

The Senate Judiciary Committee offered the following substitute to SB 405:

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 medical examiners and procurement organizations; to provide for  
13 facilitation of an anatomical gift from a decedent; to provide for applicability and statutory  
14 construction; to amend Article 6 of Chapter 12 of Title 16 of the Official Code of Georgia  
15 Annotated, relating to crimes and offenses relative to human body trafficking, so as to revise  
16 certain provisions relating to buying and selling the human body or parts; to amend Chapter  
17 23 of Title 31 of the Official Code of Georgia Annotated, relating to eye banks, so as to  
18 repeal a provision relating to removal of eye or corneal tissue by a coroner, medical  
19 examiner, or other individual; to amend the Official Code of Georgia Annotated, so as to  
20 revise various provisions for purposes of conformity; to provide for related matters; to repeal  
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

23 Chapter 5 of Title 44 of the Official Code of Georgia Annotated, relating to acquisition and  
24 loss of property, is amended by repealing Article 6, known as the "Georgia Anatomical Gift  
25 Act," and inserting in its place a new Article 6 to read as follows:  
26

## "ARTICLE 6

44-5-140.

This article shall be known and may be cited as the 'Georgia Revised Uniform Anatomical Gift Act.'

44-5-141.

As used in this article, the term:

(1) 'Adult' means an individual who is at least 18 years of age.

(2) 'Agent' means an individual:

(A) Authorized to make health care decisions on the principal's behalf by an advance directive for health care or a durable power of attorney for health care; or

(B) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) 'Anatomical gift' means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) 'Decedent' means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and a fetus.

(5) 'Disinterested witness' means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under Code Section 44-5-149.

(6) 'Document of gift' means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) 'Donor' means an individual whose body or part is the subject of an anatomical gift.

(8) 'Donor registry' means a data base that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) 'Driver's license' means a license or permit issued by the Department of Driver Services to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) 'Eye bank' means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) 'Guardian' means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

1 (12) 'Hospital' means a facility licensed as a hospital under the law of any state or a  
2 facility operated as a hospital by the United States, a state, or a subdivision of a state.

3 (13) 'Identification card' means an identification card for persons without drivers'  
4 licenses issued pursuant to Code Sections 40-5-100 through 40-5-104 by the Department  
5 of Driver Services.

6 (14) 'Know' means to have actual knowledge.

7 (15) 'Minor' means an individual who is under 18 years of age.

8 (16) 'Organ procurement organization' means a person designated by the Secretary of the  
9 United States Department of Health and Human Services as an organ procurement  
10 organization.

11 (17) 'Parent' means a parent whose parental rights have not been terminated.

12 (18) 'Part' means an organ, an eye, or tissue of a human being. The term does not include  
13 the whole body.

14 (19) 'Person' means an individual, corporation, business trust, estate, trust, partnership,  
15 limited liability company, association, joint venture, public corporation, government or  
16 governmental subdivision, agency, or instrumentality, or any other legal or commercial  
17 entity.

18 (20) 'Physician' means an individual authorized to practice medicine or osteopathy under  
19 the law of any state.

20 (21) 'Procurement organization' means an eye bank, organ procurement organization, or  
21 tissue bank.

22 (22) 'Prospective donor' means an individual who is dead or near death and has been  
23 determined by a procurement organization to have a part that could be medically suitable  
24 for transplantation, therapy, research, or education. The term does not include an  
25 individual who has made a refusal.

26 (23) 'Reasonably available' means able to be contacted by a procurement organization  
27 without undue effort and willing and able to act in a timely manner consistent with  
28 existing medical criteria necessary for the making of an anatomical gift.

29 (24) 'Recipient' means an individual into whose body a decedent's part has been or is  
30 intended to be transplanted.

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

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

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

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

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

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

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

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

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

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

18 44-5-142.

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

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

23 (A) Emancipated; or

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

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

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

29 (4) The donor's guardian.

30 44-5-143.

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

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

34 (2) In a will;

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

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

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

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

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

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

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

18 44-5-144.

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

21 (1) A record signed by:

22 (A) The donor;

23 (B) The other person; or

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

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

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

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

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

34 (c) Subject to Code Section 44-5-146, a donor or other person authorized to make an  
35 anatomical gift under Code Section 44-5-142 may revoke an anatomical gift by the

1 destruction or cancellation of the document of gift, or the portion of the document of gift  
2 used to make the gift, with the intent to revoke the gift.

3 (d) A donor may amend or revoke an anatomical gift that was not made in a will by any  
4 form of communication during a terminal illness or injury addressed to at least two adults,  
5 at least one of whom is a disinterested witness.

