

1 State of Arkansas As Engrossed: H3/19/25 S4/8/25 S4/9/25

2 95th General Assembly

# A Bill

3 Regular Session, 2025

HOUSE BILL 1679

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5 By: Representatives M. Brown, Gazaway, Achor, Beaty Jr., Bentley, A. Brown, C. Cooper, Duffield,  
6 Eubanks, Furman, Gramlich, Hawk, Long, Magie, McCollum, S. Meeks, Milligan, J. Moore, Painter,  
7 Pilkington, Rose, Schulz, Steimel, Underwood, Walker

8 By: Senator Irvin

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## For An Act To Be Entitled

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AN ACT TO AMEND THE REVISED ARKANSAS ANATOMICAL GIFT

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ACT; TO ALLOW CERTAIN CLASSES OF PERSONS TO REVOKE OR

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AMEND AN ANATOMICAL GIFT UPON THE DEATH OF THE DONOR;

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TO REQUIRE CERTAIN REPORTING OF PROCUREMENT

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ORGANIZATIONS; AND FOR OTHER PURPOSES.

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## Subtitle

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TO AMEND THE REVISED ARKANSAS ANATOMICAL

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GIFT ACT; TO ALLOW CERTAIN CLASSES OF

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PERSONS TO REVOKE OR AMEND AN ANATOMICAL

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GIFT UPON THE DEATH OF THE DONOR; AND TO

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REQUIRE CERTAIN REPORTING OF PROCUREMENT

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ORGANIZATIONS.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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*SECTION 1. Arkansas Code Title 20, Chapter 17, Subchapter 12, is*

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*amended to add additional sections to read as follows:*

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20-17-1228. Rights of next of kin to modify, amend, or revoke

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anatomical gift.

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(a) Notwithstanding any other provision of this subchapter to the

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contrary, a donor's prior anatomical gift may be modified, amended, or

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revoked before the donor's death by an agent acting pursuant to the donor's

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durable power of attorney for health care, unless the power of attorney for

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health care or other record prohibits the agent from modifying, amending, or



1 revoking an anatomical gift.

2 (b) Notwithstanding any other provision of this subchapter to the  
3 contrary, following the irreversible cessation of circulatory and respiratory  
4 functions of a donor, if the death is pronounced in a place other than a  
5 medical facility, or two (2) hours after the pronouncement of cardiac or  
6 asystolic death within a medical facility, a donor's prior anatomical gift  
7 may be modified, amended, or revoked by the following:

8 (1) First, the spouse of the donor;

9 (2) Second, the sole child of the donor or, if there is more  
10 than one (1) child of the donor, the majority of the surviving children;

11 (3)(A) Third, the surviving parent or parents of the donor.

12 (B) If one (1) of the parents of the donor is absent, the  
13 remaining parent shall be vested with the rights and duties of this section  
14 after reasonable efforts have been unsuccessful in locating the absent  
15 parent;

16 (4) Fourth, the surviving brother or sister of the donor or, if  
17 there is more than one (1) sibling of the donor, the majority of the  
18 surviving siblings;

19 (5) Fifth, the surviving grandparent of the donor or, if there  
20 is more than one (1) surviving grandparent, the majority of the grandparents;

21 (6) Sixth, the surviving grandchild of the donor or, if there is  
22 more than one (1) surviving grandchild, the majority of the grandchildren;

23 (7) Seventh, the guardian of the donor at the time of the  
24 donor's death, if one had been appointed; or

25 (8) Eighth, the person in the classes of the next degree of  
26 kinship, in descending order, under the laws of descent and distribution to  
27 inherit the estate of the donor.

28 (c)(1) Within each class, less than the majority of the class shall be  
29 vested with the rights of this section if they have used reasonable efforts  
30 to notify all other members of the class of their instructions and are not  
31 aware of any opposition to those instructions on the part of more than one-  
32 half ( $\frac{1}{2}$ ) of all surviving children.

33 (2) As used in this section, "class" means surviving children,  
34 siblings, grandparents, or grandchildren, where applicable.

