

(2) an explanation of how the reverse mortgage affects the borrower's estate and public benefits;

(3) an explanation of the lending process;

(4) a discussion of the borrower's supplemental income needs; and

(5) an opportunity to ask questions of the counselor.

Presented to the governor May 23, 1991

Signed by the governor May 27, 1991, 10:40 p.m.

### CHAPTER 202—S.F.No. 910

*An act relating to health; providing clarification of various laws relating to public health issues; adopting the uniform anatomical gift act (1987); providing penalties; amending Minnesota Statutes 1990, sections 65B.44, subdivision 4; 115.71, subdivision 9, and by adding a subdivision; 116C.852; 144.698, subdivision 1; 145.43, subdivision 1a; 153A.15, subdivision 4, and by adding a subdivision; 153A.17; 171.06, subdivision 3; 171.07, subdivision 5; 268.12, subdivision 12; 390.36; and 525.921, subdivisions 1, 3, 4, 5, 8, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 144; 147; 176; and 525; repealing Minnesota Statutes 1990, sections 115.71, subdivision 7; 145.34; 145.35; 153A.16; 525.921, subdivision 2; and 525.922 to 525.94.*

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 65B.44, subdivision 4, is amended to read:

Subd. 4. **FUNERAL AND BURIAL EXPENSES.** Funeral and burial benefits shall be reasonable expenses not in excess of \$2,000, including expenses for cremation or delivery under the uniform anatomical gift act (1987), sections 525.921 to ~~525.93~~ 40.

Sec. 2. Minnesota Statutes 1990, section 115.71, is amended by adding a subdivision to read:

Subd. 3a. "Community water supply system" means a public water supply system as defined in section 144.382, subdivision 4, and which serves at least 15 service connections or living units used by year-round residents, or regularly serves at least 25 year-round residents.

Sec. 3. Minnesota Statutes 1990, section 115.71, subdivision 9, is amended to read:

Subd. 9. "Water supply system operator" means a person who has direct

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responsibility for the operation of a community water supply system or such parts of the system as would affect the quality and safety of the water.

Sec. 4. Minnesota Statutes 1990, section 116C.852, is amended to read:

**116C.852 LOW-LEVEL RADIOACTIVE WASTE DISPOSAL.**

~~No~~ All low-level radioactive waste that may be treated, recycled, stored, or disposed of in this state ~~except at a facility that is specifically licensed for treatment, recycling, storage, or disposal of low-level radioactive waste shall conform to applicable federal and state requirements~~ regardless of whether or not the waste has been reclassified as "below regulatory concern" by the United States Nuclear Regulatory Commission pursuant to a generic rule or standard adopted after January 1, 1990.

**Sec. 5. [144.0525] DATA FROM LABOR AND INDUSTRY AND JOBS AND TRAINING; EPIDEMIOLOGIC STUDIES.**

All data collected by the commissioner of health under sections 176.234 and 268.12 shall be used only for the purposes of epidemiologic investigations and surveillance of occupational health and safety.

**Sec. 6. [144.1211] ENFORCEMENT.**

Subdivision 1. CEASE AND DESIST ORDER. (a) The commissioner of health may issue an order requiring a person to cease activities related to the use of X-ray equipment, accelerators, and any device that emits ionizing radiation if the commissioner of health determines:

(1) that any individual is in danger of harmful and unnecessary exposure to ionizing radiation resulting from:

(i) X-ray equipment not operated, or X-ray procedures not performed according to standards prescribed by the commissioner of health in rule to minimize unnecessary exposure;

(ii) protective structural shielding of an X-ray facility not meeting the standards prescribed by the commissioner of health in rule to minimize unnecessary exposure; and

(iii) X-ray equipment prohibited for diagnostic or therapeutic X-ray use by the commissioner of health in rule; or

(2) that any individual is in danger from X-ray equipment with observed mechanical or electrical defects.

(b) The order is effective immediately upon issuance. Following issuance of the cease and desist order, the commissioner shall provide opportunity for a hearing under the contested case provisions of chapter 14.

(c) The commissioner may assess an administrative penalty for each violation specified in the cease and desist order.

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Subd. 2. CORRECTION ORDER. (a) The commissioner may issue correction orders for persons to correct violations of this section or other statutes and rules related to ionizing radiation, or for violation of a cease and desist order. The correction order shall state the deficiencies that constitute the violation; the specific statute, rule, or provision of a cease and desist order violated; and the time by which the violation must be corrected.

