

2026 Regular Session

SENATE BILL NO. 311

BY SENATOR PRESSLY

DONATIONS. Provides procedures and methods to execute gifts under the Anatomical Gift Act. (1/1/27)

1 AN ACT

2 To amend and reenact R.S. 17:2351, 2354, 2354.1 and 2354.2 and to enact R.S.17:2351.1,
3 and 2354.10 through 2354.13, relative to anatomical gifts; to provide requirements
4 and methods for executing an anatomical gift; to provide for definitions; to provide
5 for authority to execute or revoke an anatomical gift; to provide for an effective date;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:2351, 2354, 2354.1 and 2354.2 are hereby amended and reenacted
9 and R.S.17:2351.1, and 2354.10 through 2354.13 are hereby enacted to read as follows:

10 §2351. Definitions

11 As used in this Part, the following terms have the following meanings:

12 (1) "Adult" means a person who has attained eighteen years of age.

13 (2) "Agent" means a person:

14 (a) Authorized to make health care decisions on behalf of the principal by a
15 power of attorney for health care; or

16 (b) Expressly authorized to make an anatomical gift on behalf of the principal
17 by any other record signed by the principal.

1 (3) "Anatomical gift" or "gift" means a donation of all or part of a human
2 body to take effect after the death of the donor for the purpose of transplantation,
3 therapy, research, or education.

4 **(4) "Authorization" means a legally effective expression of intent**
5 **governing acts to be undertaken after the death of the individual, including the**
6 **recovery of organs or tissue pursuant to an anatomical gift.**

7 **(5) "Consent" means a legally effective permission governing acts to be**
8 **undertaken prior to the death of the individual, including premortem**
9 **interventions, tests, procedures, or medications.**

10 ~~(4)~~**(6)** "Decedent" means a deceased person whose body or part is or may be
11 the source of an anatomical gift. The term does not include a stillborn infant and,
12 subject to restrictions imposed by law, a fetus.

13 ~~(5)~~**(7)** "Disinterested witness" means a witness other than the spouse, child,
14 parent, sibling, grandchild, grandparent, or guardian of the person who makes,
15 amends, revokes, or refuses to make an anatomical gift, or an adult who exhibited
16 special care and concern for the person. The term does not include a recipient of an
17 anatomical gift in accordance with the provisions of R.S. 17:2353.

18 ~~(6)~~**(8)** "Document of gift" means a donor card or other record used to make
19 an anatomical gift. The term includes a statement or symbol on a driver's license,
20 identification card, fishing license, hunting license, or donor registry.

21 ~~(7)~~**(9)** "Donor" means a person whose body or part is the subject of an
22 anatomical gift.

23 ~~(8)~~**(10)** "Donor registry" means a **record or** database **maintained or**
24 **recognized by the state** that contains records of **legally effective authorizations to**
25 **make** anatomical gifts and **any** amendments to or revocations ~~thereof~~ **of an**
26 **authorization.**

27 ~~(9)~~**(11)** "Driver's license" means a license or permit issued by the Louisiana
28 Department of Public Safety and Corrections, office of motor vehicles, to operate a
29 vehicle, whether or not conditions are attached to the license or permit.

1 ~~(10) "Eye bank" means a person that is licensed, accredited, or regulated~~
2 ~~under federal or state law to engage in the recovery, screening, testing, processing,~~
3 ~~storage, or distribution of human eyes or portions of human eyes.~~

4 ~~(11) "Fishing license" means a license or permit issued by the Louisiana~~
5 ~~Department of Wildlife and Fisheries to fish as defined in R.S. 56:8, for a~~
6 ~~recreational purpose as defined in R.S. 56:8.~~

7 (12) "Guardian" means a person appointed by a court to make decisions
8 regarding the support, care, education, health, or welfare of a person. The term does
9 not include a guardian ad litem.

10 (13) "Hospital" means a facility licensed as a hospital under the laws of any
11 state or a facility operated as a hospital by the United States, a state, or a subdivision
12 of a state.