35 (d)(1) A person entitled under this section to modify, amend, or  
36 revoke a donor's anatomical gift shall forfeit that right, with the right

1 passing to the next qualifying person as listed in this section, in the  
2 following circumstances:

3 (A)(i) Any person charged with capital murder, § 5-10-101,  
4 murder in the first degree, § 5-10-102, murder in the second degree, § 5-10-  
5 103, or manslaughter, § 5-10-104, in connection with the donor's death.

6 (ii) If the charges against such person are  
7 terminated by an acquittal, dismissal, or nolle prosequi, the right to  
8 modify, amend, or revoke a donor's anatomical gift is returned to the person;

9 (B)(i) When the person entitled to modify, amend, or  
10 revoke a donor's anatomical gift under this section and the donor were  
11 estranged at the time of the donor's incapacity or death.

12 (ii) As used in this section, "estranged" means a  
13 physical and emotional separation from the donor at the time of incapacity or  
14 death that has existed for a period of time that clearly demonstrates an  
15 absence of due affection, trust, and regard for the donor, including the  
16 filing of a complaint for divorce by either party that remains pending at the  
17 time of the donor's incapacity or death or the separation by living apart of  
18 the donor and spouse for a period of more than ninety (90) days preceding the  
19 donor's incapacity or death.

20 (2) If there is a dispute between those sharing the right to  
21 modify, amend, or revoke an incapacitated donor's anatomical gift, the  
22 donor's anatomical gift may not be modified, revoked, or amended.

23 (e) The decision to modify, amend, or revoke a donor's anatomical gift  
24 under this section may be made orally or in a written record.

25 (f) A hospital, clinic, physician, healthcare provider, funeral  
26 director, or funeral home acting in accordance with this section, or  
27 attempting in good faith to do so, is not liable for the act in a civil  
28 action, criminal prosecution, or administrative proceeding.

29 (g) If anything in this section conflicts with federal law or  
30 regulation, the federal law or regulation shall prevail.

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32 20-17-1229. Reporting of organ procurement organization.

33 (a)(1) On or before January 31 of every year, an organ procurement  
34 organization that procures or recovers organs or tissues in this state shall  
35 submit a written report to the Legislative Council for the organ procurement  
36 organization's most recent fiscal year.

1 (2) The report described in subdivision (a)(1) of this section shall  
2 contain:

3 (A)(i) The number and types of organs and tissues  
4 recovered by the organ procurement organization within this state during the  
5 reporting period, together with a breakdown of the number of organs that were  
6 donated by persons who had consented to donation prior to death and the  
7 number of organs that were donated under § 20-17-1209.

8 (ii) The organ procurement organization shall break down the number  
9 and types of organs and tissues reported under subdivision (a)(2)(A)(i) of  
10 this section by the number and types of organs and tissues which were used  
11 for:

12 (a) Transplantation;

13 (b) Research;

14 (c) Education; and

15 (d) Any other purpose;

16 (B) The names of each organization to whom organs or  
17 tissues were furnished by the organ procurement organization;

18 (C)(i) The total moneys paid to the organ procurement  
19 organization in connection with all organs or tissues recovered or procured  
20 by the organ procurement organization during the reporting period.

21 (ii) The organ procurement organization shall break  
22 down the moneys paid to the organ procurement organization reported under  
23 subdivision (a)(2)(C)(i) of this section by the category of moneys earned  
24 from organs or tissues recovered or procured for:

25 (a) Transplantation;

26 (b) Research;

27 (c) Education; and

28 (d) Any other purpose;

29 (E) The number of instances in which the revocation of any  
30 anatomical gift under § 20-17-1228(a) was communicated to the organ  
31 procurement organization; and

32 (F) The number of instances in which the revocation of any  
33 anatomical gift under § 20-17-1228(b) was communicated to the organ  
34 procurement organization.

35 (b) The report under this section shall be presented by an executive  
36 of the private procurement organization who shall be available to answer

1 questions of the Legislative Council unless excused or waived by the  
2 Legislative Council.

3 (c) A private procurement organization that fails to timely report  
4 pursuant to this section shall have its charter revoked by the Secretary of  
5 State and shall be barred from engaging in organ procurement within this  
6 state.

7 (d) The Secretary of State shall revoke the charter of an organ  
8 procurement organization that fails to timely report under this section.

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10 /s/M. Brown

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13 **APPROVED: 4/17/25**  
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