(b) If the person believes that the information contained in the commissioner's correction order is in error, the person may ask the commissioner to reconsider the parts of the order that are alleged to be in error. The request must be in writing, must be delivered to the commissioner by certified mail within seven calendar days after receipt of the order, and must:

(1) specify which parts of the order for corrective action are alleged to be in error;

(2) explain why they are in error; and

(3) provide documentation to support the allegation of error.

The commissioner shall respond to requests made under this paragraph within 15 calendar days after receiving request. A request for reconsideration does not stay the correction order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order if necessary. The commissioner's disposition of a request for reconsideration is final.

Subd. 3. REINSPECTIONS. If upon reinspection it is found that any deficiency specified in the correction order or cease and desist order has not been corrected, a notice of noncompliance with a correction order shall be issued stating each deficiency not corrected and specifying any administrative penalty issued for each deficiency.

Subd. 4. ADMINISTRATIVE PENALTIES. (a) In the notice of noncompliance issued under subdivision 3, the commissioner of health may assess an administrative penalty under this section of not more than \$10,000 for each deficiency found not corrected at the time of reinspection. In determining the amount of the penalty, the commissioner shall consider:

(1) the seriousness of the violation and the hazard or potential hazard created to the public health or safety;

(2) the amount necessary to deter future violations;

(3) the history of previous violations; and

(4) efforts to correct the violation.

For each day that the deficiency is not corrected after receipt of the notice of noncompliance, the penalty may be increased, but not more than \$500 per day.

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(b) A person subject to an administrative penalty may request a contested case hearing pursuant to chapter 14 within 20 days after mailing of the notice of noncompliance. If the administrative penalty is not contested within 20 days after mailing of the notice of noncompliance, the notice of noncompliance and the administrative penalty become final and the person may not contest the notice of noncompliance or the administrative penalty. Any administrative penalty not paid or contested within 60 days after mailing of the notice of noncompliance shall increase by not more than 25 percent of the original amount assessed and shall bear interest on any unpaid balance at the rate established in section 549.09.

(c) The commissioner may also establish by rule a schedule of penalties not to exceed \$10,000.

Subd. 5. INJUNCTIVE RELIEF. In the event of noncompliance with a cease and desist order issued under subdivision 1, the commissioner of health may institute a proceeding to obtain injunctive relief or other appropriate relief in Ramsey county district court or, at the commissioner of health's discretion, in the district court in which the violation of the cease and desist order occurred.

Subd. 6. MISDEMEANOR. A person who violates the statutes and rules related to ionizing radiation shall be guilty of a misdemeanor for each violation.

Sec. 7. Minnesota Statutes 1990, section 144.698, subdivision 1, is amended to read:

Subdivision 1. **YEARLY REPORTS.** Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

- (1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;
- (2) a detailed statement of income and expenses;
- (3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act;
- (4) a copy of all changes to articles of incorporation or bylaws;
- (5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;
- (6) information required on the revenue and expense report form set in effect on July 1, 1989, or as amended by the commissioner in rule; and

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(7) other information required by the commissioner in rule.

Sec. 8. Minnesota Statutes 1990, section 145.43, subdivision 1a, is amended to read:

Subd. 1a. **[30-DAY GUARANTEE AND BUYER RIGHT TO CANCEL.]**  
No person shall sell a hearing aid in this state unless:

(a) The seller provides the buyer with a 30-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 30 days after receiving the hearing aid by giving or mailing written notice of cancellation to the seller. If the hearing aid must be repaired, remade, or adjusted during the 30-day money-back guarantee period, the running of the 30-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three working days after notification of availability, after which time the running of the 30-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a full refund of payment within 30 days of return of the hearing aid to the seller. The seller may retain as a cancellation fee ten percent of the buyer's total ~~payment for purchase price of~~ the hearing aid.

(b) The seller shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements and are certified by the attorney general under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: **MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE SELLER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 30-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF \$.....** (State the dollar amount of refund.)

Sec. 9. **[147.35] PHYSICIAN ASSISTANTS; LIMITATION ON LIABILITY.**

A physician assistant who is registered with the board of medical examiners is exempt from prosecution under laws regulating the practice of any occupation licensed by the state or prohibiting the performance of any acts as long as the physician assistant acts within the scope of the registration system, the supervising physician agreement, and other requirements of Minnesota Rules, parts 5600.2600 to 5600.2665.

