

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

517Q0007

SENATE BILL NO. 125

Introduced by: Senators Dempster, Heidepriem, and Knudson and Representatives Cutler, Curd, Engels, Lederman, Lucas, Lust, and Sorenson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions of the Uniform Anatomical Gift
2 Act.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-26-68 be amended to read as follows:

5 34-26-68. (a) In this section:

6 (1) "Advance health care directive" means a power of attorney for health care or a record
7 signed or authorized by a prospective donor containing the prospective donor's
8 direction concerning a health care decision for the prospective donor.

9 (2) "Declaration" means a record signed by a prospective donor specifying the
10 circumstances under which a life support system may be withheld or withdrawn from
11 the prospective donor.

12 (3) "Health care decision" means any decision ~~made~~ regarding the health care of the
13 prospective donor.

14 (b) If a prospective donor has a declaration or advance health care directive; and the terms
15 of the declaration or directive and the express or implied terms of a potential anatomical gift are



1 in conflict with regard to the administration of measures necessary to ensure the medical
2 suitability of an organ a part for transplantation or therapy ~~may not be withheld or withdrawn~~
3 ~~from the prospective donor, unless the declaration expressly provides to the contrary, the~~
4 prospective donor's attending physician and prospective donor shall confer to resolve the
5 conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the
6 prospective donor's declaration or directive, or, if none or the agent is not reasonably available,
7 another person authorized by law other than this Revised Uniform Anatomical Gift Act to make
8 health care decisions on behalf of the prospective donor, shall act for the donor to resolve the
9 conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the
10 resolution of the conflict may be obtained from the appropriate procurement organization and
11 any other person authorized to make an anatomical gift for the prospective donor under § 34-26-
12 56. Before resolution of the conflict, measures necessary to ensure the medical suitability of the
13 part may not be withheld or withdrawn from the prospective donor if withholding or
14 withdrawing the measures is not contraindicated by appropriate end-of-life care.