

Amendment No. 646

Assembly Amendment to Senate Bill No. 109 First Reprint (BDR 40-453)

Proposed by: Assembly Committee on Health and Human Services

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 109—SENATOR NGUYEN

FEBRUARY 8, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing anatomical gifts. (BDR 40-453)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to anatomical gifts; authorizing a coroner or medical examiner to release a body or part of a body that is the subject of an anatomical gift under certain circumstances; prescribing a procedure for a court to appoint a person to make an anatomical gift of part or all of a decedent's body under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Revised Uniform Anatomical Gift Act establishes the rights of donors and other persons to affirmatively make anatomical gifts of human bodies and parts for the purpose of transplantation, therapy, research or education. The Uniform Act also sets forth various requirements and procedures for making, amending, revoking and refusing to make anatomical gifts. (NRS 451.500-451.598) The Uniform Act authorizes: (1) a donor, an agent or guardian of a donor or the parent or guardian of a donor who is a minor to make an anatomical gift of the donor's body while the donor is still alive; and (2) certain classes of persons to make an anatomical gift of a decedent's body or part, in order of priority and subject to certain limitations. (NRS 451.556, 451.566) **Section 1** of this bill authorizes a coroner or medical examiner to release and authorize the removal of part or all of a body in his or her custody for the purpose of transplantation upon the request of a procurement organization if: (1) the part or body is the subject of a valid anatomical gift; (2) the coroner or medical examiner has no evidence of the decedent having communicated a desire that his or her body or part not become anatomical gifts; (3) the procurement organization demonstrates it has made a reasonable effort to determine whether any other person in a class authorized to make an anatomical gift of the decedent's body or part is reasonably available; and ~~(4)~~ (4) no person in a class authorized to make an anatomical gift of the decedent's body or part who is reasonably available objects to the making of an anatomical gift. **Section 1** immunizes a coroner or medical examiner from civil or criminal liability for any act or omission in accordance with the provisions of **section 1. Sections 2-4, 6 and 7** of this bill make conforming changes to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

If no other person authorized to make an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research or education is reasonably available, the Uniform Act authorizes any other person having the authority to dispose of the decedent's body to make an anatomical gift. (NRS 451.566) **Section 5** of this bill removes this provision and instead authorizes a procurement organization to petition a district court to appoint a person to make an anatomical gift of a decedent's body or part if no other person authorized to make such an anatomical gift is reasonably available. **Section 5** prohibits the court from

granting such a petition unless the procurement organization ~~has determined that~~ (1) demonstrates that it has made a reasonable effort to determine whether any other person in a class authorized to make an anatomical gift of the decedent's body or part is reasonably available; (2) has determined that no person who is otherwise authorized to make an anatomical gift and is reasonably available objects to the anatomical gift; and ~~(2)~~ (3) has determined that no evidence exists of the decedent having communicated a desire that his or her body or part not become anatomical gifts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 451 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For the purpose of transplantation only, upon a determination of brain death pursuant to paragraph (b) of subsection 1 of NRS 451.007, the coroner or medical examiner may release and authorize the removal of a decedent's body or part that is in the custody of the coroner or medical examiner if:

(a) The coroner or medical examiner has received a request from a procurement organization;

(b) The body or part is the subject of a valid anatomical gift;

(c) The coroner or medical examiner has no evidence of the decedent having communicated a desire that his or her body or part not become anatomical gifts, including, without limitation, through a refusal that has not been revoked; ~~and~~

(d) The procurement organization demonstrates to the satisfaction of the coroner or medical examiner that the procurement organization has made a reasonable effort pursuant to subsection 3 to determine whether any person described in subsection 1 of NRS 451.566 is reasonably available; and

(e) No person described in subsection 1 of NRS 451.566 who is reasonably available objects to the making of an anatomical gift.

2. A coroner or medical examiner is immune from civil or criminal liability for any act or omission performed in accordance with the provisions of this section.

3. Except in the case where the useful life of the body or part does not permit, a reasonable effort shall be deemed to have been made to determine whether any person described in subsection 1 of NRS 451.566 is reasonably available if a search for such persons has been underway for at least 12 hours. Such a search must include, without limitation:

(a) A check of any records of missing persons maintained by local law enforcement agencies and the National Crime Information Center;

(b) An examination of any personal effects of the decedent; and

(c) In order to obtain information that might lead to the location of any persons described in subsection 1 of NRS 451.566, the questioning of any persons known to have:

(I) Visited the decedent;

(I) Within the month before his or her death; or

(II) In a medical facility where the decedent was receiving care for the condition that caused his or her death;

(2) Accompanied the body of the decedent; or

(3) Reported the death.

4. As used in this section:

(a) "Local law enforcement agency" means the sheriff's office of a county, a metropolitan police department or a police department of an incorporated city.

(b) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 2. NRS 451.010 is hereby amended to read as follows:

451.010 1. The right to dissect the dead body of a human being is limited to cases:

(a) Specially provided by statute or by the direction or will of the deceased.