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Sec. 10. Minnesota Statutes 1990, section 153A.15, is amended by adding a subdivision to read:

Subd. 3a. DISCOVERY. In all matters relating to the lawful regulation activities under this chapter, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and production of books, records, correspondence, and other information relevant to any matter involved in the investigation. The commissioner or the commissioner's designee may administer oaths to witnesses or take their affirmation. The subpoenas may be served upon any person named therein anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person to whom a subpoena is issued does not comply with the subpoena, the commissioner may apply to the district court in any district and the court shall order the person to comply with the subpoena. Failure to obey the order of the court may be punished by the court as contempt of court. All information pertaining to individual medical records obtained under this section shall be considered health data under section 13.38.

Sec. 11. Minnesota Statutes 1990, section 153A.15, subdivision 4, is amended to read:

Subd. 4. PENALTY PENALTIES. A person violating sections 153A.13 to 153A.16 is guilty of a misdemeanor. The commissioner may impose an automatic civil penalty equal to one-fourth the renewal fee on each hearing instrument seller who fails to renew the permit required in section 153A.14 by the renewal deadline established by the commissioner in rule.

Sec. 12. Minnesota Statutes 1990, section 153A.17, is amended to read:

**153A.17 EXPENSES.**

The expenses for administering the permit requirements including the complaint handling system for hearing aid sellers in ~~section~~ sections 153A.14 and 153A.15 and the consumer information center under section 153A.18 must be paid from initial permit fees collected under the authority granted in section 214.06, subdivision 1 and renewal fees. The total fees collected must as closely as possible equal anticipated expenditures during the fiscal biennium as provided for in section 16A.128. The commissioner shall by rule, with the approval of the commissioner of finance, adjust any fee the commissioner is empowered to assess as provided for in section 16A.128. The fee established must include a surcharge amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules.

Sec. 13. Minnesota Statutes 1990, section 171.06, subdivision 3, is amended to read:

Subd. 3. CONTENTS OF APPLICATION; OTHER INFORMATION. An application must state the full name, date of birth, sex and residence address of the applicant, a description of the applicant in such manner as the commis-

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tioner may require, and must state whether or not the applicant has theretofore been licensed as a driver; and, if so, when and by what state or country and whether any such license has ever been suspended or revoked, or whether an application has ever been refused; and, if so, the date of and reason for such suspension, revocation, or refusal, together with such facts pertaining to the applicant and the applicant's ability to operate a motor vehicle with safety as may be required by the commissioner. An application for a Class CC, Class B, or Class A driver's license also must state the applicant's social security number. The application form must contain a ~~notification to the applicant of the availability of the donor document provided pursuant to section 171.07, subdivision 5, and must contain spaces~~ space where the applicant ~~must~~ may indicate a desire to receive ~~or not to receive the donor document~~ make an anatomical gift. If the applicant does not indicate a desire to make an anatomical gift when the application is made, the applicant must be offered a donor document in accordance with section 171.07, subdivision 5. The application form must contain statements sufficient to comply with the requirements of the uniform anatomical gift act (1987), sections 595.921 to 40, so that execution of the application or donor document will make the anatomical gift as provided in section 171.07, subdivision 5, for those indicating a desire to make an anatomical gift. The application form must contain a notification to the applicant of the availability of a living will designation on the license under section 171.07, subdivision 7. The application must be in the form prepared by the commissioner.

The application form must be accompanied by a pamphlet containing relevant facts relating to:

- (1) the effect of alcohol on driving ability;
- (2) the effect of mixing alcohol with drugs;
- (3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and
- (4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations.

The application form must also be accompanied by a pamphlet describing Minnesota laws regarding anatomical gifts and the need for and benefits of anatomical gifts.

Sec. 14. Minnesota Statutes 1990, section 171.07, subdivision 5, is amended to read:

Subd. 5. **ANATOMICAL GIFT; DONOR DOCUMENT.** The department ~~may provide~~ shall offer a donor document to each person making application for a driver's license or a Minnesota identification card ~~whereby any such person may execute an anatomical gift, pursuant to the provisions of the uniform anatomical gift act, sections 525.921 to 525.93 who indicates a desire not to make a decision about making an anatomical gift at the time the application is made.~~

