GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-481
SENATE BILL 907

AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER APPROPRIATE STATE AGENCIES TO STUDY THE ESTABLISHMENT OF A STATEWIDE ORGAN, EYE, AND TISSUE DONOR REGISTRY, AND TO CLARIFY THE CURRENT LAW PERTAINING TO ANATOMICAL GIFT DONATION.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Public Health, in consultation with the Department of Transportation and the Office of the Secretary of State, federally designated organ, eye, and tissue procurement organizations, and tissue banks shall study the establishment of a statewide organ, eye, and tissue donor registry. In conducting the study, the Department of Health and Human Services shall solicit advice and comment from citizens or citizen advisory groups interested in organ and tissue donation. The purpose of the study is to determine the feasibility and potential benefits of maintaining a statewide registry of persons who have indicated a willingness to donate organs, eyes, and tissue for transplantation or research in order to expedite the identification of potential organ, eye, and tissue donors. The study shall address the following:

(1) The potential benefits to the general public in maintaining the registry.
(2) The most efficient process for State administration of the registry, including the particular State agency that should be charged with registry administration and maintenance.
(3) Type of information to be included in the registry and maintenance of the information in a manner that ensures protection of privacy of registered donors.
(4) How to streamline the process for individuals to become registered donors and to remove their names from the registry.
(5) How to ensure informed, witnessed consent by registered donors and whether listing in the registry should be considered informed, witnessed consent.
(6) Process for informing the general public about organ, eye, and tissue donation, how to become registered and unregistered, and the legal effect of donor cards, drivers license donor symbols, and informed consent.
(7) How to evaluate the effectiveness of educational initiatives and the registry itself in improving identification of potential donors and procuring donations for transplantation.
(8) The experience of other states that have established organ and tissue donor registries.
(9) The cost to the State of establishing and maintaining the registry.
(10) Coordinating programs to avoid duplication of efforts.

The Department shall report its findings and recommendations to the Joint Legislative Health Care Oversight Committee on or before May 1, 2002.

SECTION 2. G.S. 130A-404 reads as rewritten:

"**§ 130A-404. Persons who may make an anatomical gift.**

(a) An individual of sound mind and 18 years of age or more may give all or any part of that individual's body for any purpose specified in G.S. 130A-405. A gift made in accordance with G.S. 130A-406 shall be sufficient legal authority for procurement without additional authority from the donor or the donor's family or estate. The gift shall take effect upon death. A gift made by the donor in accordance with G.S. 130A-406 may not be revoked upon the donor's death, and neither the donor's family nor the donor's health care agent appointed pursuant to Article 3 of Chapter 32A of the General Statutes may refuse to honor the gift or thwart the procurement of the donation.

(b) ~~Any~~ If the decedent has not made a gift in the manner prescribed in G.S. 130A-406, then any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in G.S. 130A-405.

(1) The spouse;
(2) An adult child;
(3) Either parent;
(4) An adult sibling;
(5) A guardian of the person of the decedent at the time of decedent's death;
(6) Any other person authorized or under obligation to dispose of the body.

(c) The persons authorized by subsection (b) may make the gift after or immediately before death. However, the guardian of the person of a ward may make the gift at any time during the guardianship and the gift shall become effective upon the death of the ward unless the guardianship terminated before death.

(d) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift.

(e) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(f) The rights of the donee created by the gift are paramount to the rights of others except as provided by G.S. 130A-409(d)."

SECTION 3. Article 2 of Chapter 20 of the General Statutes is amended by adding the following section to read:

"**§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.**

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer a donor card to each applicant for a drivers license."

SECTION 4. The Department of Transportation and the Department of Health and Human Services may each use funds appropriated to it for the 2001-2003 fiscal biennium to implement this act.

SECTION 5. Sections 2 and 3 of this act become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of November, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:15 a.m. this 6th day of December, 2001