

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 907

Short Title: Organ Donation Presumed.

(Public)

Sponsors: Senator Lee.

Referred to: Judiciary II.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT ORGAN DONATION BY A DECEASED  
INDIVIDUAL IS PRESUMED UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Article 2 of Chapter 20 of the General Statutes is amended  
by adding the following section to read:

**"§ 20-7.3. Organ donor status.**

(a) Statement of Gift. – A person who wishes to be an eye, tissue, or organ donor  
may execute a statement of gift.

(b) Effect of Statement. – The statement of gift may be shown by a card designed  
to be carried by the donor to evidence the donor's intentions with respect to organ,  
tissue, and eye donation. A donor card signed by the donor shall be given effect as if  
executed pursuant to G.S. 130A-406.

(c) Donor Cards Made Available. – Donor cards shall be provided to the  
Department by qualified organ or tissue procurement organizations or tissue banks, as  
defined in G.S. 130A-403. The Department shall provide a means to distribute donor  
cards to interested individuals in each office authorized to issue drivers licenses or  
special identification cards. The Department and other appropriate State agencies, in  
cooperation with qualified organ, tissue, and eye bank organizations shall pursue the  
development of a combined statewide database of donors.

(d) Effect of Donor Status on Drivers License. – Effective October 1, 2001, a  
statement of gift on drivers licenses or special identification cards shall have no force  
and effect, except that a statement of gift on a drivers license or special identification  
card executed prior to October 1, 2001, shall be conclusive evidence of a decedent's  
status as a donor and serve as consent for organ, tissue, and eye removal. To revoke an  
affirmative statement of gift on a drivers license or special identification card made  
prior to October 1, 2001, the licensee or card holder must apply to the Department for

1 an amendment to the license or card. The fee for an amendment is the same as the fee  
2 for a duplicate license.

3 (e) Donor Card or License to Accompany Injured or Deceased Person. – The  
4 donor card of a person who is involved in an accident or other trauma shall accompany  
5 the person to the hospital or other health care facility. The drivers license or special  
6 identification card issued prior to October 1, 2001, indicating an affirmative statement  
7 of gift of a person who is involved in an accident or other trauma shall accompany the  
8 person to the hospital or health care facility if the person does not have a donor card.

9 (f) Notification of Organ Procurement Organization. – In accordance with Part 3  
10 of Article 16 of Chapter 130A of the General Statutes, if the person meets the medical  
11 criteria for organ or tissue donation, the receiving hospital or health care facility shall  
12 immediately notify a federally designated organ procurement organization as soon as  
13 brain death or cardiac death occurs.

14 (g) Determination of Donor Status; Request for Gift. – The federally designated  
15 organ procurement organization shall immediately determine if the deceased is a  
16 declared donor. If the deceased is not a declared donor, the organization shall make the  
17 required request of a person listed in G.S. 130A-404(b) according to the priority  
18 established under that section. The organization may authorize the hospital or health  
19 care facility to make the request.

20 (h) Presumed Donation. – If within four hours after death is pronounced, a person  
21 listed in G.S. 130A-404(b) is not available to make the gift as authorized under that  
22 section, the medical examiner may permit the removal of the heart, lung, kidney, liver,  
23 or other organ or tissue that requires a patient support system to maintain the viability of  
24 the organ or tissue.

25 (i) Immunity. – A person who performs an action authorized by this section is  
26 not civilly or criminally liable because of the action. Each medical examiner is  
27 encouraged to permit organ and tissue removal at the earliest possible time consistent  
28 with the examiner's duties regarding the cause and manner of death."

29 **SECTION 1.(b)** G.S. 20-7(n) reads as rewritten:

30 "(n) Format. – A drivers license issued by the Division must be tamperproof and  
31 must contain all of the following information:

- 32 (1) An identification of this State as the issuer of the license.
- 33 (2) The license holder's full name.
- 34 (3) The license holder's residence address.
- 35 (4) A color photograph of the license holder, taken by the Division.
- 36 (5) A physical description of the license holder, including sex, height, eye  
37 color, and hair color.
- 38 (6) The license holder's date of birth.
- 39 (7) An identifying number for the license holder assigned by the Division.  
40 The identifying number may not be the license holder's social security  
41 number.

42 (8) Whether or not the license holder is an organ donor."

43 **SECTION 1.(c)** G.S. 20-37.7(c) reads as rewritten:

1       "(c) Format. – A special identification card shall be similar in size, shape, and  
2 design to a drivers license, but shall clearly state that it does not entitle the person to  
3 whom it is issued to operate a motor vehicle. A special identification card issued to an  
4 applicant must have the same background color that a drivers license issued to the  
5 applicant would have. A special identification card shall indicate whether or not the  
6 applicant is an organ donor."

7               **SECTION 2.(a)** G.S. 130A-404 reads as rewritten:

8       "**§ 130A-404. Persons who may make an anatomical gift.**

9       (a) An individual of sound mind and 18 years of age or more may give all or any  
10 part of that individual's body for any purpose specified in G.S. 130A-405. The gift shall  
11 take effect upon death.

12       (b) Any of the following persons, in order of priority stated, when persons in  
13 prior classes are not available at the time of death, and in the absence of actual notice of  
14 contrary indications by the decedent or actual notice of opposition by a member of the  
15 same or a prior class, may give all or any part of the decedent's body for any purpose  
16 specified in G.S. 130A-405.

17               (1) The spouse;

18               (2) An adult child;

19               (3) Either parent;

20               (4) An adult sibling;

21               (5) A guardian of the person of the decedent at the time of decedent's  
22 death;

23               (6) Any other person authorized or under obligation to dispose of the  
24 body.

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

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

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

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

36       (g) If within four hours after death is pronounced, a person authorized under  
37 subsection (b) of this section is not available to make the gift as authorized under that  
38 subsection, a medical examiner may permit the removal of the heart, lung, kidney, liver,  
39 or other organ or tissue of the deceased that requires a patient support system to  
40 maintain the viability of the organ or tissue."

41               **SECTION 2.(b)** G.S. 130A-412.2 is amended by adding the following new  
42 subsection to read:

43       "(g) The federally designated organ procurement organization shall provide to the  
44 Department of Transportation organ donor cards in accordance with G.S. 20-7.3."

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**SECTION 3.** This act becomes effective October 1, 2001.