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The commissioner of public safety shall prescribe the form of the donor document and the application for a driver's license or a Minnesota identification card. The forms must be designed so that execution by the applicant of the donor document or application will make an anatomical gift under the uniform anatomical gift act (1987), sections 525.921 to 40. If the donor is 18 years of age or older, the donor document or application must be signed by the donor ~~in the presence of two witnesses who must sign the donor document in the donor's presence.~~ If the donor cannot sign, the donor document or application may be signed for the donor at the donor's direction, in the donor's presence, and in the presence of two witnesses who must sign the donor document or application in the donor's presence. If the donor is a minor, the donor document or application must be signed by the minor donor, and ~~both one~~ one of the minor donor's parents, a legal guardian, or ~~the a parent or parents~~ a parent or parents having legal custody. If the minor cannot sign, the donor document or application may not be signed for the minor. The department shall identify donors of anatomical gifts by the designation "donor" on the front side of the donor's driver's license or Minnesota identification card. The issuance of a driver's license or Minnesota identification card identifying the person as a "donor" completes the donation process and the license or identification card constitutes the final donor record. The department is not required to keep the physical record of the donor card or application after issuing the driver's license or identification card for the donation to be valid. The department shall maintain a computer record of donors. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift. The designation "donor" ~~shall constitute~~ constitutes sufficient legal authority for the removal of all body organs or parts upon death of the donor for the purpose of transplantation ~~and~~. The donor designation ~~shall~~ may be removed only upon written notice to the department. Delivery of the license or Minnesota identification card during the donor's lifetime is not necessary to make the gift valid.

**Sec. 15. [176.234] RELEASE OF DATA FOR EPIDEMIOLOGIC STUDY.**

The commissioner of the department of labor and industry shall, upon request, provide the commissioner of health data classified as private data under section 13.02, subdivision 12, which are contained in the initial report of injury under section 176.231, and other workers' compensation records related to any individual's injury or illness. Data to be provided include, but are not limited to, all personal identifiers such as name, address, age, sex, and social security number for the injured person, employer identification information, insurance information, compensation payments, and physician and rehabilitation reports which the commissioner of labor and industry determines may pertain to specific epidemiologic investigations being conducted by the department of health.

Sec. 16. Minnesota Statutes 1990, section 268.12, subdivision 12, is amended to read:

Subd. 12. **INFORMATION.** Except as hereinafter otherwise provided,

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data gathered from any employing unit or individual pursuant to the administration of sections 268.03 to 268.231, and from any determination as to the benefit rights of any individual are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to this subdivision or a court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(a) state and federal agencies specifically authorized access to the data by state or federal law;

(b) any agency of this or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(c) local human rights groups within the state which have enforcement powers;

(d) the department of revenue shall have access to department of jobs and training private data on individuals and nonpublic data not on individuals only to the extent necessary for enforcement of Minnesota tax laws;

(e) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(f) the department of labor and industry on an interchangeable basis with the department of jobs and training subject to the following limitations and notwithstanding any law to the contrary:

(1) the department of jobs and training shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under sections 268.03 to 268.231; and

(2) the department of labor and industry shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under state law;

(g) the department of trade and economic development may have access to private data on individual employing units and nonpublic data not on individual employing units for its internal use only; when received by the department of trade and economic development, the data remain private data on individuals or nonpublic data;

(h) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department of jobs and training; ~~and~~

(i) local, state, and federal law enforcement agencies for the sole purpose of

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ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation; and

(j) the department of health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.

Data on individuals and employing units which are collected, maintained, or used by the department in an investigation pursuant to section 268.18, subdivision 3, are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and shall not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

Tape recordings and transcripts of recordings of proceedings before a referee of the department and exhibits offered by parties other than the department and received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and shall be disclosed only pursuant to the administration of section 268.10, subdivisions 3 to 8, or pursuant to a court order.

Aggregate data about employers compiled from individual job orders placed with the department of jobs and training are private data on individuals and nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, if the commissioner determines that divulging the data would result in disclosure of the identity of the employer. The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are also classified as private data on individuals or nonpublic data.

Data on individuals collected, maintained, or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs administered by the department of jobs and training is private data on individuals and shall not be disseminated except pursuant to section 13.05, subdivisions 3 and 4.

Data gathered by the department pursuant to the administration of sections 268.03 to 268.231 shall not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 17. Minnesota Statutes 1990, section 390.36, is amended to read:

**390.36 CORONER REMOVAL OF PITUITARY GLAND DURING AUTOPSY.**

A county coroner who performs an autopsy under section 390.11, 390.32, or any other general or local law relating to county coroners or medical examiners, may remove the pituitary gland from the body and give it to the national pituitary agency, or any other agency or organization, for research if the following conditions have been met:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) the removal would not alter a gift made under sections 525.921 to ~~525.93~~ 40;

(b) the coroner or medical examiner has no knowledge of any objection to the removal by the decedent or other person having the right to control the disposition of the body; and

(c) the coroner or medical examiner has followed generally accepted ethical guidelines and the removal would not violate the tenets of the deceased's religion.