13 (14) "Hunting license" means a license or permit issued by the Louisiana
14 Department of Wildlife and Fisheries to hunt as defined in R.S. 56:8 for a
15 recreational purpose as defined in R.S. 56:8.

16 (15) "Identification card" means a card issued by the Louisiana Department
17 of Public Safety and Corrections, office of motor vehicles.

18 (16) "Know" means to have actual knowledge.

19 **(17) "Legally effective" means having binding force under this Part and**
20 **not subject to override except as expressly provided by law.**

21 ~~(17)~~**(18)** "Minor" means a person who has not yet attained eighteen years of
22 age.

23 ~~(18)~~**(19)** "Organ procurement organization" means a person designated by the
24 secretary of the United States Department of Health and Human Services as an eye
25 bank, organ procurement organization, or tissue bank.

26 ~~(19)~~**(20)** "Parent" means a person whose parental rights have not been
27 terminated.

28 ~~(20)~~**(21)** "Part" means an organ, an eye, or tissue of a human being. The term
29 does not include the whole body.

1 ~~(21)~~(22) "Person" means an individual, corporation, business trust, estate,
2 trust, partnership, limited liability company, association, joint venture, public
3 corporation, government or governmental subdivision, agency, or instrumentality,
4 or any other legal or commercial entity.

5 ~~(22)~~(23) "Physician" means a person authorized and licensed to practice
6 medicine or osteopathy under the laws of any state.

7 ~~(23)~~(24) "Prospective donor" means a person who is dead or near death and
8 has been determined by a procurement organization to have a part that may be
9 medically suitable for transplantation, therapy, research, or education. The term does
10 not include a person who has made a refusal.

11 ~~(24)~~(25) "Reasonably available" means able to be contacted by a procurement
12 organization without undue effort and willing and able to act in a timely manner
13 consistent with existing medical criteria necessary for the making of an anatomical
14 gift.

15 ~~(25)~~(26) "Recipient" means a person into whose body a part of a decedent has
16 been or is intended to be transplanted.

17 ~~(26)~~(27) "Record" means information that is inscribed on a tangible medium
18 or that is stored in an electronic or other medium and is retrievable in perceivable
19 form.

20 (28) "Refusal" means a ~~record created pursuant to the provisions of R.S.~~
21 ~~17:2354.1~~ **legally effective expression of intent not to make an anatomical gift**
22 **under this Part, including a revocation of an anatomical gift that constitutes a**
23 **refusal under R.S. 17:2354.2(B) and** that expressly states ~~an intent to bar~~ **or has**
24 **the legal effect of barring** other persons from making an anatomical gift of a body
25 or part of a person.

26 (29) **"Refusal registry" means a record or database maintained or**
27 **recognized by the state that records legally effective refusals to make**
28 **anatomical gifts.**

29 (30) **"Registry" means a donor registry, a refusal registry, or both,**

1 **maintained or recognized by the state.**

2 ~~(28)~~**(31)** "Sign" means, with the present intent to authenticate or adopt a
3 record either:

4 (a) To execute or adopt a tangible symbol.

5 (b) To attach to or logically associate with the record an electronic symbol,
6 sound, or process.

7 ~~(29)~~**(32)** "State" means a state of the United States, the District of Columbia,
8 Puerto Rico, the United States Virgin Islands, or any territory or insular possession
9 subject to the jurisdiction of the United States.

10 ~~(30)~~**(33)** "Technician" means any individual determined to be qualified to
11 remove or process parts by an appropriate organization that is licensed, accredited,
12 or regulated under federal or state law. The term includes an enucleator.

13 ~~(31)~~**(34)** "Tissue" means a portion of the human body other than an organ or
14 an eye. The term does not include blood unless the blood is donated for the purpose
15 of research or education.

16 ~~(32)~~**(35)** "Tissue bank" means a person that is licensed, accredited, or
17 regulated under federal or state law to engage in the recovery, screening, testing,
18 processing, storage, or distribution of tissue.

19 ~~(33)~~**(36)** "Transplant hospital" means a hospital that furnishes organ
20 transplants and other medical and surgical specialty services required for the care of
21 transplant patients.