6 (e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the  
7 manner provided for amendment or revocation of wills under Chapter 4 of Title 53 or as  
8 provided in subsection (a) of this Code section.

9 44-5-145.

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

12 (1) A record signed by:

13 (A) The individual; or

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

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

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

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

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

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

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

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

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

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

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

1 44-5-146.

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

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

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

16 (d) A revocation of an anatomical gift of a donor's body or part under Code Section  
17 44-5-144 by a person other than the donor does not bar another person from making an  
18 anatomical gift of the body or part under Code Section 44-5-143 or 44-5-148.

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

23 (f) 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 for one or more of the purposes set forth in Code Section 44-5-142 is not a limitation  
26 on the making of an anatomical gift of the part for any of the other purposes by the donor  
27 or any other person under Code Section 44-5-143 or 44-5-148.

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

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

32 44-5-147.

33 (a) Subject to subsections (b) and (c) of this Code section and unless barred by Code  
34 Section 44-5-145 or 44-5-146, an anatomical gift of a decedent's body or part for the  
35 purpose of transplantation, therapy, research, or education may be made by any member

1 of the following classes of persons who is reasonably available, in the order of priority  
2 listed:

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

6 (2) The spouse of the decedent;

7 (3) Adult children of the decedent;

8 (4) Parents of the decedent;

9 (5) Adult siblings of the decedent;

10 (6) Adult grandchildren of the decedent;

11 (7) Grandparents of the decedent;

12 (8) The persons who were acting as the guardians of the person of the decedent at the  
13 time of death;

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

15 (10) A representative ad litem who shall be appointed by a court of competent  
16 jurisdiction forthwith upon a petition heard ex parte filed by any person, which  
17 representative ad litem shall ascertain that no person of higher priority exists and is  
18 reasonably available who objects to the gift of all or any part of the decedent's body and  
19 that no evidence exists of the decedent's having made a communication expressing a  
20 desire that his or her body or body parts not be donated upon death.

21 (b) If there is more than one member of a class listed in paragraph (1), (3), (4), (5), (6), (7),  
22 or (8) of subsection (a) of this Code section entitled to make an anatomical gift and a good  
23 faith effort is made to contact every member of the class, an anatomical gift may be made  
24 by a member of the class unless that member or a person to which the gift may pass under  
25 Code Section 44-5-149 knows of an objection by another member of the class. If an  
26 objection is known, the gift may be made only by a majority of the members of the class  
27 who are reasonably available.

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

31 44-5-148.

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

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

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

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

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

14 44-5-149.

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

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

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

21 (3) An eye bank or tissue bank.

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

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

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

31 (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift  
32 passes to the appropriate tissue bank;

33 (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the  
34 gift passes to the appropriate organ procurement organization as custodian of the organ;  
35 and

1 (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or  
2 education, the gift passes to the appropriate procurement organization.

3 (d) For the purpose of subsection (c) of this Code section, if there is more than one purpose  
4 of an anatomical gift set forth in the document of gift but the purposes are not set forth in  
5 any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift  
6 cannot be used for transplantation or therapy, the gift may be used for research or  
7 education.

8 (e) If an anatomical gift of one or more specific parts is made in a document of gift that  
9 does not name a person described in subsection (a) of this Code section and does not  
10 identify the purpose of the gift, the gift may be used only for transplantation or therapy, and  
11 the gift passes in accordance with subsection (g) of this Code section.

12 (f) If a document of gift specifies only a general intent to make an anatomical gift by  
13 words such as 'donor,' 'organ donor,' or 'body donor,' or by a symbol or statement of similar  
14 import, the gift may be used only for transplantation or therapy, and the gift passes in  
15 accordance with subsection (g) of this Code section.

16 (g) For purposes of subsections (b), (e), and (f) of this Code section, the following rules  
17 apply:

18 (1) If the part is an eye, the gift passes to the appropriate eye bank;

19 (2) If the part is tissue, the gift passes to the appropriate tissue bank; and

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

22 (h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical  
23 gift under paragraph (2) of subsection (a) of this Code section, passes to the organ  
24 procurement organization as custodian of the organ.

25 (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this Code  
26 section or the decedent's body or part is not used for transplantation, therapy, research, or  
27 education, custody of the body or part passes to the person under obligation to dispose of  
28 the body or part.

29 (j) A person may not accept an anatomical gift if the person knows that the gift was not  
30 effectively made under Code Sections 44-5-143 and 44-5-148 or if the person knows that  
31 the decedent made a refusal under Code Section 44-5-145 that was not revoked. For  
32 purposes of this subsection, if a person knows that an anatomical gift was made on a  
33 document of gift, the person is deemed to know of any amendment or revocation of the gift  
34 or any refusal to make an anatomical gift on the same document of gift.