Sec. 18. Minnesota Statutes 1990, section 525.921, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of sections 525.921 to ~~525.93~~ 40 the terms defined in this section have the meanings given them.

Sec. 19. Minnesota Statutes 1990, section 525.921, is amended by adding a subdivision to read:

Subd. 1a. ANATOMICAL GIFT. "Anatomical gift" means a donation of all or part of a human body to take effect upon or after death.

Sec. 20. Minnesota Statutes 1990, section 525.921, subdivision 3, is amended to read:

Subd. 3. **DECEDENT.** "Decedent" means a deceased individual and includes a stillborn infant or an embryo or fetus that has died of natural causes in utero.

Sec. 21. Minnesota Statutes 1990, section 525.921, is amended by adding a subdivision to read:

Subd. 3a. DOCUMENT OF GIFT. "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

Sec. 22. Minnesota Statutes 1990, section 525.921, subdivision 4, is amended to read:

Subd. 4. **DONOR.** "Donor" means an individual who makes ~~a~~ an anatomical gift of all or part of the individual's body.

Sec. 23. Minnesota Statutes 1990, section 525.921, is amended by adding a subdivision to read:

Subd. 4a. ENUCLEATOR. "Enucleator" means an individual who has completed a course in eye enucleation conducted and certified by the department of ophthalmology of any accredited college of medicine, and holds a valid certificate of competence for completing the course.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 24. Minnesota Statutes 1990, section 525.921, subdivision 5, is amended to read:

Subd. 5. **HOSPITAL.** "Hospital" means a ~~hospital facility~~ hospital facility licensed, accredited, or approved as a hospital under the laws of any state; ~~includes or a facility operated as a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws of a state.~~

Sec. 25. Minnesota Statutes 1990, section 525.921, subdivision 8, is amended to read:

Subd. 8. **PHYSICIAN OR SURGEON.** "Physician" or "surgeon" means a ~~physician or surgeon~~ an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

Sec. 26. Minnesota Statutes 1990, section 525.921, is amended by adding a subdivision to read:

**Subd. 8a. PROCUREMENT ORGANIZATION.** "Procurement organization" means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

Sec. 27. Minnesota Statutes 1990, section 525.921, is amended by adding a subdivision to read:

**Subd. 10. TECHNICIAN.** "Technician" means an individual who is appropriately trained to remove or process a part.

Sec. 28. [525.921] **MAKING, AMENDING, REVOKING, AND REFUSING TO MAKE ANATOMICAL GIFTS BY INDIVIDUAL.**

(a) An individual who is at least 18 years of age, or a minor with the written consent of a parent or legal guardian, may (i) make an anatomical gift for any of the purposes stated in section 32, paragraph (a), (ii) limit an anatomical gift to one or more of those purposes, or (iii) refuse to make an anatomical gift.

(b) An anatomical gift may be made by a will or by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with paragraph (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the

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anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by:

(1) a signed statement;

(2) an oral statement made in the presence of two individuals;

(3) any form of communication during a terminal illness or injury addressed to a health care professional or member of the clergy; or

(4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in paragraph (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by (i) a writing signed in the same manner as a document of gift, or (ii) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 29 or on a removal or release of other parts under section 30.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to paragraph (i).

#### **Sec. 29. [525.9212] MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.**

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made a refusal to make that anatomical gift that is unrevoked at the time of death:

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- (1) the spouse of the decedent;
- (2) an adult son or daughter of the decedent;
- (3) either parent of the decedent;
- (4) an adult brother or sister of the decedent;
- (5) a grandparent of the decedent; and
- (6) a guardian of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in paragraph (a) if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under paragraph (a) must be made by (i) a document of gift signed by the person, or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under paragraph (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make a decision as to an anatomical gift under paragraph (a) is not an objection to the making of an anatomical gift.

**Sec. 30. [525.9213] AUTHORIZATION BY CORONER OR MEDICAL EXAMINER OR LOCAL PUBLIC HEALTH OFFICIAL.**

(a) The coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

(1) the official has received a request for the part from a hospital, physician, surgeon, or procurement organization;

(2) the official has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in section 29, paragraph (a), of their option to make, or object to making, an anatomical gift;

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(3) the official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in section 29, paragraph (a);

(4) the removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;

(5) the removal will not interfere with any autopsy or investigation; and

(6) the removal will be in accordance with accepted medical standards.

(b) If the body is not within the custody of the coroner or medical examiner, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation or therapy if the requirements of paragraph (a) are met.

