

JAN 25 2012

A BILL FOR AN ACT

RELATING TO ANATOMICAL TRANSPLANTS.

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

1 SECTION 1. Chapter 325, Hawaii Revised Statutes, is
2 amended by adding a new section to part VI to be appropriately
3 designated and to read as follows:

4 "§325- Anatomical transplants. (a) No health care
5 facility or health care provider shall discriminate against a
6 person who has HIV, ARC, or AIDS and who is need of an organ
7 transplantation by refusing to perform the organ
8 transplantation.

9 (b) As used in this section:

10 "Health care facility" means a facility as defined in
11 section 323D-2.

12 "Health care provider" means a health care facility,
13 physician licensed pursuant to chapter 453, or transplant
14 hospital as defined in section 327-2."

15 SECTION 2. Section 327-11, Hawaii Revised Statutes, is
16 amended to read as follows:



1 "[+]§327-11[+] **Persons that may receive anatomical gift;**
2 **purpose of anatomical gift.** (a) An anatomical gift of a body

3 or body part may be made to the following persons:

4 (1) A named hospital, accredited medical school, dental
5 school, college, university, or organ procurement
6 organization, or other appropriate person for research
7 or education;

8 (2) A named individual designated by the person making the
9 anatomical gift if the individual is the recipient of
10 the body part; or, if the body part for any reason
11 cannot be transplanted into the individual, the body
12 part shall pass in accordance with subsection (f) in
13 the absence of an express, contrary indication by the
14 person making the anatomical gift; or

15 (3) A named eye bank or tissue bank.

16 (b) If an anatomical gift of one or more specific body
17 parts or of all body parts is made in a document of gift that
18 does not name a person described in subsection (a) but
19 identifies the purpose for which an anatomical gift may be used,
20 the following rules shall apply:



1 (1) If the body part is an eye and the gift is for
2 transplantation or therapy, the gift shall pass to the
3 appropriate eye bank;

4 (2) If the body part is tissue and the gift is for
5 transplantation or therapy, the gift shall pass to the
6 appropriate tissue bank;

7 (3) If the body part is an organ and the gift is for
8 transplantation or therapy, the gift shall pass to the
9 appropriate organ procurement organization as
10 custodian of the organ; and

11 (4) If the body part is an organ, an eye, or tissue and
12 the gift is for research or education, the gift shall
13 pass to the appropriate procurement organization.

14 (c) For the purpose of subsection (h), if there is more
15 than one purpose of an anatomical gift set forth in the document
16 of gift but the purposes are not set forth in any priority, the
17 gift shall be used for transplantation or therapy if suitable
18 for those purposes and, if the gift cannot be used for
19 transplantation or therapy, the gift may be used for research or
20 education.

21 (d) If an anatomical gift of one or more specific body
22 parts is made in a document of gift that does not name a person



1 described in subsection (a) and does not identify the purpose of
2 the gift, the decedent's body parts may be used only for
3 transplantation or therapy, and the gift shall pass in
4 accordance with subsection (f).

5 (e) If a document of gift specifies only a general intent
6 to make an anatomical gift by words such as "donor", "organ
7 donor", or "body donor", or by a symbol or statement of similar
8 import, the decedent's body parts may be used only for
9 transplantation or therapy, and the gift shall pass in
10 accordance with subsection (f).

11 (f) For purposes of subsections (a)(2), (c), and (d), the
12 following rules shall apply:

13 (1) If the body part is an eye, the gift shall pass to the
14 appropriate eye bank;

15 (2) If the body part is tissue, the gift shall pass to the
16 appropriate tissue bank; and

17 (3) If the body part is an organ, the gift shall pass to
18 the appropriate organ procurement organization as
19 custodian of the organ.

20 (g) An anatomical gift of an organ for transplantation or
21 therapy, other than an anatomical gift under subsection (a)(2),



1 shall pass to the organ procurement organization as custodian of
2 the organ.

3 (h) If an anatomical gift does not pass pursuant to
4 subsections (a) through (g), or the decedent's body or body part
5 is not used for transplantation, therapy, research, or
6 education, custody of the body or body part shall pass to the
7 person under obligation to dispose of the body or body part.

8 (i) A person may not accept an anatomical gift if the
9 person knows that the gift was not effectively made under
10 section 327-5 or 327-10 or if the person knows that the decedent
11 made a refusal under section 327-7 that was not revoked. For
12 purposes of this subsection, if a person knows that an
13 anatomical gift was made on a document of gift, the person is
14 deemed to know of any amendment or revocation of the gift or any
15 refusal to make an anatomical gift on the same document of gift.

16 (j) Except as otherwise provided in subsection (a)(2),
17 nothing in this part shall affect the allocation of organs for
18 transplantation or therapy.

19 (k) Nothing in this section shall be construed to prohibit
20 a person with human immunodeficiency virus, acquired immune
21 deficiency syndrome (AIDS), or an AIDS related complex from
22 receiving an anatomical gift."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4
INTRODUCED BY: Will Egan



Report Title:

Anatomical Transplants; Human Immunodeficiency Virus; Acquired Immune Deficiency Syndrome

Description:

Prohibits a health care facility or health care provider from discriminating against a person who has human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or AIDS related complex (ARC), and who is in need of an organ transplantation by refusing to perform the organ transplantation. Amends section 327-11, HRS, to specify that persons with HIV, AIDS, or ARC shall not be prohibited from receiving an anatomical gift.

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