22 * * *

23 **§2351.1. Rule of construction**

24 **A. Nothing in this Part shall be construed to permit the recovery of an**
25 **unpaired vital organ in a manner that causes or hastens the death of the donor,**
26 **or prior to death being determined in accordance with R.S. 9:111.**

27 **B. Nothing in this Part shall be construed to prohibit living organ or**
28 **tissue donation that does not result in the death of the donor and is otherwise**
29 **authorized by law.**

1 ~~(1) Be witnessed by two adults, one of whom is a disinterested witness, who~~
2 ~~have signed at the request of the person making the gift; and~~

3 ~~(2) State that it has been signed and witnessed as provided in Paragraph (1)~~
4 ~~of this Subsection.~~

5 **B. A refusal to make an anatomical gift may be executed in the same**
6 **manner and with the same legal effect as an anatomical gift under Subsection**
7 **A of this Section.**

8 **C. An anatomical gift or refusal executed in accordance with this Section**
9 **constitutes a legally effective expression of the donor's intent and shall be given**
10 **effect in accordance with this Part. A gift or refusal shall not be revoked,**
11 **amended, or overridden except as expressly provided by law.**

12 ~~C.D.~~ Revocation, suspension, expiration, or cancellation of a driver's license,
13 identification card, fishing license, or hunting license upon which an anatomical gift
14 is indicated does not invalidate the gift.

15 ~~D.E.~~ An anatomical gift executed in a will takes effect upon the death of the
16 donor whether or not the will is probated. Invalidation of the will after the death of
17 the donor does not invalidate the gift.

18 §2354.1. Refusal to make anatomical gift; effect

19 A. A person **An individual** may refuse to make an anatomical gift of ~~his~~ **the**
20 **individual's** body or part by executing ~~any of the following:~~ **a refusal in any**
21 **manner authorized for the execution of an anatomical gift under R.S. 17:2354.**

22 ~~(1) A signed record in accordance with Subsection B of this Section or if he~~
23 ~~is physically unable to sign, another person acting at the direction of the person shall~~
24 ~~sign.~~

25 ~~(2) A will and testament, whether or not the will is admitted to probate or~~
26 ~~invalidated after his death.~~

27 ~~(3) Any form of communication made by the person during a terminal illness~~
28 ~~or injury addressed to at least two adults, one of whom is a disinterested witness.~~

29 ~~B. A signed record, shall be witnessed by at least two adults, one of whom~~

1 is a disinterested witness, and shall state that it has been signed and witnessed as
2 provided in Subsection A of this Section.

3 **B. A refusal executed pursuant to this Section shall be subject to the**
4 **same requirements regarding form, signature, witnesses, authentication, and**
5 **recording as apply to the execution of an anatomical gift under R.S. 17:2354.**

6 C. A person who has made a refusal to make an anatomical gift, may amend
7 or revoke the refusal in any of the following ways:

8 (1) In the manner provided in Subsection A of this Section for making a
9 refusal.

10 (2) By subsequently making an anatomical gift in accordance with R.S.
11 17:2354 that is inconsistent with the refusal.

12 (3) By destroying or canceling the record or a portion thereof evidencing the
13 refusal, with the intent of revocation.

14 **C. A refusal executed in accordance with this Section constitutes a legally**
15 **effective expression of the individual's intent and shall be given full force and**
16 **effect under this Part.**

17 D. Except as otherwise provided in R.S. 17:2354.2, in the absence of an
18 express contrary indication set forth in the refusal, an unrevoked refusal bars all
19 other persons from making an anatomical gift of the body or part of the ~~person~~
20 **individual.**

21 **E. A refusal may be amended or revoked only in the manner provided**
22 **in R.S. 17:2356.**

23 **F. A refusal may include limitations or special instructions, which shall**
24 **be honored to the extent permitted by law.**

25 §2354.2. Preclusive effect of anatomical gift; amendment; revocation

26 A. Except as otherwise provided in Subsection G of this Section and subject
27 **Subject** to Subsection F of this Section, in the absence of an express, contrary
28 indication by the donor, a person other than the donor is barred from making,
29 amending, or revoking an anatomical gift of the body or part of the donor if the gift