(c) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

**Sec. 31. [525.9214] ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.**

(a) If, at or near the time of death of a patient, there is no documentation in the medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with the patient or a relative of the patient the option to make or refuse to make an anatomical gift and may request the making of an anatomical gift pursuant to section 28 or 29. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 32. An entry must be made in the medical record of the patient, stating the name of the individual making the request, and the name, response, and relationship to the patient of the person to whom the request was made.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death;

(2) a hospital or emergency care facility, upon the admission or presentation of an individual at or near the time of death, if there is not immediately available any other source of that information; and

(3) a medical examiner or coroner upon receipt of a body.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (b), clause (1), and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 29, paragraph (a), or a release and removal of a part has been permitted pursuant to section 30, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability.

**Sec. 32. [525.9215] PERSONS WHO MAY BECOME DONEES; PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.**

(a) The following persons may become donees of anatomical gifts for the purposes stated:

(1) a hospital, nonprofit organization in medical education and research, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;

(2) an accredited medical or dental school, college, or university for education, research, advancement of medical or dental science;

(3) an approved chiropractic college for education; or

(4) a designated individual for transplantation or therapy needed by that individual.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or procurement organization.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under section 29, paragraph (a), the donee may not accept the anatomical gift.

**Sec. 33. [525.9216] DELIVERY OF DOCUMENT OF GIFT.**

(a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

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(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

**Sec. 34. [525.9217] RIGHTS AND DUTIES AT DEATH.**

(a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 37, paragraph (b). A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 28, paragraph (d).

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

**Sec. 35. [525.9218] COORDINATION OF PROCUREMENT AND USE.**

The procurement organizations, after consultation with hospitals, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

**Sec. 36. [525.9219] SALE OR PURCHASE OF PARTS PROHIBITED.**

(a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding five years, or both.

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Sec. 37. [525.9221] EXAMINATION, AUTOPSY, LIABILITY.

(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of sections 525.921 to 40 are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with sections 525.921 to 40 or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section 20 or 21 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

Sec. 38. [525.9222] TRANSITIONAL PROVISIONS.

Sections 525.921 to 40 apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of sections 525.921 to 40.

Sec. 39. [525.9223] UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 525.921 to 40 shall be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of sections 525.921 to 40 among states enacting it.

Sec. 40. [525.9224] SHORT TITLE.

Sections 525.921 to 40 may be cited as the "uniform anatomical gift act (1987)."

Sec. 41. INSTRUCTION TO REVISOR.

In the next edition of Minnesota Statutes and its supplement, the revisor of statutes shall renumber Minnesota Statutes, sections 145.43 and 145.45, as a new section in Minnesota Statutes, coded as Minnesota Statutes, chapter 153A. The revisor shall also correct all cross-references to these sections in Minnesota statutes and rules.

Sec. 42. REPEALER.

Minnesota Statutes 1990, sections 115.71, subdivision 7; 145.34; 145.35; 153A.16; 525.921, subdivision 2; 525.922; 525.923; 525.924; 525.925; 525.926; 525.927; 525.928; 525.929; 525.93; and 525.94, are repealed.

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## Sec. 43. EFFECTIVE DATE.

Section 11, imposing an automatic civil penalty for failure to renew permits, is effective the day following final enactment. The repeal of Minnesota Statutes 1990, section 153A.16, is effective the day following final enactment.

Presented to the governor May 23, 1991

Signed by the governor May 27, 1991, 10:01 p.m.

## CHAPTER 203—S.F.No. 762

*An act relating to health; changing restrictions on disclosing birth record of a child born to an unmarried woman; amending Minnesota Statutes 1990, section 144.225, subdivisions 2 and 4.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 144.225, subdivision 2, is amended to read:

Subd. 2. ~~INFORMATION DATA ABOUT CERTAIN BIRTHS. Disclosure of information pertaining to~~ (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child, to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original certificate of birth and the certified copy, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born or information from which it can be ascertained, shall be made only to the guardian of the person, the person to whom the record pertains when the person is 18 years of age or older, a parent of the person born to a mother who was not married to the child's father when the child was conceived nor when the child was born as provided by section 144.218, subdivision 1, or upon order of a court of competent jurisdiction, the mother may designate on the birth registration form whether data pertaining to the birth will be public data. Notwithstanding the designation of the data as confidential, it may be disclosed to a parent or guardian of the child, to the child when the child is 18 years of age or older, pursuant to a court order, or under paragraph (b).

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision

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