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

1 44-5-150.

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

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

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

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

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

16 44-5-151.

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

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

23 44-5-152.

24 (a) When a hospital refers an individual at or near death to a procurement organization, the  
25 organization shall make a reasonable search of the records of any donor registry that it  
26 knows exists for the geographical area in which the individual resides to ascertain whether  
27 the individual has made an anatomical gift.

28 (b) The Department of Driver Services shall make donor information reasonably available  
29 to a procurement organization.

30 (c) When a hospital refers an individual at or near death to a procurement organization, the  
31 organization may conduct any reasonable examination necessary to ensure the medical  
32 suitability of a part that is or could be the subject of an anatomical gift for transplantation,  
33 therapy, research, or education from a donor or a prospective donor. During the  
34 examination period, measures necessary to ensure the medical suitability of the part may

1 not be withdrawn unless the hospital or procurement organization knows that the individual  
2 expressed a contrary intent.

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

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

10 (f) Unless a procurement organization knows the minor is emancipated, the procurement  
11 organization shall conduct a reasonable search for the parents of the minor and provide the  
12 parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal,  
13 if any.

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

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

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

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

34 44-5-153.

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

1 44-5-154.

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

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

9 44-5-155.

10 A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals,  
11 defaces, or obliterates a document of gift, an amendment or revocation of a document of  
12 gift, or a refusal commits a felony and upon conviction is subject to a fine not exceeding  
13 \$50,000.00 or imprisonment not exceeding five years, or both.

14 44-5-156.

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

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

20 (c) In determining whether an anatomical gift has been made, amended, or revoked under  
21 this article, a person may rely upon representations of an individual listed in paragraph (2),  
22 (3), (4), (5), (6), or (7) of subsection (a) of Code Section 44-5-147 relating to the  
23 individual's relationship to the donor or prospective donor unless the person knows that the  
24 representation is untrue.

25 44-5-157.

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

27 (1) This article;

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

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

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

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

3 44-5-158.

4 (a) The Department of Driver Services shall make available to procurement organizations  
5 or secure data centers maintained and managed at the direction of a procurement  
6 organization the name, license number, date of birth, gender, and most recent address of  
7 any person who obtains an organ donor's license. Information so obtained by such  
8 organizations shall be used for the purpose of establishing a state-wide organ donor registry  
9 accessible to organ tissue and eye banks authorized to function as such in this state and  
10 shall not be further disseminated.

11 (b) A donor registry shall:

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

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

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

21 (c) Personally identifiable information on a donor registry about a donor or prospective  
22 donor may not be used or disclosed without the express consent of the donor, prospective  
23 donor, or person that made the anatomical gift for any purpose other than to determine, at  
24 or near death of the donor or prospective donor, whether the donor or prospective donor  
25 has made, amended, or revoked an anatomical gift; provided, however, this shall not  
26 preclude the use of aggregated demographic information for the purposes of annual  
27 reporting, research, or education.

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

31 44-5-159.

32 If a prospective donor has an advance directive for health care in accordance with Chapter  
33 32 of Title 31 or a declaration signed by a prospective donor, unless it expressly provides  
34 to the contrary, measures necessary to ensure the medical suitability of an organ for  
35 transplantation or therapy may not be withheld or withdrawn from the prospective donor.

1 44-5-159.1.

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

5 (b) If a medical examiner receives notice from a procurement organization that an  
6 anatomical gift might be available or was made with respect to a decedent whose body is  
7 under the jurisdiction of the medical examiner and a postmortem examination is going to  
8 be performed, unless the medical examiner denies recovery in accordance with Code  
9 Section 44-5-159.2, the medical examiner or designee shall conduct, when practicable, a  
10 postmortem examination of the body or the part in a manner and within a period  
11 compatible with its preservation for the purposes of the gift. The date and location of such  
12 examinations shall occur as specified in the agreement as provided for in subsection (e) of  
13 Code Section 44-5-159.2.

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

23 44-5-159.2.

24 (a) Upon specific request of a procurement organization, and in accordance with the  
25 procedures set forth under the agreement established pursuant to subsection (e) of this Code  
26 section, a medical examiner shall release to the procurement organization the name, contact  
27 information, and available medical and social history of a decedent whose body is under  
28 the jurisdiction of the medical examiner. If the decedent's body or part is medically  
29 suitable for transplantation, therapy, research, or education, and the gift or procurement  
30 does occur, the medical examiner shall release postmortem examination results to the  
31 procurement organization. The procurement organization may make a subsequent  
32 disclosure of the postmortem examination results or other information received from the  
33 medical examiner only if relevant to transplantation, therapy, research, or education.