1 ~~complies with R.S. 17:2354 or 2356~~ **was executed in accordance with R.S. 17:2354**
 2 **and has not been amended or revoked in accordance with R.S. 17:2356.**

3 B. A revocation of a **an anatomical** gift in accordance with R.S. 17:2356 is
 4 not **constitutes** a refusal ~~and does not bar another~~ **for purposes of this Part and**
 5 **bars any other** person from making an anatomical gift of the body or part of the
 6 donor **unless the donor subsequently authorizes a new anatomical gift** in
 7 accordance with ~~this Part~~ **law.**

8 C. If a person other than the donor makes an ~~unrevoked~~ anatomical gift of the
 9 body or part ~~or~~ **of** the donor in accordance with R.S. 17:2354 or amends a gift of the
 10 body or part of the donor in accordance with R.S. 17:2356, another person may not
 11 ~~make, amend, or revoke the gift,~~ in accordance with R.S. 17:2356.

12 D. A revocation of an anatomical gift of the body or part of a donor in
 13 accordance with R.S. 17:2356 by a person other than the donor does not bar another
 14 person from making an anatomical gift of the body or part in accordance with R.S.
 15 17:2354 or ~~2356~~ **from amending or revoking donor intent in accordance with**
 16 **R.S. 17:2356, as applicable.**

17 E. In the absence of an express, contrary indication by the donor or other
 18 person authorized to make an anatomical gift, an anatomical gift of a part is neither
 19 a refusal to give another part nor a limitation on the making of a gift of another part
 20 at a later time by the donor or another person.

21 F. In the absence of an express, contrary indication by the donor or other
 22 person authorized to make an anatomical gift, an anatomical gift of a part for one or
 23 more of the purposes in R.S. 17:2352 is not a limitation on the making of an
 24 anatomical gift of the part for any other purpose in accordance with R.S. 17:2354 ~~or~~
 25 ~~2356.~~

26 G. ~~If an unemancipated minor donor dies, his reasonably available parent~~
 27 ~~may revoke or amend the anatomical gift.~~

28 * * *

29 **§2354.10. Anatomical gifts by minors**

1 A. No state agency, political subdivision, department, office, or
2 contractor thereof, including the office responsible for the issuance of driver's
3 licenses or identification cards, shall solicit, query, or request from a minor any
4 authorization for or refusal to make an anatomical gift in the absence of a
5 parent or legal guardian.

6 B. No representation by a minor concerning anatomical gift
7 authorization or refusal shall be recorded, relied upon, or given legal effect
8 unless made in the presence of a parent or legal guardian who affirmatively and
9 expressly concurs in writing in the decision of the minor.

10 C. Any representation made by a minor concerning an anatomical gift
11 authorization or refusal, when made in the presence of and with the affirmative
12 and express written concurrence of a parent or legal guardian, may be recorded
13 solely for informational purposes and shall not be legally operative prior to the
14 minor attaining the age of majority.

15 D. Upon attainment of the age of majority, any informational record of
16 anatomical gift authorization or refusal made by the individual as a minor in
17 accordance with this Section shall become legally operative unless the individual
18 affirmatively amends or revokes the record in accordance with law.

19 E. This Section shall not apply to a minor who is emancipated pursuant
20 to law or who is legally married, and the individual shall be treated as an adult
21 for purposes of this Part.

22 F. Nothing in this Section shall be construed to limit the authority of a
23 parent or legal guardian to make or refuse an anatomical gift on behalf of a
24 minor as otherwise provided by law.

25 §2354.11. Premortem interventions; definitions; prohibitions

26 A. Definitions.

27 For purposes of this Section:

28 (1) "Donation after circulatory death" or "DCD" means the recovery of
29 organs or tissue for transplantation following the determination of death based

1 on irreversible cessation of circulatory and respiratory functions in accordance
2 with R.S. 9:111.

3 (2) "Donation after brain death" or "DBD" means the recovery of
4 organs or tissue for transplantation following the determination of death based
5 on irreversible cessation of all functions of the entire brain, including the brain
6 stem, in accordance with R.S. 9:111.

