift; and

24 (3) Be accessible for purposes of paragraphs (1) and (2) of this subsection seven days a  
25 week on a 24 hour basis.

26 (d) Personally identifiable information on a donor registry about a donor or prospective  
27 donor may not be used or disclosed without the express consent of the donor, prospective  
28 donor, or person that made the anatomical gift for any purpose other than to determine, at  
29 or near death of the donor or prospective donor, whether the donor or prospective donor  
30 has made, amended, or revoked an anatomical gift.

31 (e) This Code section does not prohibit any person from creating or maintaining a donor  
32 registry that is not established by or under contract with this state. Any such registry shall  
33 comply with subsections (c) and (d) of this Code section.

1 44-5-159.

2 If a prospective donor has an advance directive for health care in accordance with Chapter  
3 32 of Title 31 or a declaration signed by a prospective donor specifying the circumstances  
4 under which a life support system may be withheld or withdrawn from the prospective  
5 donor, unless it expressly provides to the contrary, measures necessary to ensure the  
6 medical suitability of an organ for transplantation or therapy may not be withheld or  
7 withdrawn from the prospective donor.

8 44-5-159.1.

9 (a) A coroner or medical examiner and procurement organizations shall cooperate with  
10 each other to maximize the opportunity to recover anatomical gifts for the purpose of  
11 transplantation, therapy, research, or education.

12 (b) If a coroner or medical examiner receives notice from a procurement organization that  
13 an anatomical gift might be available or was made with respect to a decedent whose body  
14 is under the jurisdiction of the coroner or medical examiner and a postmortem examination  
15 is going to be performed, unless the coroner or medical examiner denies recovery in  
16 accordance with Code Section 44-5-159.2, the coroner or medical examiner or designee  
17 shall conduct, when practicable, a postmortem examination of the body or the part in a  
18 manner and within a period compatible with its preservation for the purposes of the gift.

19 (c) A part may not be removed from the body of a decedent under the jurisdiction of a  
20 coroner or medical examiner for transplantation, therapy, research, or education unless the  
21 part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of  
22 the coroner or medical examiner may not be delivered to a person for research or education  
23 unless the body is the subject of an anatomical gift. This subsection shall not preclude a  
24 coroner or medical examiner from performing the medicolegal autopsy upon the body or  
25 parts of a decedent under the jurisdiction of the coroner or medical examiner or from using  
26 the body or parts of a decedent under the jurisdiction of the coroner or medical examiner  
27 for the purposes of education, training, and research required by the coroner or medical  
28 examiner.

29 44-5-159.2.

30 (a) Upon request of a procurement organization, a coroner or medical examiner shall  
31 release to the procurement organization the name, contact information, and available  
32 medical and social history of a decedent whose body is under the jurisdiction of the coroner  
33 or medical examiner. If the decedent's body or part is medically suitable for  
34 transplantation, therapy, research, or education, the coroner or medical examiner shall  
35 release postmortem examination results to the procurement organization. The

1 procurement organization may make a subsequent disclosure of the postmortem  
2 examination results or other information received from the coroner or medical examiner  
3 only if relevant to transplantation, therapy, research, or education.

4 (b) The coroner or medical examiner may conduct a medicolegal investigation by  
5 reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and  
6 other information that any person possesses about a donor or prospective donor whose  
7 body is under the jurisdiction of the coroner or medical examiner that the coroner or  
8 medical examiner determines may be relevant to the investigation.

9 (c) A person that has any information requested by a coroner or medical examiner pursuant  
10 to subsection (b) of this Code section shall provide that information as expeditiously as  
11 possible to allow the coroner or medical examiner to conduct the medicolegal investigation  
12 within a period compatible with the preservation of parts for the purpose of transplantation,  
13 therapy, research, or education.

14 (d) If an anatomical gift has been or might be made of a part of a decedent whose body is  
15 under the jurisdiction of the coroner or medical examiner and a postmortem examination  
16 is not required, or the coroner or medical examiner determines that a postmortem  
17 examination is required but that the recovery of the part that is the subject of an anatomical  
18 gift will not interfere with the examination, the coroner or medical examiner and  
19 procurement organization shall cooperate in the timely removal of the part from the  
20 decedent for the purpose of transplantation, therapy, research, or education.

21 (e) The coroner or medical examiner and procurement organizations shall enter into an  
22 agreement setting forth protocols and procedures to govern relations between the parties  
23 when an anatomical gift of a part from a decedent under the jurisdiction of the coroner or  
24 medical examiner has been or might be made, but the coroner or medical examiner believes  
25 that the recovery of the part could interfere with the postmortem investigation into the  
26 decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue,  
27 and eyes from such a decedent shall be made in accordance with the agreement. In the  
28 event that the coroner or medical examiner denies recovery of an anatomical gift, the  
29 procurement organization may request the chief medical examiner appointed pursuant to  
30 Code Section 35-3-153 to reconsider the denial and to permit the recovery to proceed. The  
31 parties shall evaluate the effectiveness of the protocols and procedures at regular intervals  
32 but no less frequently than every two years.

33 (f) If the coroner or medical examiner or designee allows recovery of a part under  
34 subsection (d) or (e) of this Code section, the procurement organization, upon request, shall  
35 cause the physician or technician who removes the part to provide the coroner or medical  
36 examiner with a record describing the condition of the part, a biopsy, a photograph, and  
37 any other information and observations that would assist in the postmortem examination.

