

**No. 32. An act relating to anatomical gifts.**

(H.178)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. REPEAL

33 V.S.A. § 2302 (use for advancement of anatomical science) is repealed.

Sec. 2. 18 V.S.A. § 5227 is amended to read:

§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

\* \* \*

(8) any other individual willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the representative of the decedent's estate, after attesting in writing that a good faith but unsuccessful effort has been made to contact the individuals described in subdivisions (1) through (7) of this subsection or that those individuals have waived any interest in exercising their rights under this subchapter; ~~or~~

(9) the funeral director or crematory operator with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

(10) the Office of the Chief Medical Examiner when it has jurisdiction and custody of the body, after attesting in writing that a good faith effort has

been made to contact the individuals described in subdivisions (1) through (8) of this subsection.

\* \* \*

(c) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or crematory operator has cremated the remains, the funeral director or crematory operator shall retain the remains for three years, and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director or crematory operator shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

(d)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(10) of this section, the Office of the Chief Medical Examiner may contract with a funeral director or crematory operator to cremate the remains of the decedent.

(2)(A) If the cremation of the decedent is arranged and paid for under 33 V.S.A. § 2301, the Department for Children and Families shall pay the cremation expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(B) If the cremation of the decedent is not arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall pay the cremation

expenses to the funeral home, up to the maximum payment permitted by rule by the Department for Children and Families.

(3) The cremated remains shall be returned to the Office of the Chief Medical Examiner. The Office shall retain the remains for three years, and if no interested party, as described in subdivisions (a)(1) through (8) of this section, claims the decedent's remains after three years, the Office shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

Sec. 3. 2012 Acts and Resolves No. 132, Sec. 4 is amended to read:

Sec. 4. ORGAN AND TISSUE DONATION

(a) Subject to available resources, the ~~commissioner of health~~ Commissioner of Health shall undertake such actions as are necessary and appropriate, in his or her discretion, to coordinate the efforts of public and private entities involved with the donation and transplantation of human organs and tissues in Vermont and to increase organ and tissue donation rates.

(b)(1) No later than ~~January 15, 2013~~ January 15, 2014, the ~~commissioner~~ Commissioner shall report to the ~~house committee on human services~~ House Committee on Human Services and the ~~senate committee on health and welfare~~ Senate Committee on Health and Welfare regarding the actions taken pursuant to subsection (a) of this section and any additional efforts that the ~~commissioner~~ Commissioner recommends but believes would require legislation.

(2) The report shall include a status report on behalf of the organ and tissue donation working group regarding the group's activities, findings, data on organ donations, and recommendations on how to increase live organ donations in Vermont.

Sec. 4. ORGAN AND TISSUE DONATION WORKING GROUP

(a) There is created an organ and tissue donation working group to make recommendations to the General Assembly and the Governor relating to organ and tissue donations.

(b) The members of the organ and tissue donation working group shall include:

(1) the Commissioner of Health or designee, who shall chair the working group;

(2) the Commissioner of Motor Vehicles or designee;

(3) a representative of the Vermont Medical Society;

(4) representatives from the federally designated organ procurement organizations serving Vermont;

(5) a licensed funeral director or crematory operator;

(6) a family member of a decedent who made an anatomical gift under 18 V.S.A. chapter 110; and

(7) other interested stakeholders.

(c) The working group shall develop recommendations regarding:

(1) coordination of the efforts of all public and private entities within the State that are involved with the donation and transplantation of human organs and tissues;

(2) the creation of a comprehensive statewide program for organ and tissue donations and transplants;

(3) the establishment of goals and strategies for increasing donation rates in Vermont of deceased and, when appropriate, live organs and tissues;

(4) issues related to health insurance and other relevant insurance types;

(5) issues related to employment, including sick time, for those persons willing to be live donors of organs and tissue; and

(6) other issues related to organ and tissue donation and transplantation.

(d) The working group shall receive administrative support from the Department of Health.

(e) The Commissioner of Health, on behalf of the working group, shall submit a status report on the group's activities, findings, data on organ donations, and recommendations on how to increase live organ donations in Vermont to the House Committee on Human Services and the Senate Committee on Health and Welfare as part of the Commissioner's report under 2012 Acts and Resolves No. 132, Sec. 4(b).

(f) The working group shall submit a final report on its findings and recommendations to the House Committees on Human Services, on Health

Care, and on Transportation, the Senate Committees on Health and Welfare and on Transportation, and to the Governor by January 15, 2015, after which time the working group shall cease to exist. The report shall include a recommendation about whether the Department of Health should establish an ongoing advisory council on organ and tissue donation.

Sec. 5. 18 V.S.A. § 5234 is added to read:

§ 5234. ORGAN DONATION SPECIAL FUND

There is created an Organ Donation Special Fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The Organ Donation Special Fund shall consist of any federal funds, grants, and private donations solicited by the Commissioner of Health for use within the Fund. The Organ Donation Special Fund shall be used for activities related to increasing organ donations in Vermont.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Date the Governor signed the bill: May 14, 2013

*Note: See Act No. 50 (H.530), Sec. E.312.4, which amends Act No. 32 (H.178).*