

SENATE BILL NO. 154

INTRODUCED BY D. EMRICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROHIBITION ON THE SALE OR PURCHASE OF HUMAN BODY PARTS UNDER THE REVISED UNIFORM ANATOMICAL GIFT ACT; PROHIBITING THE SALE OR PURCHASE OF WHOLE HUMAN BODIES; REVISING DEFINITIONS; AMENDING SECTIONS 72-17-102 AND 72-17-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-17-102, MCA, is amended to read:

"72-17-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(a) authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

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

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant or fetus.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) (a) "Disinterested witness" means a witness other than:

(i) the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift; or

(ii) another adult who exhibited special care and concern for the individual.

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

~~(31)~~(32)"State" means a state, territory, or possession of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(32)~~(33)"Technician" means an individual who is certified by the state board of medical examiners to remove or process a part.

~~(33)~~(34)"Tissue" means a portion of the human body other than an organ, an eye, or blood unless the blood is donated for the purpose of research or education.

~~(34)~~(35)"Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

~~(35)~~(36)"Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients."

Section 2. Section 72-17-302, MCA, is amended to read:

"72-17-302. Sale or purchase of parts and whole bodies prohibited. (1) A person may not knowingly, for valuable consideration;

(a) purchase or sell a part for;

(i) transplantation or therapy, if removal of the part is intended to occur after the death of the decedent; or

(ii) research, education, or the training of search and rescue canines; or

(b) purchase or sell a whole body for transplantation, therapy, research, education, or the training of search and rescue canines.

(2) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, or transportation of a part or a whole body, or for the implantation of a part.

(3) A person who violates this section is guilty of a felony and ~~upon~~on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 5 years, or both."