1 (g) If a coroner or medical examiner or designee is required to be present at a removal  
2 procedure under subsection (e) of this Code section, upon request the procurement  
3 organization requesting the recovery of the part shall reimburse the coroner or medical  
4 examiner or designee for the additional costs incurred in complying with subsection (e) of  
5 this Code section.

6 44-5-159.3.

7 This article applies to an anatomical gift or amendment to, revocation of, or refusal to make  
8 an anatomical gift, whenever made.

9 44-5-159.4.

10 In applying and construing this uniform act, consideration shall be given to the need to  
11 promote uniformity of the law with respect to its subject matter among states that enact it.

12 44-5-159.5.

13 This article modifies, limits, and supersedes the Electronic Signatures in Global and  
14 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or  
15 supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic  
16 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section  
17 7003(b).

18 44-5-159.6.

19 (a) There is created an advisory board to be known as the Advisory Board on Anatomical  
20 Gift Procurement. The board shall be composed as follows:

21 (1) The Governor shall appoint:

22 (A) One representative of an eye bank;

23 (B) One representative of a tissue bank;

24 (C) One representative of a bone bank;

25 (D) One representative of an organ procurement organization;

26 (E) One representative of hospitals in this state;

27 (F) One representative of the medical profession in this state;

28 (G) One representative of the Department of Human Resources;

29 (H) One representative of the Department of Community Health; and

30 (I) One medical examiner;

31 (2) The members specified in subparagraphs (A) through (I) of paragraph (1) of this  
32 subsection shall appoint one consumer member who has been the recipient of an organ

1 and who has no professional connection with any entity specified in subparagraphs (A)  
2 through (I) of paragraph (1) of this subsection;

3 (3) The Speaker of the House of Representatives shall appoint three members of the  
4 House of Representatives; and

5 (4) The President of the Senate shall appoint three members of the Senate.

6 (b) Each person shall be appointed for a term of two years. Legislative members shall be  
7 appointed for a term concurrent with a term of office.

8 (c) The advisory board shall select a chairperson and such other officers as it deems  
9 necessary and is empowered to make such rules for governing of the affairs of the board  
10 as it deems appropriate. The board shall meet on the call of the chairperson.

11 (d) The members of the board shall receive no compensation. Members appointed under  
12 paragraphs (3) and (4) of subsection (a) of this Code section shall receive the allowances  
13 authorized for legislative members of interim legislative committees for each day of  
14 attendance upon the business of the board.

15 (e) This board shall be a continuation of the board as originally established pursuant to  
16 former Code Section 44-5-149 as it existed on June 30, 2008.

17 44-5-159.7.

18 The Advisory Board on Anatomical Gift Procurement shall:

19 (1) Consult with, advise, and lend expertise to the Department of Human Resources in  
20 the implementation and administration of rules and regulations regarding this article;

21 (2) Identify areas of need in supply and demand for human organs and tissues in this  
22 state and encourage the cooperation of banks and storage facilities under this article in  
23 meeting such needs;

24 (3) Encourage and recommend the implementation of a formal policy in this state to  
25 foster a state-wide network maintained by banks and storage facilities regarding coverage  
26 of hospitals and other facilities to assure that anatomical gifts are requested and procured;

27 (4) Negotiate and recommend for adoption by the department agreements with other  
28 states and with banks and storage facilities of other states, whether through protocols,  
29 compacts, or other agreements, and cooperation and reciprocity provisions in the  
30 interstate procurement of anatomical gifts;

31 (5) Recommend solutions and actions relative to participation in a national network of  
32 anatomical gift sharing;

33 (6) Encourage improved public education and awareness regarding anatomical gifts; and

34 (7) Report biennially to the Governor, the Health and Human Services Committee of the  
35 House of Representatives, and the Health and Human Services Committee of the Senate  
36 regarding the progress and actions of the advisory board."



**SECTION 3.**

1  
2 Chapter 23 of Title 31 of the Official Code of Georgia Annotated, relating to eye banks, is  
3 amended by repealing and reserving Code Section 31-23-6, relating to removal of eye or  
4 corneal tissue by a coroner, medical examiner, or other individual.

**SECTION 4.**

5  
6 The following Code sections of the Official Code of Georgia Annotated are amended by  
7 striking "Georgia Anatomical Gift Act" wherever that term occurs and inserting in its place  
8 "Georgia Revised Uniform Anatomical Gift Act":

- 9 (1) Code Section 31-23-2, relating to the effect on eye donations of the "Georgia  
10 Anatomical Gift Act";  
11 (2) Code Section 31-32-4, relating to the advance directive for health care statutory form;  
12 (3) Code Section 31-32-7, relating to duties and responsibilities of health care agents  
13 designated in advance directives for health care;  
14 (4) Code Section 31-32-8, relating to duties and responsibilities of health care providers  
15 relating to advance directives for health care; and  
16 (5) Code Section 40-5-6, relating to forms for making of anatomical gifts upon issuance  
17 or renewal of drivers' licenses.

**SECTION 5.**

18  
19 All laws and parts of laws in conflict with this Act are repealed.