34 (b) The medical examiner may conduct a medicolegal investigation by reviewing all  
35 medical records, laboratory test results, x-rays, other diagnostic results, and other  
36 information that any person possesses about a donor or prospective donor whose body is

1 under the jurisdiction of the medical examiner that the medical examiner determines may  
2 be relevant to the investigation.

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

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

15 (e) The medical examiner and procurement organizations shall enter into an agreement  
16 signed by both parties setting forth protocols and procedures to govern relations between  
17 the parties when an anatomical gift of a part from a decedent under the jurisdiction of the  
18 medical examiner has been or might be made, but the medical examiner believes that the  
19 recovery of the part could interfere with the postmortem investigation into the decedent's  
20 cause or manner of death. Decisions regarding the recovery of organs, tissue, and eyes  
21 from such a decedent, and decisions about approaches to tissue donation cases compared  
22 with organ donation cases, shall be made in accordance with the agreement. In the event  
23 that the medical examiner denies recovery of an anatomical gift, the procurement  
24 organization may request the regional medical examiner serving the county having  
25 jurisdiction over the death or the chief medical examiner appointed pursuant to Code  
26 Section 35-3-153 to reconsider the denial and to permit the recovery to proceed. The  
27 parties shall evaluate the effectiveness of the protocols and procedures at regular intervals  
28 but no less frequently than every two years. A medical examiner may limit its involvement  
29 and agreements with procurement organizations to one procurement organization, but may  
30 work with more than one procurement organization in the discretion of the medical  
31 examiner.

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

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

19 Article 6 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
 20 crimes and offenses relative to human body trafficking, is amended by revising Code Section  
 21 16-12-160, relating to buying or selling or offering to buy or sell the human body or parts,  
 22 as follows:

23 "16-12-160.

24 (a) It shall be unlawful, except as provided in subsection (b) of this Code section, for any  
 25 person, firm, or corporation to buy or sell, to offer to buy or sell, or to assist another in  
 26 buying or selling or offering to buy or sell a human body or any part of a human body or  
 27 buy or sell a human fetus or any part thereof.

28 (b) The prohibition contained in subsection (a) of this Code section shall not apply to:

29 (1) The purchase or sale of whole blood, blood plasma, blood products, blood  
 30 derivatives, other self-replicating body fluids, or hair;

31 (2) A gift or donation of a human body or any part of a human body or any procedure  
 32 connected therewith as provided in Article 6 of Chapter 5 of Title 44 or to the payment  
 33 of a ~~processing~~ fee in connection with such gift or donation pursuant to subsection (b) of

1 Code Section 44-5-154 if such fee is paid to a ~~bank or storage facility~~ procurement  
 2 organization, as ~~those terms are defined~~ that term is defined in Code Section ~~44-5-142~~  
 3 44-5-141;

4 (3) The reimbursement of actual expenses, including medical costs, lost income, and  
 5 travel expenses, incurred by a living person in giving or donating a part of the person's  
 6 body;

7 (4) The payment of financial assistance under a plan of insurance or other health care  
 8 coverage;

9 (5) The purchase or sale of human tissue, organs, or other parts of the human body for  
 10 health sciences education; or

11 (6) The payment of reasonable costs associated with the removal, storage, or  
 12 transportation of a human body or any part of a human body given or donated for medical  
 13 or scientific purposes.

14 (c) Any person, firm, or corporation convicted of violating subsection (a) of this Code  
 15 section shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine  
 16 not exceeding \$5,000.00 or by imprisonment for not less than one year nor more than five  
 17 years, or both."

### 18 SECTION 3.

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

### 22 SECTION 4.

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

26 (1) Code Section 31-23-2, relating to the effect on eye donations of the "Georgia  
 27 Anatomical Gift Act";

28 (2) Code Section 31-32-4, relating to the advance directive for health care statutory form;

29 (3) Code Section 31-32-7, relating to duties and responsibilities of health care agents  
 30 designated in advance directives for health care;

31 (4) Code Section 31-32-8, relating to duties and responsibilities of health care providers  
 32 relating to advance directives for health care; and

33 (5) Code Section 40-5-6, relating to forms for making of anatomical gifts upon issuance  
 34 or renewal of drivers' licenses.

**SECTION 5.**

- 1
- 2 All laws and parts of laws in conflict with this Act are repealed.