

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

400U0279

## HOUSE BILL NO. 1217

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to revise and expand certain provisions related to organ and  
2 tissue donation.

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

4 Section 1. That § 34-26-21.1 be amended to read as follows:

5 34-26-21.1. The Department of Public Safety, ~~with the advice of the Department of Health,~~  
6 shall provide each person renewing or applying for a driver license or nondriver identification  
7 card an opportunity to review information about organ donation, such as information available  
8 from the organ procurement organization designated by the federal government for this state.  
9 ~~The person shall affirm on the application that the person has reviewed the information.~~

10 The department shall distribute this information:

11 (1) On the Department of Public Safety website;

12 (2) Through information mailed with each driver license and identification card renewal  
13 notice;

14 (3) On posters and brochures made available at each driver license exam station;

15 (4) Through each driver license manual published after July 1, 2013; and



1       (5)    Through any other means the Department of Public Safety deems appropriate.

2       Section 2. That § 34-26-52 be amended to read as follows:

3       34-26-52. (a) A donor may make an anatomical gift:

4       (1)    By checking a box on the driver license or identification card application authorizing  
5            a statement or symbol indicating that the donor has made an anatomical gift to be  
6            imprinted on the donor's ~~driver's~~ driver license or identification card. The issuance  
7            of a driver license or identification card with a donor designation completes the  
8            donation process and is effective unless the donor requests removal of the donor  
9            designation;

10       (2)    In a will;

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

13       (4)    As provided in ~~subsection~~ paragraph (b).

14       (b) A donor or other person authorized to make an anatomical gift under § 34-26-51 may  
15       make a gift by a donor card or other record signed by the donor or other person making the gift  
16       or by authorizing that a statement or symbol indicating that the donor has made an anatomical  
17       gift be included on a donor registry. If the donor or other person is physically unable to sign a  
18       record, the record may be signed by another individual at the direction of the donor or other  
19       person and must:

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

22       (2)    State that it has been signed and witnessed as provided in ~~paragraph~~ subdivision (1).

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

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

3 Section 3. That chapter 34-26 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 The department shall maintain a computer record of donors and shall place the designation  
6 on each driver license or identification card subsequently issued to the donor. The department  
7 is not required to maintain the physical record of the donor card or application after issuing the  
8 driver license or identification card for the donation to be valid.

9 Upon receipt of a written notice to remove the donor designation the department shall  
10 remove the designation from all department computer records and shall issue a new driver  
11 license or identification card without the designation to the requestor.

12 Section 4. That § 34-26-67 be amended to read as follows:

13 34-26-67. (a) The Department of Public Safety ~~may~~ shall establish or contract for the  
14 establishment of a donor registry.

15 (b) ~~The Department of Public Safety shall cooperate with a person that administers any~~  
16 ~~donor registry that this state establishes, contracts for, or recognizes for the purpose of~~  
17 ~~transferring to the donor registry all relevant information regarding a donor's making,~~  
18 ~~amendment to, or revocation of an anatomical gift. The department, in partnership with the~~  
19 federally-designated organ procurement organization, shall compile, operate, maintain, and  
20 modify the registry as necessary. The registry shall include pertinent information on all South  
21 Dakotans who have registered to donate organs, tissues, and eyes and all relevant information  
22 regarding a donor's making amendment to, or revocation of, an anatomical gift in accordance  
23 with the Revised Uniform Anatomical Gift Act (§§ 34-26-48 to 34-26-72, inclusive, and this  
24 Act).

1 (c) A donor registry must:

2 (1) Allow a donor or other person authorized under § 34-26-51 to include on the donor  
3 registry a statement or symbol that the donor has made, amended, or revoked an  
4 anatomical gift;

5 (2) Allow a donor or other person online access to register as a donor, to amend an  
6 existing donor status, or remove an existing donor registration seven days a week on  
7 a twenty-four hour basis;

8 (3) Be accessible electronically to a procurement organization organ, tissue, and eye  
9 procurement organization operating in South Dakota to allow it the procurement  
10 organization to obtain relevant information on the donor registry to determine, at or  
11 near death of the donor or a prospective donor, whether the donor or prospective  
12 donor has made, amended, or revoked an anatomical gift; and

13 ~~(3)~~(4) Be accessible for purposes of ~~paragraph~~ subdivision (2) seven days a week on a  
14 twenty-four hour basis.

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

20 (e) This section does not prohibit any person from creating or maintaining a donor registry  
21 that is not established by or under contract with the state. Any such registry must comply with  
22 subsections (c) and (d).

23 (f) The department shall collect data from the registry that is not restricted by subsection (d)  
24 and share the data with the federally-designated organ procurement organization to be used for

- 1 the purpose of evaluating the effectiveness or educational initiatives to promote organ, tissue,
- 2 and eye donation that are conducted or coordinated by organ procurement organizations,
- 3 hospitals, and state agencies operating in the state.