

revoking an anatomical gift.

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

(1) First, the spouse of the donor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Transplantation;
- (b) Research;
- (c) Education; and
- (d) Any other purpose;

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

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

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

- (a) Transplantation;
- (b) Research;
- (c) Education; and
- (d) Any other purpose;

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

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

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

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

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

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

/s/M. Brown