(b) Where a coroner is authorized under NRS 259.050 or an ordinance enacted pursuant to NRS 244.163 to hold an inquest upon the body, and then only as the coroner may authorize dissection.

(c) Where the spouse or next of kin charged by law with the duty of burial authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized.

(d) Where authorized by the provisions of NRS 451.350 to 451.470, inclusive.

(e) Where authorized by the provisions of NRS 451.500 to 451.598, inclusive ~~and~~, **and section 1 of this act.**

2. Every person who makes, causes or procures to be made any dissection of the body of a human being, except as provided in subsection 1, is guilty of a gross misdemeanor.

Sec. 3. NRS 451.503 is hereby amended to read as follows:

451.503 NRS 451.500 to 451.598, inclusive, **and section 1 of this act** apply to an anatomical gift or amendment to, revocation of or refusal to make an anatomical gift, whenever made.

Sec. 4. NRS 451.510 is hereby amended to read as follows:

451.510 As used in NRS 451.500 to 451.598, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 451.511 to 451.5545, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 451.566 is hereby amended to read as follows:

451.566 1. Subject to subsections 2, ~~and~~ 3 **and 4** and unless barred by NRS 451.561 or 451.562, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under subsection 2 of NRS 451.556 immediately before the decedent's death;

(b) The spouse of the decedent;

(c) Adult children of the decedent;

(d) Parents of the decedent;

(e) Adult siblings of the decedent;

(f) Adult grandchildren of the decedent;

(g) Grandparents of the decedent;

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

(i) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(j) ~~[Any other person having the authority to dispose of the decedent's body.]~~
A person appointed by a district court pursuant to subsection 4.

2. If there is more than one member of a class listed in paragraphs (a), (c), (d), (e), (f), (g) or (i) of subsection 1 entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under NRS 451.571 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

3. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.

4. *If a person described in paragraphs (a) to (i), inclusive, of subsection 1 is not available to make an anatomical gift at the time of the decedent's death, a procurement organization may petition a district court to appoint a person to make an anatomical gift pursuant to paragraph (j) of subsection 1. The district court may hear the petition ex parte and grant the petition without a hearing. The district court shall not grant such a petition unless the procurement organization has:* ~~(determined that)~~

(a) ~~(No)~~ Demonstrated to the satisfaction of the district court that the procurement organization has made a reasonable effort pursuant to subsection 5 to determine whether any person described in paragraphs (a) to (i), inclusive, of subsection 1 is reasonably available;

(b) Determined that no person in a prior class under subsection 1 who is reasonably available objects to the making of an anatomical gift; and

~~((b) No)~~
(c) Determined that no evidence exists of the decedent having communicated a desire that his or her body or part not become anatomical gifts, including, without limitation, through a refusal that has not been revoked.

5. Except in the case where the useful life of the body or part does not permit, a reasonable effort shall be deemed to have been made to determine whether any person described in paragraphs (a) to (i), inclusive, of subsection 1 is reasonably available if a search for such persons has been underway for at least 12 hours. Such a search must include, without limitation:

(a) A check of any records of missing persons maintained by local law enforcement agencies and the National Crime Information Center;

(b) An examination of any personal effects of the decedent; and

(c) In order to obtain information that might lead to the location of any persons described in paragraphs (a) to (i), inclusive, of subsection 1, the questioning of any persons known to have:

(I) Visited the decedent;

(II) Within the month before his or her death; or

(III) In a medical facility where the decedent was receiving care for the condition that caused his or her death;

(2) Accompanied the body of the decedent; or

(3) Reported the death.

6. As used in this section:

(a) "Local law enforcement agency" means the sheriff's office of a county, a metropolitan police department or a police department of an incorporated city.

(b) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 6. NRS 451.592 is hereby amended to read as follows:

451.592 1. A person that acts in accordance with NRS 451.500 to 451.598, inclusive, *and section 1 of this act* or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

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

3. In determining whether an anatomical gift has been made, amended or revoked under NRS 451.500 to 451.598, inclusive, *and section 1 of this act*, a person may rely upon representations of a natural person listed in paragraph (b), (c), (d), (e), (f), (g) or (h) of subsection 1 of NRS 451.566 relating to the natural

1 person's relationship to the donor or prospective donor unless the person knows
2 that the representation is untrue.

3 **Sec. 7.** NRS 451.593 is hereby amended to read as follows:

4 451.593 1. A document of gift is valid if executed in accordance with:

5 (a) The provisions of NRS 451.500 to 451.598, inclusive ~~§~~, *and section 1 of*
6 *this act;*

7 (b) The laws of the state or country where it was executed; or

8 (c) The laws of the state or country where the person making the anatomical
9 gift was domiciled, has a place of residence or was a national at the time the
10 document of gift was executed.

11 2. If a document of gift is valid under this section, the law of this State
12 governs the interpretation of the document of gift.

13 3. A person may presume that a document of gift or amendment of an
14 anatomical gift is valid unless that person knows that it was not validly executed or
15 was revoked.

16 **Sec. 8.** This act becomes effective on July 1, 2023.