7 (3) "Premortem intervention" means any medical procedure, test,
8 medication, cannulation, or other intervention undertaken prior to the
9 determination of death for the purpose of facilitating organ or tissue recovery.

10 B. General rule. No premortem intervention shall be performed unless
11 it is medically indicated for the direct benefit of the patient or is performed
12 pursuant to a legally effective consent applicable to premortem interventions,
13 as provided in this Section.

14 C. Prohibited acts. Regardless of consent, no person shall perform or
15 direct any premortem intervention that has a material likelihood of any of the
16 following:

17 (1) Hastening death.

18 (2) Manufacturing, accelerating, or securing irreversibility of
19 circulatory, respiratory, or neurologic cessation.

20 (3) Preventing or materially interfering with the restoration or
21 resumption of circulatory, respiratory, or neurologic function.

22 D. Separation of functions. Any physician or individual who performs
23 or directs a premortem intervention shall be independent of, and shall not
24 participate in, the recovery or transplantation of any organ or tissue from the
25 individual, and shall not be a member of the transplant team.

26 E. Disclosure and consent. Authorization to make an anatomical gift
27 after death does not constitute consent to any premortem intervention, test,
28 procedure, or medication. Consent for any premortem intervention shall be
29 separately and expressly obtained and shall be legally effective only if the

1 **following occur:**

2 **(1) The consent is given by the patient, or by another person legally**
3 **authorized under Louisiana law to consent to medical treatment on behalf of the**
4 **patient.**

5 **(2) The consent is voluntary and informed.**

6 **(3) The nature and purpose of the premortem intervention are**
7 **specifically described.**

8 **(4) The patient or other person authorized to consent is informed that**
9 **the intervention is performed for the purpose of facilitating organ or tissue**
10 **recovery and is not medically indicated for the care or treatment of the patient.**

11 **(5) The consent does not authorize any premortem intervention that**
12 **poses a material risk of causing or hastening the death of the patient, or a**
13 **material risk of interfering with the determination of death in accordance with**
14 **R.S. 9:111.**

15 **F. Construction. Nothing in this Section shall be construed to alter the**
16 **standards for determination of death under R.S. 9:111 or to authorize any**
17 **practice inconsistent with that Section.**

18 **§2354.12. Post-determination handling and transport of the decedent**

19 **A. Applicability. This Section applies following the determination and**
20 **pronouncement of death under R.S. 9:111 and the recovery of any organ or**
21 **tissue pursuant to an anatomical gift.**

22 **B. Disclosure of post-recovery handling. Prior to the recovery of organs**
23 **or tissue, the individual authorized to make an anatomical gift, or the**
24 **individual's authorized representative where applicable, shall be informed in**
25 **writing of any plan to do any of the following:**

26 **(1) Transport the decedent from the hospital or facility where death was**
27 **determined to another facility for further organ or tissue recovery, processing,**
28 **or handling.**

29 **(2) Continue mechanical ventilation, perfusion, or other artificial**

1 support of bodily functions following the determination of death for purposes
2 related to organ or tissue recovery.

3 C. Authorization required. No transport or continuation of mechanical
4 support described in Subsection B of this Section shall occur unless expressly
5 authorized as part of a legally effective authorization applicable to
6 post-determination handling and transport.

7 D. Scope of authorization. Authorization to make an anatomical gift
8 after death shall not, by itself, constitute authorization for transport of the
9 decedent to a nonhospital facility or for continuation of mechanical support
10 following death determination.

11 E. Dignity and transparency. Any handling or transport of the decedent
12 following death determination and organ or tissue recovery shall be conducted
13 in a manner consistent with the dignity of the decedent and with the reasonable
14 expectations of the family, as informed by the disclosures made under this
15 Section.

16 F. Construction. Nothing in this Section shall be construed to limit the
17 recovery of organs or tissue otherwise authorized by law, to alter the standards
18 for determination of death under R.S. 9:111, or, except to the extent necessary
19 to carry out a valid anatomical gift, to alter or transfer the custodial authority
20 of the person or persons authorized by law to control disposition of the body.

