

ACT 193

H.B. NO. 1657

A Bill for an Act Relating to the Definition of Death.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended to read:

“Sec. 327C-1 Determination of death. (a) Except as provided in subsection (b) of this section, a person shall be considered dead if in the announced opinion of a physician licensed under chapter 453, based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory functions. Death will have occurred at the time when the irreversible cessation of the functions first coincided.

(b) In the event that artificial means of support preclude a determination that respiratory and circulatory functions have ceased, a person shall be considered dead if, in the opinion of an attending physician licensed under chapter 453, and of a consulting physician licensed under chapter 453, based on ordinary standards of current medical practice, the person has experienced irreversible cessation of brain function. The opinions of the physicians shall be evidenced by signed statements. Death will have occurred at the time when the irreversible cessation of brain function first occurred. Death shall be pronounced before artificial means of support are withdrawn and before any vital organ is removed for purposes of transplantation.

(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor's death is established by determining that the donor experienced irreversible cessation of brain function, the determination shall only be made under subsection (b) of this section. The physicians making the determination of death shall not participate in the procedures for removing or transplanting a part, or in the care of any recipient.

(d) All death determinations in the State shall be made pursuant to this section and shall apply to all purposes, including but not limited to civil and criminal actions, any laws to the contrary notwithstanding, provided that presumptive deaths under the Uniform Probate Code shall not be affected by this section.

(e) The director of health shall convene in every odd-numbered year, a committee which shall be composed of representatives of appropriate general and specialized medical professional organization, licensed attorneys, and members of the public. The committee shall review medical practice, legal developments, and other appropriate matters to determine the continuing viability of this section, and shall submit a report of its findings and recommendations to the legislature, prior to the convening of the regular session held in each even-numbered year."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved June 6, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.