21 §2354.13. Limited judicial review

22 A. Standing. A petition for judicial review under this Section may be
23 brought only by one of the following persons:

24 (1) The individual who executed the authorization, refusal, or consent,
25 if living.

26 (2) A person authorized by law to make or refuse an anatomical gift or
27 to provide consent on behalf of the individual.

28 B. Scope of review. Judicial review under this Section shall be limited to
29 determining whether an act or omission materially violates this Part or a legally

1 effective authorization, refusal, or consent executed pursuant to this Part.
2 Judicial review under this Section is limited to ensuring compliance with this
3 Part and with legally effective authorizations, refusals, and consents, and is not
4 intended to expand, modify, or supplant rights, obligations, or discretionary
5 judgments established by law.

6 C. Expedited proceedings. Upon a showing that irreparable harm may
7 occur in the absence of prompt judicial intervention, the court may conduct
8 expedited proceedings, including summary hearings, and may issue temporary
9 or preliminary orders as required.

10 D. Deference to legally effective intent. In any proceeding under this
11 Section, the court shall give effect to a legally effective authorization, refusal, or
12 consent, and shall not substitute its judgment for that expressed intent except
13 as expressly provided by law.

14 E. Remedies. The court may grant declaratory or injunctive relief
15 narrowly tailored to enforce compliance with this Part. Monetary damages shall
16 not be awarded under this Section.

17 F. Construction. Nothing in this Section shall be construed to do any of
18 the following:

19 (1) Create a private right of action for damages.

20 (2) Expand the scope of judicial review beyond that expressly provided
21 herein.

22 (3) Delay or impede lawful organ or tissue recovery authorized under
23 this Part absent a material violation.

24 G. Proceedings under this Section shall be construed consistently with
25 principles governing expedited injunctive relief under Louisiana law.

26 H. Any appellate review of an order issued under this Section shall be
27 conducted in accordance with applicable law, shall be limited to the scope of
28 review set forth in this Section, and shall be expedited in recognition of the
29 time-sensitive nature of matters arising under this Part.

1 Section 2. This Act shall become effective on January 1, 2027; if vetoed by the
 2 governor and subsequently approved by the legislature, this Act shall become effective on
 3 the day following such approval by the legislature or January 1, 2027, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB Original 2026 Regular Session Pressly

Proposed law, relative to anatomical gifts, clarifies that no authorization to make an anatomical gift after death is to be construed as consent to any act undertaken prior to death. Provides that revocation of an anatomical gift constitutes a refusal and bars subsequent authorization by another person unless the donor re-authorizes the gift.

Proposed law lists the methods for executing an anatomical gift and methods by which one can refuse to make an anatomical gift. Provides that an unrevoked refusal bars others from making an anatomical gift on the person's behalf.

Proposed law prohibits governmental entities, including driver's license authorities, from soliciting or recording anatomical gift authorization or refusal from minors in the absence of a parent or legal guardian and preserves requirement for express parental or guardian concurrence for any representation made to a minor but permits recordings of representations solely for informational purposes.

Proposed law defines a donation after circulatory death and after brain death as when determined by a licensed physician based on ordinary standards of approved medical practice when the person has experienced irreversible cessation of spontaneous respiratory and circulatory funds. Prohibits premortem interventions that have a material likelihood of hastening death or manufacturing irreversibility regardless of consent. Provides that authorization to make an anatomical gift after death does not constitute consent to premortem interventions.

Proposed law requires disclosure and express authorization for post-determination transport of a decedent to another facility and for continuation of mechanical support following death and standards for lawful organ and tissue recovery.

Proposed law provides a limited judicial review mechanism confined to enforcement of existing law and legally effective authorization, refusal, and consent. Limits judicial review to material violations of law and authorizes expedited proceedings where necessary to prevent irreparable harm.

Effective January 1, 2027.

(Amends R.S. 17:2351, 2354, 2354.1 and 2354.2; adds R.S.17:2351.1, 2354.10-2354.13)